United States
of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE *108th* CONGRESS, FIRST SESSION

Vol. 149 WASHINGTON, WEDNESDAY, NOVEMBER 5, 2003 *No. 159*

House of Representatives

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

DESIGNATION OF THE SPEAKER PRO TEMPORE

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

WASHINGTON, DC,
November 5, 2003.

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

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

PRAYER

The Reverend James Thomas, Pastor, Jefferson Street Missionary Baptist Church, Nashville, Tennessee, offered the following prayer:

Our God, who has given this Nation the democratic ideals by which our destiny is fashioned, we thank You, that You have blessed our land to survive the infectious climate of confusion, uncertainty, poverty, war and numerous of other ills; but raising up among us capable leaders from the North, South, East and West, our best who have been elected by us.

We set them before thee. Bless each one, one by one. Give them the shoes for the journey and strength for their feet. Let us never forget the least, the less, and the left out, whose side You are on.

We ask a special prayer for our sons and daughters on the battlefield, whose days are darker than our nights. We pray for the mighty who have fallen. We pray for the hurt of their families and remind them that hurt goes away, but memories will last forever. Humble us as a people to know the high costs of freedom.

Now we ask that You be not just another guest this day, but You be the host. Make us nothing that You may be everything. God bless America. In Your name we pray.

THE JOURNAL

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

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

PLEDGE OF ALLEGIANCE

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

Mr. FOLEY led the Pledge of Allegiance as follows:

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

MESSAGE FROM THE SENATE

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

H.R. 3365. An act to amend title 10, United States Code, and the Internal Revenue Code of 1986 to increase the death gratuity payable with respect to deceased members of the Armed Forces and to exclude such gratuity from gross income.

The message also announced that the Senate has passed a bill of the following title in which the concurrence of the House is requested:

S. 1720. An act to provide for Federal court proceedings in Plano, Texas.

HONORING THE REVEREND JAMES THOMAS

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

Mr. COOPER. Mr. Speaker, the Congress of the United States is honored today to have Pastor James Thomas, the reverend of Jefferson Street Missionary Baptist Church, to deliver the opening prayer.

Pastor Thomas has been a force for good in the Nashville community since 1964 when he hitchhiked from Texas with $4 in his pocket to attend American Baptist Theological Seminary.

NOTICE

Effective January 1, 2004, the subscription price of the Congressional Record will be $503 per year or $252 for six months. Individual issues may be purchased at the following costs: Less than 200 pages, $10.50; Between 200 and 400 pages, $21.00; Greater than 400 pages, $31.50. Subscriptions in microfiche format will be $146 per year with single copies priced at $3.00. This price increase is necessary based upon the cost of printing and distribution.

BRUCE R. JAMES, *Public Printer.*

Printed on recycled paper.

Our colleague, the gentleman from Georgia (Mr. LEWIS), and many other civil rights leaders were trained at American Baptist.

Reverend Thomas was ordained as a minister of the gospel in 1970 and was called almost immediately in 1971 to lead Jefferson Street Missionary Baptist Church. There he has established a very powerful symbol for the grace of God on Jefferson Street, a street formerly known for its rock and roll music and blues. The church is now known around the Nation and around the world as a creative force in Christian leadership and community improvement.

Reverend Thomas is one of 13 children raised in Beaumont, Texas; and his love for his native State is still so great that people call him ''Tex''; but in Nashville, Tennessee, he is more likely to be called the mayor of Jefferson Street because he has always been a spokesman for the poor and the downtrodden, a spiritual leader for his congregation and the adversities of their daily lives, and a teacher of Governors and Senators and Congressmen and mayors and councilmen, including a Vice President, on what the right thing to do is on civil rights and many other social policy issues.

A small example of Pastor Thomas' work is his prison ministry. I was in his congregation one day when an exconvict stood up and repaid the money that Pastor Thomas had loaned him, in fact, paid him many times over, thanking the minister for his kindness.

Pastor Thomas is a friend of the friendless. He is an activist who works hard every day to not only improve our lives in this life but to prepare us for the next. He is a man of God who speaks the word of God. And Nashville has been blessed for almost 40 years now to have this fine spiritual example, and we appreciate him every day.

ESSENTIAL BORDER SECURITY

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

Mr. SMITH of Texas. Mr. Speaker, this week the Associated Press carried a biased and inaccurate story on border security.

The writer said the U.S. has not prevented ''even one known militant'' from crossing our border with Mexico. I guess the person caught with a telephone number in his pocket linking him to three of the 9–11 terrorists did not count.

The point of border security is to prevent would-be terrorists from entering. Of course, there is no way of knowing how many people did not come because they were worried about being caught.

The reporter then tries to suggest that border security is a waste of money and blames the U.S. Border Patrol for deaths in Mexico of prospective illegal aliens.

Most Americans oppose illegal immigration and support our efforts to know who is coming into our country and why. They also know better than to blame America for Mexico's failure to stop its own citizens from making a dangerous trip.

HONORING SIEGFRIED AND ROY

(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, I rise today with my colleague, the gentleman from Nevada (Mr. PORTER), in support of House Resolution 431, a resolution honoring the contributions of my good friends, Siegfried Fischbacher and Roy Horn, two men who are not only great entertainers but noted conservationists and generous philanthropists.

Every year, 36 million people visit Las Vegas hoping to catch a glimpse of these master illusionists. A staple of the Las Vegas community, this legendary duo has brought both magic and success to their many endeavors.

Siegfried and Roy have performed for more than 10 million people and have touched countless thousands of lives in my community and across the globe. Despite their enormous popularity, many do not know of their charitable contributions or world-renowned conservation efforts. Siegfried and Roy have made generous financial and personal donations to the communities and local charities in Las Vegas.

For more than 2 decades they have devoted their efforts to the conservation of Royal White Tigers and Magical White Lions. Today, these breeds are thriving due to Siegfried and Roy's persistence and successful efforts.

On October 3, on his birthday, Roy Horn was injured during a performance. Roy Horn is a close personal friend, and I know his strong spirituality and his persistence will aid him in his recuperation. There has been an outpouring of support from the Las Vegas community and the world, and I lend my voice to those who wish Roy a full and speedy recovery.

To audiences, Siegfried and Roy are illusionists without equal. To their friends, they are beloved and respected for all they have given and all they have accomplished. My thoughts and prayers are with Roy Horn and his family during this difficult time.

VETERANS ASSOCIATION ACCOMPLISHMENTS

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

Mr. FOLEY. Mr. Speaker, on the 11th hour of the 11th day of the 11th month, we will celebrate America's heroes and those are our veterans.

Since President Bush and Secretary Principi have taken office, one as President, one as the head of the VA, we have opened 194 new community clinics for a total of 676 clinics; 87 percent of the veterans now live within 30 minutes of a VA medical facility.

We have increased enrollment, increased outpatient visits. We have reduced waiting times for our veterans. We have increased prescription drugs coverage for our veterans. We lead for all veterans health clinic quality indicators throughout the entire scope of these facilities.

We have increased homeless veterans outreach with a $35 million collaborative program with HUD and HHS. We have reduced the inventory of related claims from over 432,000 to 253,000. We have reduced waiting times for claims answers. We have increased national cemeteries, now six new cemeteries: Atlanta, Detroit, South Florida, Fort Sill, Pittsburg, and Sacramento. We remain on course to complete our national shrine commitment to improve the appearance of our national cemeteries.

Veterans have received great response from this administration. We are proud of our record.

TRULY HONORING AMERICAN VETERANS

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

Mr. DEFAZIO. Mr. Speaker, the gentleman that preceded me in the well is correct. We should all celebrate Veterans' Day. In fact, we should celebrate Veterans' Day and honor Veterans' Day every day in this Chamber. But I do remember on the night that the war began in Iraq, we passed a resolution supporting the troops and an hour later we passed a budget that cut $2 billion out of the veterans budget.

I do remember that the President proposed doubling the prescription drug fee for veterans. I do remember that our veterans, the Democrats have offered a proposal to stop taxing disabled veterans, the disabled veterans tax. The President has threatened to veto any legislation which contains that.

So although the gentleman can rattle off those great statistics, that is not the experience of the veterans in my district. They are waiting longer to get minimal service. Fewer of them can get service. They have now established a new Category 8 of veterans who cannot get service even if they have served with valor in combat.

It is one thing to get up here and spout statistics and that, but the reality is can your veterans get the service they need that we promised when they need it; and the answer is for many, no.

INTERNATIONAL ACTION NEEDED IN BURMA

(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, I rise today to ask once again, what more must happen in order for the international community to take deliberative, decisive action against the ruthless military dictatorship in Burma? Why would any country befriend this savage dictatorship that has no qualms about engaging in slave labor, systematic rape of women, destruction of villages, and murder of many innocent civilians?

The U.N. Security Council should act, not only because of the regional security problems related to Burma, but also because of the regime's horrific human rights abuses. The abuses have caused a humanitarian disaster as hundreds of thousands of people have fled across Burma's borders in almost every direction.

The military's brutal campaigns have created between 600,000 and 1 million internally displaced people, innocent men, women and children who live hiding in the jungles of Burma as they fear further attacks.

Mr. Speaker, the U.S., the U.N. Security Council, the international community should act now to stop the atrocities. Oppose the blockage of humanitarian aid, bring an end to the suffering of the people of Burma, and address the regional security problems from this regime.

HONORING SIEGFRIED AND ROY

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

Mr. PORTER. Mr. Speaker, I rise today with my colleague, the gentlewoman from Nevada (Ms. BERKLEY), in expressing my thoughts and prayers to our fellow Las Vegan, Roy Horn of Siegfried and Roy.

As many of you know, Roy Horn was seriously injured on October 3, 2003, when he was hurt on stage by one of his star tigers, Montecore. Since then Roy has been in critical condition, and I wish him quick and speedy recovery.

It was 30 years ago when Siegfried and Roy first debuted in Las Vegas. At that time it was only a dream for Las Vegas to be the entertainment capital of the world as it is today. Through hard work and perseverance, Siegfried and Roy became one of Las Vegas' top-selling shows, having performed in front of roughly 40 million people.

Recently named Magicians of the Century, Siegfried and Roy personify Las Vegas. Their shows are unlike anything Las Vegas has ever seen, a theatrical production, symbolic of a grandiose and flamboyant style of entertainment for which Las Vegas has become famous. Their success has been Las Vegas' success as well. Today, when people think Las Vegas, they think Siegfried and Roy. But when I think of Siegfried and Roy, I think of two men who came to this country with a dream and succeeded even beyond their wildest expectations.

□ 1015

As they once said, it is better to be an ordinary guy living an extraordinary life, than any other way. I would like to take a moment to applaud them for their conservation but also to give them our prayers and thoughts at this time.

GROWING FRUSTRATION WITH MEDICARE PRESCRIPTION DRUG BENEFIT NEGOTIATIONS

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

Mr. GREEN of Texas. Mr. Speaker, I rise today to voice my growing frustration with the ongoing negotiations to create a Medicare prescription drug benefit. This could be the largest expansion of this program since the inception almost 40 years ago. Changes to this program will affect every senior in every District.

Unfortunately, leaders of the conference committee only seem interested in pushing their own agenda. They are not listening to Members on this side of the aisle, and they are not listening to the growing numbers of senior citizens.

We have to find out from media reports that our colleagues are considering provisions to increase premiums, means test the program and ultimately privatize Medicare. If these media reports are to be believed, then the proposed benefit is even worse than what initially passed this House floor by one vote.

Combined costs of the premiums, deductibles and copays amount to $1,300 per senior, just for $2,000 worth of coverage. That means that the government pays $700 and our seniors pay $1,300, almost twice as much.

Mr. Speaker, my seniors do not like the sounds of any of these proposals. They are already paying 22 percent of their out-of-pocket costs on health care, and even though they may vote for a Democratic Member of Congress, they still deserve to have their voices heard.

I urge my conferees to listen to their House and Senate colleagues and do a bipartisan bill that provides seniors with the relief they need.

CONGRATULATIONS GOVERNORS-ELECT HALEY BARBOUR AND ERNIE FLETCHER

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

Mr. WILSON of South Carolina. Mr. Speaker, congratulations to Governor-elect Ernie Fletcher, our colleague from Kentucky, on his historic election yesterday as the first Republican-elected Governor in the Commonwealth in 32 years. I was honored to spend the last 4 days campaigning door-to-door for the Fletcher team, and I discovered firsthand our colleague and his wife Glenna are greatly admired for their integrity and competence.

Yesterday was also a big day in Mississippi with the election of Haley Barbour, who unseated a sitting Democratic Governor. As the RNC chairman, Governor-elect Barbour has proven he can make a difference. The Republican revolution inspired by Ronald Reagan for limited government and expanded freedom continues to consolidate throughout the South, building on last year's success in South Carolina with Mark Sanford, Georgia with Sonny Perdue and Alabama with Bob Riley.

The past month's Republican gubernatorial victories begun by Republican Governor-elect Arnold Schwarzenegger of California underscores the confidence by the American people in President Bush's economic policies reflected by this 7.2 percent gross domestic product increase and by support of the President's serious resolve to win the war on terror to protect the American people at home.

At this time, in conclusion, God bless our troops.

A REAL PRESCRIPTION DRUG PLAN

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

Mr. DAVIS of Illinois. Mr. Speaker, just as the seniors in Texas and all across the country are concerned about prescription drug coverage and the action of the conferees, so are those in Illinois. I met with a group of seniors on Saturday, and they are waiting in anticipation of a real plan, a real program, and they are saying, Mr. Speaker, that they do not want a watered-down version. They do not want a pig in a poke. They want something that is real, meaningful.

Please conferees, listen to the seniors. Let us come up with a real prescription drug plan.

SIGNING OF THE PARTIAL BIRTH ABORTION BAN

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

Mr. BOOZMAN. Mr. Speaker, I rise today to thank President Bush who will be signing the Partial Birth Abortion Ban later today. By making the Partial Birth Abortion Ban law, Congress and President Bush have listened to the strong voices of our constituents who want to protect the health of women and fight for the sanctity of life.

The Partial Birth Abortion Ban Act of 2003 bans the procedure in which a living fetus is partially delivered before the fetus is killed and delivery is completed. This law will have the power to stop partial birth abortion

and prosecute the doctors who continue to practice this horrific procedure. Furthermore, it will give the parents of minors and husbands the right to bring civil actions against said doctors.

As a father of three daughters and a member of the medical community, I am proud to have played a part in the preservation of women's health and the sacredness of life.

CONTEMPLATE THE WAR DEAD

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

Mr. MCDERMOTT. Mr. Speaker, it is easy to come into this House and forget what is going on out in the world, but on Friday when I got back to my office, I received a phone call from one of my constituents who had received a notification on Sunday that her son was killed in Iraq. Talking to this woman and understanding how she had felt, she had marched against the war, but her son believed that he was doing the right thing for this country. He believed that what he was doing was important, even though his parents thought that the war was not the right thing to be doing.

I think that as we go forward with a President who refuses to look at how to change the situation over there, we risk more and more of these deaths. We had them on Sunday. We had them on Monday, and I think we ought to take a moment to be silent and contemplate the war dead.

CONCURRENT RECEIPT

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

Mr. SAM JOHNSON of Texas. Mr. Speaker, as our military men and women continue to do a great job to keep us safe and secure, heated debate has broken out about whether veterans should receive both disability pay and retirement pay. This issue is called concurrent receipt.

Right now, when a veteran retires, military pension benefits from the Department of Defense are reduced dollar for dollar by the amount of disability benefits received from the Veterans Affairs Department. Republicans have proposed commonsense solutions that will send more disability money to our veterans.

Under the plan, disabled veterans will see more retirement money, and benefits will now be available to Reservists and Guardsmen injured in service. This is a solution that is fair, responsible, and honors our Nation's disabled veterans.

I encourage all veterans to contact their lawmakers and urge them to support this important legislation and pass it by the end of the year.

CRACKDOWN IN BURMA

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

Mr. ROHRABACHER. Mr. Speaker, I ask all freedom-loving people to pay attention to the latest crackdown in Burma by that country's brutal military regime.

A few days ago, the military again reminded us why Burma has one of the most despicable regimes in the world, by cruelly cracking down on a demonstration by Buddhist monks. Over 900 monks took to the streets, calling for freedom and democracy. These people, who are dedicated to peace themselves, found themselves the targets of not only water guns but of brutal beatings. One of them was killed. Four have been put in intensive care.

It is time for the people of Burma to join the Buddhist monks and to rise up against their tyrants. It is time for the people in the Burmese Army to rise up and turn their guns against the military regime that has destroyed freedom in their country and led their country into such deprivation and poverty, the regime that is stealing from their own people and giving their country to the Communist Chinese, and it is up to us, the United States, to back up the freedom-loving people of Burma.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

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

Record votes on postponed questions will be taken later today.

AUTHORIZATION OF SALARY ADJUSTMENTS FOR FEDERAL JUSTICES AND JUDGES

Mr. SENSENBRENNER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3349) to authorize salary adjustments for Justices and judges of the United States for fiscal year 2004.

The Clerk read as follows:

H.R. 3349

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

SECTION 1. AUTHORIZATION OF SALARY ADJUSTMENTS FOR FEDERAL JUSTICES AND JUDGES.

Pursuant to section 140 of Public Law 97–92, Justices and judges of the United States are authorized during fiscal year 2004 to receive a salary adjustment in accordance with section 461 of title 28, United States Code.

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

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

GENERAL LEAVE

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 3349, the bill currently under consideration.

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

There was no objection.

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

Mr. Speaker, by way of background, Congress enacted the Executive Salary Cost-of-Living Adjustment Act in 1975 which was intended to give judges, Members of Congress and high-ranking executive branch officials automatic COLAs accorded other Federal employees unless rejected by Congress. In 1981, Congress amended the statute by enacting section 140 of Public Law 97–92, which requires a specific congressional authorization to grant judges a COLA.

Mr. Speaker, the legislation before us is based on the template set forth in H.R. 16, now Public Law 108–6, which the House passed back in January and the President signed in February. H.R. 16 satisfied the section 140 requirement and thereby enabled judges to receive a COLA for this past fiscal year. H.R. 3349 accomplishes the same purpose for fiscal year 2004.

One final point, Mr. Speaker. The House will recall that Congress passed the Ethics Reform Act in 1989 to address the issue of Federal public service compensation. The mechanism for raising judicial salaries under the Act is premised on congressional action following a Presidential recommendation. A key feature of the 1989 law, however, was, and still is, that certain Federal judicial salaries are effectively linked to those of Senators and House Members as set forth in a statutory pay schedule for executive officials. In other words, the Federal judges cannot receive a pay raise unless Congress is willing to increase its own compensation along with that of various executive branch officials.

I do not believe that Congress should deviate from this construct by raising the salaries of life-tenured judges by nearly $25,000, as the Senate version of the Commerce-Justice-State appropriations bill would do. Along with many of our colleagues and other interested parties, I am not convinced that Federal judges work harder or have greater responsibility than Members of Congress or executive branch officials.

I believe in fairness, Mr. Speaker, and that is why I introduced H.R. 3349, to ensure that Federal judges receive a COLA when other civil servants, including Members of Congress, receive theirs. I otherwise maintain that neither Congress nor the third branch is entitled to a massive pay raise at this point, and I would urge the House appropriators to reject any attempt to

raise judicial salaries by deviating from the parameters set forth in the Ethics Reform Act.

To conclude, Mr. Speaker, H.R. 3349 will assist in the administration of justice in our Federal courts and is otherwise noncontroversial and urge its adoption.

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

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

Mr. Speaker, I rise to support H.R. 3349 and ask that my colleagues support it as well. This legislation gives Federal judges a 2.2 percent cost-of-living pay adjustment for 2004. Members of the Federal judiciary deserve this raise. The hardworking men and women of the Federal bench are a critical, if sometimes underappreciated, part of our constitutional democracy. We should do everything we can to ensure that we attract and retain the highest quality judges.

While judges are predominantly called to service by a sense of duty and honor, financial considerations can be a powerful deterrent to service. Judges already make far less than they could earn in private firms. While this pay disparity will always exist, Congress should at the least ensure that judicial pay does not effectively shrink. The failure to give judges a COLA would constitute just such a reduction in pay.

Unfortunately, Congress has failed several times in the past decade to give Federal judges a COLA pay adjustment.

□ 1030

Thus, over time, the pay of Federal judges has effectively shrunk. We should pass this legislation today to ensure this inequity is not increased further.

I want to make clear to my colleagues that this legislation in no way decouples judicial pay from the pay of Members of Congress and senior executive service. While I personally would not oppose such a decoupling, I know some of my colleagues, perhaps the gentleman who just spoke, would oppose it.

This legislation simply ensures that Federal judges can receive the same COLA increase that Members of Congress and senior executive service officials are already slated to receive for fiscal year 2004. Members of Congress and SES officials receive automatic COLA pay adjustments each year unless Congress specifically prohibits it. Federal judges, on the other hand, do not receive such COLAs unless Congress provides specific statutory authorization each year.

Congress typically provides this authorization in the annual commerce-justice-state appropriations legislation. Unfortunately, Congress has lately had some difficulty in passing the CJS appropriations bill by the start of the calendar year, let alone the fiscal year. The fiscal year 2003 CJS bill did not pass until 2003 was well under way, and now it looks like the fiscal year 2004 CJS bill will not be enacted until sometime in 2004. Such congressional action should not be allowed to imperil the COLA that Federal judges are rightfully do.

I applaud the gentleman from Wisconsin (Chairman SENSENBRENNER) for taking swift action to remedy the situation both earlier this year and now. In January of this year, the chairman of the Committee on the Judiciary ensured that virtually the first action of the 108th Congress was to pass H.R. 16, which authorized COLAs for 2003. He exhibits great forethought by bringing H.R. 3349 before the House before 2004 is upon us. I applaud him for taking swift action to make sure that judges will not be denied their COLAs through congressional inaction.

Of course, if future Congresses continue to have trouble moving the CJS appropriations bill in a timely fashion, the chairman may want to consider a different approach. A simple repeal of section 140 of Public Law 97–92 would dispense with the need to engage in this annual exercise. I commend this approach for the chairman's consideration and will not use this time to argue about whether or not it makes sense to pay judges more than third-year lawyers in excellent law firms. In conclusion, I urge my colleagues to support this measure.

Mr. CONYERS. Mr. Speaker, I rise in support of this legislation, of which I am a cosponsor. This bill provides the Federal judiciary with a much needed cost of living adjustment (COLA) for their salary for fiscal year 2004. I also would like to thank Chairman SENSENBRENNER for his leadership and bipartisanship on this issue.

The Constitution mandates that the pay of Federal judges ''shall not be diminished during their Continuance in Office.'' Unfortunately, by failing to provide judges with annual COLA's over the last decade, they have faced the equivalent of a $77,000 reduction in salary. Currently, Federal district court judges earn $150,000 per year. This is much less than they could earn in private practice; in fact, it is less than an attorney right out of law school can earn in private practice. Even the judges' employees, those who work at the Administrative Office of the U.S. Courts, can make more than their employers. In the last 30 years, while average pay has increased 12 percent for most workers, it has decreased 25 percent for Federal judges.

This issue can seem to be just a matter of salary, but it extends deeply into our concept of a democracy and judicial independence. The Constitution establishes a system of checks and balances, granting independent judges lifetime tenure and the right to an undiminished salary, in order to ensure the judiciary remains independent of financial, political, and social pressures. Unfortunately, many Federal judges are leaving the bench for private practice, and many experienced and qualified private practitioners are deterred from serving in the judiciary. The pay disparity has diminished the independence of our third branch and made it difficult to attract and retain qualified attorneys.

The timing for this legislation also is critical. Last year, Congress passed a continuing resolution that provided a cost of living adjustment to most Federal employees except judges. The omission required us to pass a law early this year to extend the COLA to judges. To ensure that we do not let this issue fall by the wayside again, we must pass this bill today.

I urge my colleagues to vote ''yes'' on this legislation.

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

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

The SPEAKER pro tempore (Mr. BASS). The question is on the motion offered by the gentleman from Wisconsin (Mr. SENSENBRENNER) that the House suspend the rules and pass the bill, H.R. 3349.

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

A motion to reconsider was laid on the table.

ADVANCING JUSTICE THROUGH DNA TECHNOLOGY ACT OF 2003

Mr. SENSENBRENNER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3214) to eliminate the substantial backlog of DNA samples collected from crime scenes and convicted offenders, to improve and expand the DNA testing capacity of Federal, State, and local crime laboratories, to increase research and development of new DNA testing technologies, to develop new training programs regarding the collection and use of DNA evidence, to provide post-conviction testing of DNA evidence to exonerate the innocent, to improve the performance of counsel in State capital cases, and for other purposes, as amended.

The Clerk read as follows:

H.R. 3214

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Advancing Justice Through DNA Technology Act of 2003''.

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

Sec. 1. Short title; table of contents.

TITLE I—DEBBIE SMITH ACT OF 2003

Sec. 101. Short title.
Sec. 102. Debbie Smith DNA Backlog Grant Program.
Sec. 103. Expansion of Combined DNA Index System.
Sec. 104. Tolling of statute of limitations.
Sec. 105. Legal assistance for victims of violence.
Sec. 106. Ensuring private laboratory assistance in eliminating DNA backlog.

TITLE II—DNA SEXUAL ASSAULT JUSTICE ACT OF 2003

Sec. 201. Short title.
Sec. 202. Ensuring public crime laboratory compliance with Federal standards.

Sec. 203. DNA training and education for law enforcement, correctional personnel, and court officers.
Sec. 204. Sexual assault forensic exam program grants.
Sec. 205. DNA research and development.
Sec. 206. National Forensic Science Commission.
Sec. 207. FBI DNA programs.
Sec. 208. DNA identification of missing persons.
Sec. 209. Enhanced criminal penalties for unauthorized disclosure or use of DNA information.
Sec. 210. Tribal coalition grants.
Sec. 211. Expansion of Paul Coverdell Forensic Science Improvement Grant Program.
Sec. 212. Report to Congress.
TITLE III—INNOCENCE PROTECTION ACT OF 2003
Sec. 301. Short title.
Subtitle A—Exonerating the Innocent Through DNA Testing
Sec. 311. Federal post-conviction DNA testing.
Sec. 312. Kirk Bloodsworth Post-Conviction DNA Testing Grant Program.
Sec. 313. Incentive grants to States to ensure consideration of claims of actual innocence.
Subtitle B—Improving the Quality of Representation in State Capital Cases
Sec. 321. Capital representation improvement grants.
Sec. 322. Capital prosecution improvement grants.
Sec. 323. Applications.
Sec. 324. State reports.
Sec. 325. Evaluations by Inspector General and administrative remedies.
Sec. 326. Authorization of appropriations.
Subtitle C—Compensation for the Wrongfully Convicted
Sec. 331. Increased compensation in Federal cases for the wrongfully convicted.
Sec. 332. Sense of Congress regarding compensation in State death penalty cases.

TITLE I—DEBBIE SMITH ACT OF 2003

SEC. 101. SHORT TITLE.

This title may be cited as the ''Debbie Smith Act of 2003''.

SEC. 102. DEBBIE SMITH DNA BACKLOG GRANT PROGRAM.

(a) DESIGNATION OF PROGRAM; ELIGIBILITY OF LOCAL GOVERNMENTS AS GRANTEES.—Section 2 of the DNA Analysis Backlog Elimination Act of 2000 (42 U.S.C. 14135) is amended—

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

''SEC. 2. THE DEBBIE SMITH DNA BACKLOG GRANT PROGRAM.'';

(2) in subsection (a)—

(A) in the matter preceding paragraph (1)—

(i) by inserting ''or units of local government'' after ''eligible States''; and

(ii) by inserting ''or unit of local government'' after ''State'';

(B) in paragraph (2), by inserting before the period at the end the following: '', including samples from rape kits, samples from other sexual assault evidence, and samples taken in cases without an identified suspect''; and

(C) in paragraph (3), by striking ''within the State'';

(3) in subsection (b)—

(A) in the matter preceding paragraph (1)—

(i) by inserting ''or unit of local government'' after ''State'' both places that term appears; and

(ii) by inserting '', as required by the Attorney General'' after ''application shall'';

(B) in paragraph (1), by inserting ''or unit of local government'' after ''State'';

(C) in paragraph (3), by inserting ''or unit of local government'' after ''State'' the first place that term appears;

(D) in paragraph (4)—

(i) by inserting ''or unit of local government'' after ''State''; and

(ii) by striking ''and'' at the end;

(E) in paragraph (5)—

(i) by inserting ''or unit of local government'' after ''State''; and

(ii) by striking the period at the end and inserting a semicolon; and

(F) by adding at the end the following:

''(6) if submitted by a unit of local government, certify that the unit of local government has taken, or is taking, all necessary steps to ensure that it is eligible to include, directly or through a State law enforcement agency, all analyses of samples for which it has requested funding in the Combined DNA Index System; and'';

(4) in subsection (d)—

(A) in paragraph (1)—

(i) in the matter preceding subparagraph (A), by striking ''The plan'' and inserting ''A plan pursuant to subsection (b)(1)'';

(ii) in subparagraph (A), by striking ''within the State''; and

(iii) in subparagraph (B), by striking ''within the State''; and

(B) in paragraph (2)(A), by inserting ''and units of local government'' after ''States'';

(5) in subsection (e)—

(A) in paragraph (1), by inserting ''or local government'' after ''State'' both places that term appears; and

(B) in paragraph (2), by inserting ''or unit of local government'' after ''State'';

(6) in subsection (f), in the matter preceding paragraph (1), by inserting ''or unit of local government'' after ''State'';

(7) in subsection (g)—

(A) in paragraph (1), by inserting ''or unit of local government'' after ''State''; and

(B) in paragraph (2), by inserting ''or units of local government'' after ''States''; and

(8) in subsection (h), by inserting ''or unit of local government'' after ''State'' both places that term appears.

(b) REAUTHORIZATION AND EXPANSION OF PROGRAM.—Section 2 of the DNA Analysis Backlog Elimination Act of 2000 (42 U.S.C. 14135) is amended—

(1) in subsection (a)—

(A) in paragraph (3), by inserting ''(1) or'' before ''(2)''; and

(B) by inserting at the end the following:

''(4) To collect DNA samples specified in paragraph (1).

''(5) To ensure that DNA testing and analysis of samples from crimes, including sexual assault and other serious violent crimes, are carried out in a timely manner.'';

(2) in subsection (b), as amended by this section, by inserting at the end the following:

''(7) specify that portion of grant amounts that the State or unit of local government shall use for the purpose specified in subsection (a)(4).'';

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

''(c) FORMULA FOR DISTRIBUTION OF GRANTS.—

''(1) IN GENERAL.—The Attorney General shall distribute grant amounts, and establish appropriate grant conditions under this section, in conformity with a formula or formulas that are designed to effectuate a distribution of funds among eligible States and units of local government that—

''(A) maximizes the effective utilization of DNA technology to solve crimes and protect public safety; and

''(B) allocates grants among eligible entities fairly and efficiently to address jurisdictions in which significant backlogs exist, by considering—

''(i) the number of offender and casework samples awaiting DNA analysis in a jurisdiction;

''(ii) the population in the jurisdiction; and

''(iii) the number of part 1 violent crimes in the jurisdiction.

''(2) MINIMUM AMOUNT.—The Attorney General shall allocate to each State not less than 0.50 percent of the total amount appropriated in a fiscal year for grants under this section, except that the United States Virgin Islands, American Samoa, Guam, and the Northern Mariana Islands shall each be allocated 0.125 percent of the total appropriation.

''(3) LIMITATION.—Grant amounts distributed under paragraph (1) shall be awarded to conduct DNA analyses of samples from casework or from victims of crime under subsection (a)(2) in accordance with the following limitations:

''(A) For fiscal year 2005, not less than 50 percent of the grant amounts shall be awarded for purposes under subsection (a)(2).

''(B) For fiscal year 2006, not less than 50 percent of the grant amounts shall be awarded for purposes under subsection (a)(2).

''(C) For fiscal year 2007, not less than 45 percent of the grant amounts shall be awarded for purposes under subsection (a)(2).

''(D) For fiscal year 2008, not less than 40 percent of the grant amounts shall be awarded for purposes under subsection (a)(2).

''(E) For fiscal year 2009, not less than 40 percent of the grant amounts shall be awarded for purposes under subsection (a)(2).'';

(4) in subsection (g)—

(A) in paragraph (1), by striking ''and'' at the end;

(B) in paragraph (2), by striking the period at the end and inserting ''; and''; and

(C) by adding at the end the following:

''(3) a description of the priorities and plan for awarding grants among eligible States and units of local government, and how such plan will ensure the effective use of DNA technology to solve crimes and protect public safety.'';

(5) in subsection (j), by striking paragraphs (1) and (2) and inserting the following:

''(1) $151,000,000 for fiscal year 2005;

''(2) $151,000,000 for fiscal year 2006;

''(3) $151,000,000 for fiscal year 2007;

''(4) $151,000,000 for fiscal year 2008; and

''(5) $151,000,000 for fiscal year 2009.''; and

(6) by adding at the end the following:

''(k) USE OF FUNDS FOR ACCREDITATION AND AUDITS.—The Attorney General may distribute not more than 1 percent of the grant amounts under subsection (j)—

''(1) to States or units of local government to defray the costs incurred by laboratories operated by each such State or unit of local government in preparing for accreditation or reaccreditation;

''(2) in the form of additional grants to States, units of local government, or nonprofit professional organizations of persons actively involved in forensic science and nationally recognized within the forensic science community—

''(A) to defray the costs of external audits of laboratories operated by such State or unit of local government, which participates in the National DNA Index System, to determine whether the laboratory is in compliance with quality assurance standards;

''(B) to assess compliance with any plans submitted to the National Institute of Justice, which detail the use of funds received by States or units of local government under this Act; and

''(C) to support future capacity building efforts; and

''(3) in the form of additional grants to nonprofit professional associations actively

involved in forensic science and nationally recognized within the forensic science community to defray the costs of training persons who conduct external audits of laboratories operated by States and units of local government and which participate in the National DNA Index System.

''(l) EXTERNAL AUDITS AND REMEDIAL EFFORTS.—In the event that a laboratory operated by a State or unit of local government which has received funds under this Act has undergone an external audit conducted to determine whether the laboratory is in compliance with standards established by the Director of the Federal Bureau of Investigation, and, as a result of such audit, identifies measures to remedy deficiencies with respect to the compliance by the laboratory with such standards, the State or unit of local government shall implement any such remediation as soon as practicable.''.

SEC. 103. EXPANSION OF COMBINED DNA INDEX SYSTEM.

(a) INCLUSION OF ALL DNA SAMPLES FROM STATES.—Section 210304 of the DNA Identification Act of 1994 (42 U.S.C. 14132) is amended—

(1) in subsection (a)(1), by striking ''of persons convicted of crimes;'' and inserting the following: ''of—

''(A) persons convicted of crimes;

''(B) persons who have been indicted or who have waived indictment for a crime; and

''(C) other persons whose DNA samples are collected under applicable legal authorities, provided that DNA profiles from arrestees who have not been indicted and DNA samples that are voluntarily submitted solely for elimination purposes shall not be included in the Combined DNA Index System;''; and

(2) in subsection (d)(2)—

(A) by striking ''if the responsible agency'' and inserting''if—

''(i) the responsible agency'';

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

(C) by adding at the end the following:

''(ii) the person has not been convicted of an offense on the basis of which that analysis was or could have been included in the index, and all charges for which the analysis was or could have been included in the index have been dismissed or resulted in acquittal.''.

(b) FELONS CONVICTED OF FEDERAL CRIMES.—Section 3(d) of the DNA Analysis Backlog Elimination Act of 2000 (42 U.S.C. 14135a(d)) is amended to read as follows:

''(d) QUALIFYING FEDERAL OFFENSES.—The offenses that shall be treated for purposes of this section as qualifying Federal offenses are the following offenses, as determined by the Attorney General:

''(1) Any felony.

''(2) Any offense under chapter 109A of title 18, United States Code.

''(3) Any crime of violence (as that term is defined in section 16 of title 18, United States Code).

''(4) Any attempt or conspiracy to commit any of the offenses in paragraphs (1) through (3).''.

(c) MILITARY OFFENSES.—Section 1565(d) of title 10, United States Code, is amended to read as follows:

''(d) QUALIFYING MILITARY OFFENSES.—The offenses that shall be treated for purposes of this section as qualifying military offenses are the following offenses, as determined by the Secretary of Defense, in consultation with the Attorney General:

''(1) Any offense under the Uniform Code of Military Justice for which a sentence of confinement for more than one year may be imposed.

''(2) Any other offense under the Uniform Code of Military Justice that is comparable to a qualifying Federal offense (as determined under section 3(d) of the DNA Analysis Backlog Elimination Act of 2000 (42 U.S.C. 14135a(d))).''.

(d) KEYBOARD SEARCHES.—Section 210304 of the DNA Identification Act of 1994 (42 U.S.C. 14132), as amended by subsection (a), is further amended by adding at the end the following new subsection:

''(e) AUTHORITY FOR KEYBOARD SEARCHES.—

''(1) IN GENERAL.—The Director shall ensure that any person who is authorized to access the index described in subsection (a) for purposes of including information on DNA identification records or DNA analyses in that index may also access that index for purposes of carrying out a one-time keyboard search on information obtained from any DNA sample lawfully collected for a criminal justice purpose except for a DNA sample voluntarily submitted solely for elimination purposes.

''(2) DEFINITION.—For purposes of paragraph (1), the term 'keyboard search' means a search under which information obtained from a DNA sample is compared with information in the index without resulting in the information obtained from a DNA sample being included in the index.

''(3) NO PREEMPTION.—This subsection shall not be construed to preempt State law.''.

SEC. 104. TOLLING OF STATUTE OF LIMITATIONS.

(a) IN GENERAL.—Chapter 213 of title 18, United States Code, is amended by adding at the end the following:

''§ 3297. Cases involving DNA evidence

''In a case in which DNA testing implicates an identified person in the commission of a felony, no statute of limitations that would otherwise preclude prosecution of the offense shall preclude such prosecution until a period of time following the implication of the person by DNA testing has elapsed that is equal to the otherwise applicable limitation period.''.

(b) CLERICAL AMENDMENT.—The table of sections for chapter 213 of title 18, United States Code, is amended by adding at the end the following:

''3297. Cases involving DNA evidence.''.

(c) APPLICATION.—The amendments made by this section shall apply to the prosecution of any offense committed before, on, or after the date of the enactment of this section if the applicable limitation period has not yet expired.

SEC. 105. LEGAL ASSISTANCE FOR VICTIMS OF VIOLENCE.

Section 1201 of the Violence Against Women Act of 2000 (42 U.S.C. 3796gg–6) is amended—

(1) in subsection (a), by inserting ''dating violence,'' after ''domestic violence,'';

(2) in subsection (b)—

(A) by redesignating paragraphs (1) through (3) as paragraphs (2) through (4), respectively;

(B) by inserting before paragraph (2), as redesignated by subparagraph (A), the following:

''(1) DATING VIOLENCE.—The term 'dating violence' means violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim. The existence of such a relationship shall be determined based on a consideration of—

''(A) the length of the relationship;

''(B) the type of relationship; and

''(C) the frequency of interaction between the persons involved in the relationship.''; and

(C) in paragraph (3), as redesignated by subparagraph (A), by inserting ''dating violence,'' after ''domestic violence,'';

(3) in subsection (c)—

(A) in paragraph (1)—

(i) by inserting '', dating violence,'' after ''between domestic violence''; and

(ii) by inserting ''dating violence,'' after ''victims of domestic violence,'';

(B) in paragraph (2), by inserting ''dating violence,'' after ''domestic violence,''; and

(C) in paragraph (3), by inserting ''dating violence,'' after ''domestic violence,'';

(4) in subsection (d)—

(A) in paragraph (1), by inserting '', dating violence,'' after ''domestic violence'';

(B) in paragraph (2), by inserting '', dating violence,'' after ''domestic violence'';

(C) in paragraph (3), by inserting '', dating violence,'' after ''domestic violence''; and

(D) in paragraph (4), by inserting ''dating violence,'' after ''domestic violence,'';

(5) in subsection (e), by inserting ''dating violence,'' after ''domestic violence,''; and

(6) in subsection (f)(2)(A), by inserting ''dating violence,'' after ''domestic violence,''.

SEC. 106. ENSURING PRIVATE LABORATORY ASSISTANCE IN ELIMINATING DNA BACKLOG.

Section 2(d)(3) of the DNA Analysis Backlog Elimination Act of 2000 (42 U.S.C. 14135(d)(3)) is amended to read as follows:

''(3) USE OF VOUCHERS OR CONTRACTS FOR CERTAIN PURPOSES.—

''(A) IN GENERAL.—A grant for the purposes specified in paragraph (1), (2), or (5) of subsection (a) may be made in the form of a voucher or contract for laboratory services.

''(B) REDEMPTION.—A voucher or contract under subparagraph (A) may be redeemed at a laboratory operated by a private entity that satisfies quality assurance standards and has been approved by the Attorney General.

''(C) PAYMENTS.—The Attorney General may use amounts authorized under subsection (j) to make payments to a laboratory described under subparagraph (B).''.

TITLE II—DNA SEXUAL ASSAULT JUSTICE ACT OF 2003

SEC. 201. SHORT TITLE.

This title may be cited as the ''DNA Sexual Assault Justice Act of 2003''.

SEC. 202. ENSURING PUBLIC CRIME LABORATORY COMPLIANCE WITH FEDERAL STANDARDS.

Section 210304(b)(2) of the DNA Identification Act of 1994 (42 U.S.C. 14132(b)(2)) is amended to read as follows:

''(2) prepared by laboratories that—

''(A) not later than 2 years after the date of enactment of the DNA Sexual Assault Justice Act of 2003, have been accredited by a nonprofit professional association of persons actively involved in forensic science that is nationally recognized within the forensic science community; and

''(B) undergo external audits, not less than once every 2 years, that demonstrate compliance with standards established by the Director of the Federal Bureau of Investigation; and''.

SEC. 203. DNA TRAINING AND EDUCATION FOR LAW ENFORCEMENT, CORRECTIONAL PERSONNEL, AND COURT OFFICERS.

(a) IN GENERAL.—The Attorney General shall make grants to eligible entities to provide training, technical assistance, education, and information relating to the identification, collection, preservation, analysis, and use of DNA samples and DNA evidence.

(b) ELIGIBLE ENTITY.—For purposes of subsection (a), an eligible entity is an organization consisting of, comprised of, or representing—

(1) law enforcement personnel, including police officers and other first responders, evidence technicians, investigators, and others who collect or examine evidence of crime;

(2) court officers, including State and local prosecutors, defense lawyers, and judges;

(3) forensic science professionals; and

(4) corrections personnel, including prison and jail personnel, and probation, parole, and other officers involved in supervision.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $12,500,000 for each of fiscal years 2005 through 2009 to carry out this section.

SEC. 204. SEXUAL ASSAULT FORENSIC EXAM PROGRAM GRANTS.

(a) IN GENERAL.—The Attorney General shall make grants to eligible entities to provide training, technical assistance, education, equipment, and information relating to the identification, collection, preservation, analysis, and use of DNA samples and DNA evidence by medical personnel and other personnel, including doctors, medical examiners, coroners, nurses, victim service providers, and other professionals involved in treating victims of sexual assault and sexual assault examination programs, including SANE (Sexual Assault Nurse Examiner), SAFE (Sexual Assault Forensic Examiner), and SART (Sexual Assault Response Team).

(b) ELIGIBLE ENTITY.—For purposes of this section, the term ''eligible entity'' includes—

(1) States;

(2) units of local government; and

(3) sexual assault examination programs, including—

(A) sexual assault nurse examiner (SANE) programs;

(B) sexual assault forensic examiner (SAFE) programs;

(C) sexual assault response team (SART) programs;

(D) State sexual assault coalitions;

(E) medical personnel, including doctors, medical examiners, coroners, and nurses, involved in treating victims of sexual assault; and

(F) victim service providers involved in treating victims of sexual assault.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $30,000,000 for each of fiscal years 2005 through 2009 to carry out this section.

SEC. 205. DNA RESEARCH AND DEVELOPMENT.

(a) IMPROVING DNA TECHNOLOGY.—The Attorney General shall make grants for research and development to improve forensic DNA technology, including increasing the identification accuracy and efficiency of DNA analysis, decreasing time and expense, and increasing portability.

(b) DEMONSTRATION PROJECTS.—The Attorney General shall make grants to appropriate entities under which research is carried out through demonstration projects involving coordinated training and commitment of resources to law enforcement agencies and key criminal justice participants to demonstrate and evaluate the use of forensic DNA technology in conjunction with other forensic tools. The demonstration projects shall include scientific evaluation of the public safety benefits, improvements to law enforcement operations, and cost-effectiveness of increased collection and use of DNA evidence.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $15,000,000 for each of fiscal years 2005 through 2009 to carry out this section.

SEC. 206. NATIONAL FORENSIC SCIENCE COMMISSION.

(a) APPOINTMENT.—The Attorney General shall appoint a National Forensic Science Commission (in this section referred to as the ''Commission''), composed of persons experienced in criminal justice issues, including persons from the forensic science and criminal justice communities, to carry out the responsibilities under subsection (b).

(b) RESPONSIBILITIES.—The Commission shall—

(1) assess the present and future resource needs of the forensic science community;

(2) make recommendations to the Attorney General for maximizing the use of forensic technologies and techniques to solve crimes and protect the public;

(3) identify potential scientific advances that may assist law enforcement in using forensic technologies and techniques to protect the public;

(4) make recommendations to the Attorney General for programs that will increase the number of qualified forensic scientists available to work in public crime laboratories;

(5) disseminate, through the National Institute of Justice, best practices concerning the collection and analyses of forensic evidence to help ensure quality and consistency in the use of forensic technologies and techniques to solve crimes and protect the public;

(6) examine additional issues pertaining to forensic science as requested by the Attorney General;

(7) examine Federal, State, and local privacy protection statutes, regulations, and practices relating to access to, or use of, stored DNA samples or DNA analyses, to determine whether such protections are sufficient;

(8) make specific recommendations to the Attorney General, as necessary, to enhance the protections described in paragraph (7) to ensure—

(A) the appropriate use and dissemination of DNA information;

(B) the accuracy, security, and confidentiality of DNA information;

(C) the timely removal and destruction of obsolete, expunged, or inaccurate DNA information; and

(D) that any other necessary measures are taken to protect privacy; and

(9) provide a forum for the exchange and dissemination of ideas and information in furtherance of the objectives described in paragraphs (1) through (8).

(c) PERSONNEL; PROCEDURES.—The Attorney General shall—

(1) designate the Chair of the Commission from among its members;

(2) designate any necessary staff to assist in carrying out the functions of the Commission; and

(3) establish procedures and guidelines for the operations of the Commission.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $500,000 for each of fiscal years 2005 through 2009 to carry out this section.

SEC. 207. FBI DNA PROGRAMS.

(a) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Federal Bureau of Investigation $42,100,000 for each of fiscal years 2005 through 2009 to carry out the DNA programs and activities described under subsection (b).

(b) PROGRAMS AND ACTIVITIES.—The Federal Bureau of Investigation may use any amounts appropriated pursuant to subsection (a) for—

(1) nuclear DNA analysis;

(2) mitochondrial DNA analysis;

(3) regional mitochondrial DNA laboratories;

(4) the Combined DNA Index System;

(5) the Federal Convicted Offender DNA Program; and

(6) DNA research and development.

SEC. 208. DNA IDENTIFICATION OF MISSING PERSONS.

(a) IN GENERAL.—The Attorney General shall make grants to States and units of local government to promote the use of forensic DNA technology to identify missing persons and unidentified human remains.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $2,000,000 for each of fiscal years 2005 through 2009 to carry out this section.

SEC. 209. ENHANCED CRIMINAL PENALTIES FOR UNAUTHORIZED DISCLOSURE OR USE OF DNA INFORMATION.

Section 10(c) of the DNA Analysis Backlog Elimination Act of 2000 (42 U.S.C. 14135e(c)) is amended to read as follows:

''(c) CRIMINAL PENALTY.—A person who knowingly discloses a sample or result described in subsection (a) in any manner to any person not authorized to receive it, or obtains or uses, without authorization, such sample or result, shall be fined not more than $100,000. Each instance of disclosure, obtaining, or use shall constitute a separate offense under this subsection.''.

SEC. 210. TRIBAL COALITION GRANTS.

(a) IN GENERAL.—Section 2001 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796gg) is amended by adding at the end the following:

''(d) TRIBAL COALITION GRANTS.—

''(1) PURPOSE.—The Attorney General shall award grants to tribal domestic violence and sexual assault coalitions for purposes of—

''(A) increasing awareness of domestic violence and sexual assault against Indian women;

''(B) enhancing the response to violence against Indian women at the tribal, Federal, and State levels; and

''(C) identifying and providing technical assistance to coalition membership and tribal communities to enhance access to essential services to Indian women victimized by domestic and sexual violence.

''(2) GRANTS TO TRIBAL COALITIONS.—The Attorney General shall award grants under paragraph (1) to—

''(A) established nonprofit, nongovernmental tribal coalitions addressing domestic violence and sexual assault against Indian women; and

''(B) individuals or organizations that propose to incorporate as nonprofit, nongovernmental tribal coalitions to address domestic violence and sexual assault against Indian women.

''(3) ELIGIBILITY FOR OTHER GRANTS.—Receipt of an award under this subsection by tribal domestic violence and sexual assault coalitions shall not preclude the coalition from receiving additional grants under this title to carry out the purposes described in subsection (b).''.

(b) TECHNICAL AMENDMENT.—Effective as of November 2, 2002, and as if included therein as enacted, Public Law 107–273 (116 Stat. 1789) is amended in section 402(2) by striking ''sections 2006 through 2011'' and inserting ''sections 2007 through 2011''.

(c) AMOUNTS.—Section 2007 of the Omnibus Crime Control and Safe Streets Act of 1968 (as redesignated by section 402(2) of Public Law 107–273, as amended by subsection (b)) is amended by amending subsection (b)(4) (42 U.S.C. 3796gg–1(b)(4)) to read as follows:

''(4) 1/54 shall be available for grants under section 2001(d);''.

SEC. 211. EXPANSION OF PAUL COVERDELL FORENSIC SCIENCES IMPROVEMENT GRANT PROGRAM.

(a) FORENSIC BACKLOG ELIMINATION GRANTS.—Section 2804 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3797m) is amended—

(1) in subsection (a)—

(A) by striking ''shall use the grant to carry out'' and inserting ''shall use the grant to do any one or more of the following:

''(1) To carry out''; and

(B) by adding at the end the following:

''(2) To eliminate a backlog in the analysis of forensic science evidence, including firearms examination, latent prints, toxicology,

controlled substances, forensic pathology, questionable documents, and trace evidence.

''(3) To train, assist, and employ forensic laboratory personnel, as needed, to eliminate such a backlog.'';

(2) in subsection (b), by striking ''under this part'' and inserting ''for the purpose set forth in subsection (a)(1)''; and

(3) by adding at the end the following:

''(e) BACKLOG DEFINED.—For purposes of this section, a backlog in the analysis of forensic science evidence exists if such evidence—

''(1) has been stored in a laboratory, medical examiner's office, coroner's office, law enforcement storage facility, or medical facility; and

''(2) has not been subjected to all appropriate forensic testing because of a lack of resources or personnel.''.

(b) EXTERNAL AUDITS.—Section 2802 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3797k) is amended—

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

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

(3) by adding at the end the following:

''(4) a certification that a government entity exists and an appropriate process is in place to conduct independent external investigations into allegations of serious negligence or misconduct substantially affecting the integrity of the forensic results committed by employees or contractors of any forensic laboratory system, medical examiner's office, coroner's office, law enforcement storage facility, or medical facility in the State that will receive a portion of the grant amount.''.

(c) THREE-YEAR EXTENSION OF AUTHORIZATION OF APPROPRIATIONS.—Section 1001(a)(24) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793(a)(24)) is amended—

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

(2) in subparagraph (F), by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following:

''(G) $20,000,000 for fiscal year 2007;

''(H) $20,000,000 for fiscal year 2008; and

''(I) $20,000,000 for fiscal year 2009.''.

(d) TECHNICAL AMENDMENT.—Section 1001(a) of such Act, as amended by subsection (c), is further amended by realigning paragraphs (24) and (25) so as to be flush with the left margin.

SEC. 212. REPORT TO CONGRESS.

(a) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, the Attorney General shall submit to Congress a report on the implementation of this Act and the amendments made by this Act.

(b) CONTENTS.—The report submitted under subsection (a) shall include a description of—

(1) the progress made by Federal, State, and local entities in—

(A) collecting and entering DNA samples from offenders convicted of qualifying offenses for inclusion in the Combined DNA Index System (referred to in this subsection as ''CODIS'');

(B) analyzing samples from crime scenes, including evidence collected from sexual assaults and other serious violent crimes, and entering such DNA analyses in CODIS; and

(C) increasing the capacity of forensic laboratories to conduct DNA analyses;

(2) the priorities and plan for awarding grants among eligible States and units of local government to ensure that the purposes of this Act are carried out;

(3) the distribution of grant amounts under this Act among eligible States and local governments, and whether the distribution of such funds has served the purposes of the Debbie Smith DNA Backlog Grant Program;

(4) grants awarded and the use of such grants by eligible entities for DNA training and education programs for law enforcement, correctional personnel, court officers, medical personnel, victim service providers, and other personnel authorized under sections 203 and 204;

(5) grants awarded and the use of such grants by eligible entities to conduct DNA research and development programs to improve forensic DNA technology, and implement demonstration projects under section 205;

(6) the steps taken to establish the National Forensic Science Commission, and the activities of the Commission under section 206;

(7) the use of funds by the Federal Bureau of Investigation under section 207;

(8) grants awarded and the use of such grants by eligible entities to promote the use of forensic DNA technology to identify missing persons and unidentified human remains under section 208;

(9) grants awarded and the use of such grants by eligible entities to eliminate forensic science backlogs under the amendments made by section 211;

(10) State compliance with the requirements set forth in section 313; and

(11) any other matters considered relevant by the Attorney General.

TITLE III—INNOCENCE PROTECTION ACT OF 2003

SEC. 301. SHORT TITLE.

This title may be cited as the ''Innocence Protection Act of 2003''.

Subtitle A—Exonerating the Innocent Through DNA Testing

SEC. 311. FEDERAL POST-CONVICTION DNA TESTING.

(a) FEDERAL CRIMINAL PROCEDURE.—

(1) IN GENERAL.—Part II of title 18, United States Code, is amended by inserting after chapter 228 the following:

''CHAPTER 228A—POST-CONVICTION DNA TESTING

''Sec.
''3600. DNA testing.
''3600A. Preservation of biological evidence.

''§ 3600. DNA testing

''(a) IN GENERAL.—Upon a written motion by an individual under a sentence of imprisonment or death pursuant to a conviction for a Federal offense (referred to in this section as the 'applicant'), the court that entered the judgment of conviction shall order DNA testing of specific evidence if—

''(1) the applicant asserts, under penalty of perjury, that the applicant is actually innocent of—

''(A) the Federal offense for which the applicant is under a sentence of imprisonment or death; or

''(B) another Federal or State offense, if—

''(i)(I) such offense was legally necessary to make the applicant eligible for a sentence as a career offender under section 3559(e) or an armed career offender under section 924(e), and exoneration of such offense would entitle the applicant to a reduced sentence; or

''(II) evidence of such offense was admitted during a Federal death sentencing hearing and exoneration of such offense would entitle the applicant to a reduced sentence or new sentencing hearing; and

''(ii) in the case of a State offense—

''(I) the applicant demonstrates that there is no adequate remedy under State law to permit DNA testing of the specified evidence relating to the State offense; and

''(II) to the extent available, the applicant has exhausted all remedies available under State law for requesting DNA testing of specified evidence relating to the State offense;

''(2) the specific evidence to be tested was secured in relation to the investigation or prosecution of the Federal or State offense referenced in the applicant's assertion under paragraph (1);

''(3) the specific evidence to be tested—

''(A) was not previously subjected to DNA testing and the applicant did not knowingly and voluntarily waive the right to request DNA testing of that evidence in a court proceeding after the date of enactment of the Innocence Protection Act of 2003; or

''(B) was previously subjected to DNA testing and the applicant is requesting DNA testing using a new method or technology that is substantially more probative than the prior DNA testing;

''(4) the specific evidence to be tested is in the possession of the Government and has been subject to a chain of custody and retained under conditions sufficient to ensure that such evidence has not been substituted, contaminated, tampered with, replaced, or altered in any respect material to the proposed DNA testing;

''(5) the proposed DNA testing is reasonable in scope, uses scientifically sound methods, and is consistent with accepted forensic practices;

''(6) the applicant identifies a theory of defense that—

''(A) is not inconsistent with an affirmative defense presented at trial; and

''(B) would establish the actual innocence of the applicant of the Federal or State offense referenced in the applicant's assertion under paragraph (1);

''(7) if the applicant was convicted following a trial, the identity of the perpetrator was at issue in the trial;

''(8) the proposed DNA testing of the specific evidence—

''(A) would produce new material evidence to support the theory of defense referenced in paragraph (6); and

''(B) assuming the DNA test result excludes the applicant, would raise a reasonable probability that the applicant did not commit the offense;

''(9) the applicant certifies that the applicant will provide a DNA sample for purposes of comparison; and

''(10) the applicant's motion is filed for the purpose of demonstrating the applicant's actual innocence of the Federal or State offense, and not to delay the execution of the sentence or the administration of justice.

''(b) NOTICE TO THE GOVERNMENT; PRESERVATION ORDER; APPOINTMENT OF COUNSEL.—

''(1) NOTICE.—Upon the receipt of a motion filed under subsection (a), the court shall—

''(A) notify the Government; and

''(B) allow the Government a reasonable time period to respond to the motion.

''(2) PRESERVATION ORDER.—To the extent necessary to carry out proceedings under this section, the court shall direct the Government to preserve the specific evidence relating to a motion under subsection (a).

''(3) APPOINTMENT OF COUNSEL.—The court may appoint counsel for an indigent applicant under this section in the same manner as in a proceeding under section 3006A(a)(2)(B).

''(c) TESTING PROCEDURES.—

''(1) IN GENERAL.—The court shall direct that any DNA testing ordered under this section be carried out by the Federal Bureau of Investigation.

''(2) EXCEPTION.—Notwithstanding paragraph (1), the court may order DNA testing by another qualified laboratory if the court makes all necessary orders to ensure the integrity of the specific evidence and the reliability of the testing process and test results.

''(3) COSTS.—The costs of any DNA testing ordered under this section shall be paid—

''(A) by the applicant; or

''(B) in the case of an applicant who is indigent, by the Government.

''(d) TIME LIMITATION IN CAPITAL CASES.—In any case in which the applicant is sentenced to death—

''(1) any DNA testing ordered under this section shall be completed not later than 60 days after the date on which the Government responds to the motion filed under subsection (a); and

''(2) not later than 120 days after the date on which the DNA testing ordered under this section is completed, the court shall order any post-testing procedures under subsection (f) or (g), as appropriate.

''(e) REPORTING OF TEST RESULTS.—

''(1) IN GENERAL.—The results of any DNA testing ordered under this section shall be simultaneously disclosed to the court, the applicant, and the Government.

''(2) NDIS.—The Government shall submit any test results relating to the DNA of the applicant to the National DNA Index System (referred to in this subsection as 'NDIS').

''(3) RETENTION OF DNA SAMPLE.—

''(A) ENTRY INTO NDIS.—If the DNA test results obtained under this section are inconclusive or show that the applicant was the source of the DNA evidence, the DNA sample of the applicant may be retained in NDIS.

''(B) MATCH WITH OTHER OFFENSE.—If the DNA test results obtained under this section exclude the applicant as the source of the DNA evidence, and a comparison of the DNA sample of the applicant results in a match between the DNA sample of the applicant and another offense, the Attorney General shall notify the appropriate agency and preserve the DNA sample of the applicant.

''(C) NO MATCH.—If the DNA test results obtained under this section exclude the applicant as the source of the DNA evidence, and a comparison of the DNA sample of the applicant does not result in a match between the DNA sample of the applicant and another offense, the Attorney General shall destroy the DNA sample of the applicant and ensure that such information is not retained in NDIS if there is no other legal authority to retain the DNA sample of the applicant in NDIS.

''(f) POST-TESTING PROCEDURES; INCONCLUSIVE AND INCULPATORY RESULTS.—

''(1) INCONCLUSIVE RESULTS.—If DNA test results obtained under this section are inconclusive, the court may order further testing, if appropriate, or may deny the applicant relief.

''(2) INCULPATORY RESULTS.—If DNA test results obtained under this section show that the applicant was the source of the DNA evidence, the court shall—

''(A) deny the applicant relief; and

''(B) on motion of the Government—

''(i) make a determination whether the applicant's assertion of actual innocence was false, and, if the court makes such a finding, the court may hold the applicant in contempt;

''(ii) assess against the applicant the cost of any DNA testing carried out under this section;

''(iii) forward the finding to the Director of the Bureau of Prisons, who, upon receipt of such a finding, may deny, wholly or in part, the good conduct credit authorized under section 3632 on the basis of that finding;

''(iv) if the applicant is subject to the jurisdiction of the United States Parole Commission, forward the finding to the Commission so that the Commission may deny parole on the basis of that finding; and

''(v) if the DNA test results relate to a State offense, forward the finding to any appropriate State official.

''(3) SENTENCE.—In any prosecution of an applicant under chapter 79 for false assertions or other conduct in proceedings under this section, the court, upon conviction of the applicant, shall sentence the applicant to a term of imprisonment of not less than 3 years, which shall run consecutively to any other term of imprisonment the applicant is serving.

''(g) POST-TESTING PROCEDURES; MOTION FOR NEW TRIAL OR RESENTENCING.—

''(1) IN GENERAL.—Notwithstanding any law that would bar a motion under this paragraph as untimely, if DNA test results obtained under this section exclude the applicant as the source of the DNA evidence, the applicant may file a motion for a new trial or resentencing, as appropriate. The court shall establish a reasonable schedule for the applicant to file such a motion and for the Government to respond to the motion.

''(2) STANDARD FOR GRANTING MOTION FOR NEW TRIAL OR RESENTENCING.—The court shall grant the motion of the applicant for a new trial or resentencing, as appropriate, if the DNA test results, when considered with all other evidence in the case (regardless of whether such evidence was introduced at trial), establish by a preponderance of the evidence that a new trial would result in an acquittal of—

''(A) in the case of a motion for a new trial, the Federal offense for which the applicant is under a sentence of imprisonment or death; and

''(B) in the case of a motion for resentencing, another Federal or State offense, if—

''(i) such offense was legally necessary to make the applicant eligible for a sentence as a career offender under section 3559(e) or an armed career offender under section 924(e), and exoneration of such offense would entitle the applicant to a reduced sentence; or

''(ii) evidence of such offense was admitted during a Federal death sentencing hearing and exoneration of such offense would entitle the applicant to a reduced sentence or a new sentencing proceeding.

''(h) OTHER LAWS UNAFFECTED.—

''(1) POST-CONVICTION RELIEF.—Nothing in this section shall affect the circumstances under which a person may obtain DNA testing or post-conviction relief under any other law.

''(2) HABEAS CORPUS.—Nothing in this section shall provide a basis for relief in any Federal habeas corpus proceeding.

''(3) APPLICATION NOT A MOTION.—An application under this section shall not be considered to be a motion under section 2255 for purposes of determining whether the application or any other motion is a second or successive motion under section 2255.

''§ 3600A. Preservation of biological evidence

''(a) IN GENERAL.—Notwithstanding any other provision of law, the Government shall preserve biological evidence that was secured in the investigation or prosecution of a Federal offense, if a defendant is under a sentence of imprisonment for such offense.

''(b) DEFINED TERM.—For purposes of this section, the term 'biological evidence' means—

''(1) a sexual assault forensic examination kit; or

''(2) semen, blood, saliva, hair, skin tissue, or other identified biological material.

''(c) APPLICABILITY.—Subsection (a) shall not apply if—

''(1) a court has denied a request or motion for DNA testing of the biological evidence by the defendant under section 3600, and no appeal is pending;

''(2) the defendant knowingly and voluntarily waived the right to request DNA testing of such evidence in a court proceeding conducted after the date of enactment of the Innocence Protection Act of 2003;

''(3) the defendant is notified after conviction that the biological evidence may be destroyed and the defendant does not file a motion under section 3600 within 180 days of receipt of the notice; or

''(4)(A) the evidence must be returned to its rightful owner, or is of such a size, bulk, or physical character as to render retention impracticable; and

''(B) the Government takes reasonable measures to remove and preserve portions of the material evidence sufficient to permit future DNA testing.

''(d) OTHER PRESERVATION REQUIREMENT.—Nothing in this section shall preempt or supersede any statute, regulation, court order, or other provision of law that may require evidence, including biological evidence, to be preserved.

''(e) REGULATIONS.—Not later than 180 days after the date of enactment of the Innocence Protection Act of 2003, the Attorney General shall promulgate regulations to implement and enforce this section, including appropriate disciplinary sanctions to ensure that employees comply with such regulations.

''(f) CRIMINAL PENALTY.—Whoever knowingly and intentionally destroys, alters, or tampers with biological evidence that is required to be preserved under this section with the intent to prevent that evidence from being subjected to DNA testing or prevent the production or use of that evidence in an official proceeding, shall be fined under this title, imprisoned for not more than 5 years, or both.

''(g) HABEAS CORPUS.—Nothing in this section shall provide a basis for relief in any Federal habeas corpus proceeding.''.

(2) CLERICAL AMENDMENT.—The chapter analysis for part II of title 18, United States Code, is amended by inserting after the item relating to chapter 228 the following:

''228A. Post-conviction DNA testing ... 3600''.

(b) SYSTEM FOR REPORTING MOTIONS.—

(1) ESTABLISHMENT.—The Attorney General shall establish a system for reporting and tracking motions filed in accordance with section 3600 of title 18, United States Code.

(2) OPERATION.—In operating the system established under paragraph (1), the Federal courts shall provide to the Attorney General any requested assistance in operating such a system and in ensuring the accuracy and completeness of information included in that system.

(3) REPORT.—Not later than 2 years after the date of enactment of this Act, the Attorney General shall submit a report to Congress that contains—

(A) a list of motions filed under section 3600 of title 18, United States Code, as added by this Act;

(B) whether DNA testing was ordered pursuant to such a motion;

(C) whether the applicant obtained relief on the basis of DNA test results; and

(D) whether further proceedings occurred following a granting of relief and the outcome of such proceedings.

(4) ADDITIONAL INFORMATION.—The report required to be submitted under paragraph (3) may include any other information the Attorney General determines to be relevant in assessing the operation, utility, or costs of section 3600 of title 18, United States Code, as added by this Act, and any recommendations the Attorney General may have relating to future legislative action concerning that section.

(c) EFFECTIVE DATE; APPLICABILITY.—This section and the amendments made by this section shall take effect on the date of enactment of this Act and shall apply with respect

to any offense committed, and to any judgment of conviction entered, before, on, or after that date of enactment.

SEC. 312. KIRK BLOODSWORTH POST-CONVICTION DNA TESTING GRANT PROGRAM.

(a) IN GENERAL.—The Attorney General shall establish the Kirk Bloodsworth Post-Conviction DNA Testing Grant Program to award grants to States to help defray the costs of post-conviction DNA testing.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $5,000,000 for each of fiscal years 2005 through 2009 to carry out this section.

(c) STATE DEFINED.—For purposes of this section, the term ''State'' means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, American Samoa, Guam, and the Northern Mariana Islands.

SEC. 313. INCENTIVE GRANTS TO STATES TO ENSURE CONSIDERATION OF CLAIMS OF ACTUAL INNOCENCE.

For each of fiscal years 2005 through 2009, all funds appropriated to carry out sections 203, 205, 207, and 312 shall be reserved for grants to eligible entities that—

(1) meet the requirements under section 203, 205, 207, or 312, as appropriate; and

(2) demonstrate that the State in which the eligible entity operates—

(A) provides post-conviction DNA testing of specified evidence—

(i) under a State statute enacted before the date of enactment of this Act (or extended or renewed after such date), to any person convicted after trial and under a sentence of imprisonment or death for a State offense, in a manner that ensures a meaningful process for resolving a claim of actual innocence; or

(ii) under a State statute enacted after the date of enactment of this Act, or under a State rule, regulation, or practice, to any person under a sentence of imprisonment or death for a State offense, in a manner comparable to section 3600(a) of title 18, United States Code (provided that the State statute, rule, regulation, or practice may make post-conviction DNA testing available in cases in which such testing is not required by such section), and if the results of such testing exclude the applicant, permits the applicant to apply for post-conviction relief, notwithstanding any provision of law that would otherwise bar such application as untimely; and

(B) preserves biological evidence secured in relation to the investigation or prosecution of a State offense—

(i) under a State statute or a State or local rule, regulation, or practice, enacted or adopted before the date of enactment of this Act (or extended or renewed after such date), in a manner that ensures that reasonable measures are taken by all jurisdictions within the State to preserve such evidence; or

(ii) under a State statute or a State or local rule, regulation, or practice, enacted or adopted after the date of enactment of this Act, in a manner comparable to section 3600A of title 18, United States Code, if—

(I) all jurisdictions within the State comply with this requirement; and

(II) such jurisdictions may preserve such evidence for longer than the period of time that such evidence would be required to be preserved under such section 3600A.

Subtitle B—Improving the Quality of Representation in State Capital Cases

SEC. 321. CAPITAL REPRESENTATION IMPROVEMENT GRANTS.

(a) IN GENERAL.—The Attorney General shall award grants to States for the purpose of improving the quality of legal representation provided to indigent defendants in State capital cases.

(b) DEFINED TERM.—In this section, the term ''legal representation'' means legal counsel and investigative, expert, and other services necessary for competent representation.

(c) USE OF FUNDS.—Grants awarded under subsection (a)—

(1) shall be used to establish, implement, or improve an effective system for providing competent legal representation to—

(A) indigents charged with an offense subject to capital punishment;

(B) indigents who have been sentenced to death and who seek appellate or collateral relief in State court; and

(C) indigents who have been sentenced to death and who seek review in the Supreme Court of the United States; and

(2) shall not be used to fund, directly or indirectly, representation in specific capital cases.

(d) EFFECTIVE SYSTEM.—As used in subsection (c)(1), an effective system for providing competent legal representation is a system that—

(1) invests the responsibility for appointing qualified attorneys to represent indigents in capital cases—

(A) in a public defender program that relies on staff attorneys, members of the private bar, or both, to provide representation in capital cases;

(B) in an entity established by statute or by the highest State court with jurisdiction in criminal cases, which is composed of individuals with demonstrated knowledge and expertise in capital representation; or

(C) pursuant to a statutory procedure enacted before the date of the enactment of this Act under which the trial judge is required to appoint qualified attorneys from a roster maintained by a State or regional selection committee or similar entity; and

(2) requires the program described in paragraph (1)(A), the entity described in paragraph (1)(B), or an appropriate entity designated pursuant to the statutory procedure described in paragraph (1)(C), as applicable, to—

(A) establish qualifications for attorneys who may be appointed to represent indigents in capital cases;

(B) establish and maintain a roster of qualified attorneys;

(C) except in the case of a selection committee or similar entity described in paragraph (1)(C), assign 2 attorneys from the roster to represent an indigent in a capital case, or provide the trial judge a list of not more than 2 pairs of attorneys from the roster, from which 1 pair shall be assigned, provided that, in any case in which the State elects not to seek the death penalty, a court may find, subject to any requirement of State law, that a second attorney need not remain assigned to represent the indigent to ensure competent representation;

(D) conduct, sponsor, or approve specialized training programs for attorneys representing defendants in capital cases;

(E) monitor the performance of attorneys who are appointed and their attendance at training programs, and remove from the roster attorneys who fail to deliver effective representation or who fail to comply with such requirements as such program, entity, or selection committee or similar entity may establish regarding participation in training programs; and

(F) ensure funding for the full cost of competent legal representation by the defense team and outside experts selected by counsel, who shall be compensated—

(i) in the case of a State that employs a statutory procedure described in paragraph (1)(C), in accordance with the requirements of that statutory procedure; and

(ii) in all other cases, as follows:

(I) Attorneys employed by a public defender program shall be compensated according to a salary scale that is commensurate with the salary scale of the prosecutor's office in the jurisdiction.

(II) Appointed attorneys shall be compensated for actual time and service, computed on an hourly basis and at a reasonable hourly rate in light of the qualifications and experience of the attorney and the local market for legal representation in cases reflecting the complexity and responsibility of capital cases.

(III) Non-attorney members of the defense team, including investigators, mitigation specialists, and experts, shall be compensated at a rate that reflects the specialized skills needed by those who assist counsel with the litigation of death penalty cases.

(IV) Attorney and non-attorney members of the defense team shall be reimbursed for reasonable incidental expenses.

SEC. 322. CAPITAL PROSECUTION IMPROVEMENT GRANTS.

(a) IN GENERAL.—The Attorney General shall award grants to States for the purpose of enhancing the ability of prosecutors to effectively represent the public in State capital cases.

(b) USE OF FUNDS.—

(1) PERMITTED USES.—Grants awarded under subsection (a) shall be used for one or more of the following:

(A) To design and implement training programs for State and local prosecutors to ensure effective representation in State capital cases.

(B) To develop and implement appropriate standards and qualifications for State and local prosecutors who litigate State capital cases.

(C) To assess the performance of State and local prosecutors who litigate State capital cases, provided that such assessment shall not include participation by the assessor in the trial of any specific capital case.

(D) To identify and implement any potential legal reforms that may be appropriate to minimize the potential for error in the trial of capital cases.

(E) To establish a program under which State and local prosecutors conduct a systematic review of cases in which a death sentence was imposed in order to identify cases in which post-conviction DNA testing may be appropriate.

(F) To provide support and assistance to the families of murder victims.

(2) PROHIBITED USE.—Grants awarded under subsection (a) shall not be used to fund, directly or indirectly, the prosecution of specific capital cases.

SEC. 323. APPLICATIONS.

(a) IN GENERAL.—The Attorney General shall establish a process through which a State may apply for a grant under this subtitle.

(b) APPLICATION.—

(1) IN GENERAL.—A State desiring a grant under this subtitle shall submit an application to the Attorney General at such time, in such manner, and containing such information as the Attorney General may reasonably require.

(2) CONTENTS.—Each application submitted under paragraph (1) shall contain—

(A) a certification by an appropriate officer of the State that the State authorizes capital punishment under its laws and conducts, or will conduct, prosecutions in which capital punishment is sought;

(B) a description of the communities to be served by the grant, including the nature of existing capital defender services and capital prosecution programs within such communities;

(C) a long-term statewide strategy and detailed implementation plan that—

(i) reflects consultation with the judiciary, the organized bar, and State and local prosecutor and defender organizations; and

(ii) establishes as a priority improvement in the quality of trial-level representation of indigents charged with capital crimes and trial-level prosecution of capital crimes;

(D) in the case of a State that employs a statutory procedure described in section 321(d)(1)(C), a certification by an appropriate officer of the State that the State is in substantial compliance with the requirements of the applicable State statute; and

(E) assurances that Federal funds received under this subtitle shall be—

(i) used to supplement and not supplant non-Federal funds that would otherwise be available for activities funded under this subtitle; and

(ii) allocated in accordance with section 326(b).

SEC. 324. STATE REPORTS.

(a) IN GENERAL.—Each State receiving funds under this subtitle shall submit an annual report to the Attorney General that—

(1) identifies the activities carried out with such funds; and

(2) explains how each activity complies with the terms and conditions of the grant.

(b) CAPITAL REPRESENTATION IMPROVEMENT GRANTS.—With respect to the funds provided under section 321, a report under subsection (a) shall include—

(1) an accounting of all amounts expended;

(2) an explanation of the means by which the State—

(A) invests the responsibility for identifying and appointing qualified attorneys to represent indigents in capital cases in a program described in section 321(d)(1)(A), an entity described in section 321(d)(1)(B), or selection committee or similar entity described in section 321(d)(1)(C); and

(B) requires such program, entity, or selection committee or similar entity, or other appropriate entity designated pursuant to the statutory procedure described in section 321(d)(1)(C), to—

(i) establish qualifications for attorneys who may be appointed to represent indigents in capital cases in accordance with section 321(d)(2)(A);

(ii) establish and maintain a roster of qualified attorneys in accordance with section 321(d)(2)(B);

(iii) assign attorneys from the roster in accordance with section 321(d)(2)(C);

(iv) conduct, sponsor, or approve specialized training programs for attorneys representing defendants in capital cases in accordance with section 321(d)(2)(D);

(v) monitor the performance and training program attendance of appointed attorneys, and remove from the roster attorneys who fail to deliver effective representation or fail to comply with such requirements as such program, entity, or selection committee or similar entity may establish regarding participation in training programs, in accordance with section 321(d)(2)(E); and

(vi) ensure funding for the full cost of competent legal representation by the defense team and outside experts selected by counsel, in accordance with section 321(d)(2)(F), including a statement setting forth—

(I) if the State employs a public defender program under section 321(d)(1)(A), the salaries received by the attorneys employed by such program and the salaries received by attorneys in the prosecutor's office in the jurisdiction;

(II) if the State employs appointed attorneys under section 321(d)(1)(B), the hourly fees received by such attorneys for actual time and service and the basis on which the hourly rate was calculated;

(III) the amounts paid to non-attorney members of the defense team, and the basis on which such amounts were determined; and

(IV) the amounts for which attorney and non-attorney members of the defense team were reimbursed for reasonable incidental expenses;

(3) in the case of a State that employs a statutory procedure described in section 321(d)(1)(C), an assessment of the extent to which the State is in compliance with the requirements of the applicable State statute; and

(4) a statement confirming that the funds have not been used to fund representation in specific capital cases or to supplant non-Federal funds.

(c) CAPITAL PROSECUTION IMPROVEMENT GRANTS.—With respect to the funds provided under section 322, a report under subsection (a) shall include—

(1) an accounting of all amounts expended;

(2) a description of the means by which the State has—

(A) designed and established training programs for State and local prosecutors to ensure effective representation in State capital cases in accordance with section 322(b)(1)(A);

(B) developed and implemented appropriate standards and qualifications for State and local prosecutors who litigate State capital cases in accordance with section 322(b)(1)(B);

(C) assessed the performance of State and local prosecutors who litigate State capital cases in accordance with section 322(b)(1)(C);

(D) identified and implemented any potential legal reforms that may be appropriate to minimize the potential for error in the trial of capital cases in accordance with section 322(b)(1)(D);

(E) established a program under which State and local prosecutors conduct a systematic review of cases in which a death sentence was imposed in order to identify cases in which post-conviction DNA testing may be appropriate in accordance with section 322(b)(1)(E); and

(F) provided support and assistance to the families of murder victims; and

(3) a statement confirming that the funds have not been used to fund the prosecution of specific capital cases or to supplant non-Federal funds.

(d) PUBLIC DISCLOSURE OF ANNUAL STATE REPORTS.—The annual reports to the Attorney General submitted by any State under this section shall be made available to the public.

SEC. 325. EVALUATIONS BY INSPECTOR GENERAL AND ADMINISTRATIVE REMEDIES.

(a) EVALUATION BY INSPECTOR GENERAL.—

(1) IN GENERAL.—As soon as practicable after the end of the first fiscal year for which a State receives funds under a grant made under this title, the Inspector General of the Department of Justice (in this section referred to as the ''Inspector General'') shall—

(A) after affording an opportunity for any person to provide comments on a report submitted under section 324, submit to Congress and to the Attorney General a report evaluating the compliance by the State with the terms and conditions of the grant; and

(B) if the Inspector General concludes that the State is not in compliance with the terms and conditions of the grant, specify any deficiencies and make recommendations for corrective action.

(2) PRIORITY.—In conducting evaluations under this subsection, the Inspector General shall give priority to States that the Inspector General determines, based on information submitted by the State and other comments provided by any other person, to be at the highest risk of noncompliance.

(3) DETERMINATION FOR STATUTORY PROCEDURE STATES.—For each State that employs a statutory procedure described in section 321(d)(1)(C), the Inspector General shall submit to Congress and to the Attorney General, not later than the end of the first fiscal year for which such State receives funds, after affording an opportunity for any person to provide comments on a certification submitted under section 323(b)(2)(D), a determination as to whether the State is in substantial compliance with the requirements of the applicable State statute.

(b) ADMINISTRATIVE REVIEW.—

(1) COMMENT.—Upon receiving the report under subsection (a)(1) or the determination under subsection (a)(3), the Attorney General shall provide the State with an opportunity to comment regarding the findings and conclusions of the report or the determination.

(2) CORRECTIVE ACTION PLAN.—If the Attorney General, after reviewing the report under subsection (a)(1) or the determination under subsection (a)(3), determines that a State is not in compliance with the terms and conditions of the grant, the Attorney General shall consult with the appropriate State authorities to enter into a plan for corrective action. If the State does not agree to a plan for corrective action that has been approved by the Attorney General within 90 days after the submission of the report under subsection (a)(1) or the determination under subsection (a)(3), the Attorney General shall, within 30 days, direct the State to take corrective action to bring the State into compliance.

(3) REPORT TO CONGRESS.—Not later than 90 days after the earlier of the implementation of a corrective action plan or a directive to implement such a plan under paragraph (2), the Attorney General shall submit a report to Congress as to whether the State has taken corrective action and is in compliance with the terms and conditions of the grant.

(c) PENALTIES FOR NONCOMPLIANCE.—If the State fails to take the prescribed corrective action under subsection (b) and is not in compliance with the terms and conditions of the grant, the Attorney General shall discontinue all further funding under sections 321 and 322 and require the State to return the funds granted under such sections for that fiscal year. Nothing in this paragraph shall prevent a State which has been subject to penalties for noncompliance from reapplying for a grant under this subtitle in another fiscal year.

(d) PERIODIC REPORTS.—During the grant period, the Inspector General shall periodically review the compliance of each State with the terms and conditions of the grant.

(e) ADMINISTRATIVE COSTS.—Not less than 2.5 percent of the funds appropriated to carry out this subtitle for each of fiscal years 2005 through 2009 shall be made available to the Inspector General for purposes of carrying out this section. Such sums shall remain available until expended.

(f) SPECIAL RULE FOR ''STATUTORY PROCEDURE'' STATES NOT IN SUBSTANTIAL COMPLIANCE WITH STATUTORY PROCEDURES.—

(1) IN GENERAL.—In the case of a State that employs a statutory procedure described in section 321(d)(1)(C), if the Inspector General submits a determination under subsection (a)(3) that the State is not in substantial compliance with the requirements of the applicable State statute, then for the period beginning with the date on which that determination was submitted and ending on the date on which the Inspector General determines that the State is in substantial compliance with the requirements of that statute, the funds awarded under this subtitle shall be allocated solely for the uses described in section 321.

(2) RULE OF CONSTRUCTION.—The requirements of this subsection apply in addition to, and not instead of, the other requirements of this section.

SEC. 326. AUTHORIZATION OF APPROPRIATIONS.

(a) AUTHORIZATION FOR GRANTS.—There are authorized to be appropriated $100,000,000 for each of fiscal years 2005 through 2009 to carry out this subtitle.

(b) RESTRICTION ON USE OF FUNDS TO ENSURE EQUAL ALLOCATION.—Each State receiving a grant under this subtitle shall allocate the funds equally between the uses described in section 321 and the uses described in section 322, except as provided in section 325(f).

Subtitle C—Compensation for the Wrongfully Convicted

SEC. 331. INCREASED COMPENSATION IN FEDERAL CASES FOR THE WRONGFULLY CONVICTED.

Section 2513(e) of title 28, United States Code, is amended by striking ''exceed the sum of $5,000'' and inserting ''exceed $100,000 for each 12-month period of incarceration for any plaintiff who was unjustly sentenced to death and $50,000 for each 12-month period of incarceration for any other plaintiff''.

SEC. 332. SENSE OF CONGRESS REGARDING COMPENSATION IN STATE DEATH PENALTY CASES.

It is the sense of Congress that States should provide reasonable compensation to any person found to have been unjustly convicted of an offense against the State and sentenced to death.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Wisconsin (Mr. SENSENBRENNER) and the gentleman from Massachusetts (Mr. DELAHUNT) each will control 20 minutes.

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

GENERAL LEAVE

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous material on H.R. 3214, the bill currently under consideration.

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

There was no objection.

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

Mr. Speaker, news stories extolling the successful use of DNA to solve crimes abound. Consider the following: in 1999, New York authorities linked a man through DNA evidence to at least 22 sexual assaults and robberies that had terrorized the city. In 2002, authorities in Philadelphia, Pennsylvania, and Fort Collins, Colorado, used DNA evidence to link and solve a series of crimes perpetrated by the same individual. In the State of Washington during 2001, DNA evidence provided a major breakthrough of the ''Green River'' killings, a series of crimes that had remained unsolved for years despite a large law enforcement task force and a $15 million investigation.

DNA is generally used to solve crimes in one of two ways. In cases where a suspect is identified, a lawfully obtained sample of that person's DNA can be compared to evidence from the crime scene. The results of this comparison may help establish whether the suspect committed the crime. In cases where a suspect has not yet been identified, biological evidence from the crime scene can be analyzed and compared to offender profiles in DNA databases to help identify the perpetrator.

DNA evidence has also been used successfully to free individuals who have been wrongfully convicted. In my home State of Wisconsin, one such individual, Steven Avery, was exonerated by DNA evidence after serving more than 17 years in the Stanley Correctional Institution in Chippewa County for a sexual assault and attempted murder he did not commit. He was released last month, by the same judge who sentenced him in 1986, after DNA tests exonerated him. Evidence collected from the victim was determined to belong to another inmate, who is serving time for a different sexual assault.

In the late 1980s, the Federal Government laid the groundwork for a system of national, State, and local DNA databases for the storage and exchange of DNA profiles. This system, called the Combined DNA Index System, CODIS for short, maintains DNA profiles obtained under Federal, State, and local systems in a series of databases that are available to law enforcement agencies across the country for law enforcement purposes only. Currently, all 50 States and the Federal Government have laws requiring that DNA samples be collected from some categories of offenders for inclusion in CODIS. Evidence from a crime scene can be linked to other crime scenes through the use of the CODIS database to identify repeat offenders or serial criminals. CODIS can be used to compare crime scene evidence to a database of DNA profiles obtained from convicted offenders.

We are fortunate to have this tool available to ensure accuracy and fairness in our criminal justice system. It has the potential to make our great justice system even better. However, if DNA samples are not tested, or not entered into the databases, that potential is completely wasted. Sadly, the reality is that many samples are not being tested or recorded in the database. To have this tool available and not to fully use it is tragic. Many crimes could be solved, many guilty people could be taken off the streets, and many victims could be spared from further crimes.

Despite DNA's enormous potential, the current Federal and State DNA collection and analysis system suffers from a variety of problems. In many instances, public crime labs are overwhelmed by backlogs of unanalyzed DNA samples, samples that could be used to solve violent crimes if the States had the funds to eliminate this backlog. Some estimates indicate that DNA evidence from at least 300,000 rape crime scenes have been collected but never analyzed in a crime lab. In addition, many of the labs are ill equipped to handle the increasing flow of DNA samples and evidence.

The problems of backlogs and the lack of up-to-date technology result in significant delays in the administration of justice. The system needs more research to develop faster methods to analyze DNA evidence. Legal and medical personnel need additional timing and assistance in order to ensure the optimal use of DNA evidence to solve crimes and assist victims. The criminal justice system needs the means to provide DNA testing in appropriate circumstances for individuals who assert that they have been wrongly convicted.

This legislation, cosponsored by 250 Members of the House, will help eliminate these problems. This bipartisan, bicameral legislation authorizes $755 million over 5 years to eliminate the current backlog of rape kits and other crime scene evidence awaiting DNA analysis in crime labs.

It authorizes funding for training for law enforcement, correctional, court, and medical personnel on the use of DNA evidence. H.R. 3214 funds research to improve forensic technology and authorizes $10 million per year in grants to States, local governments, and tribal governments to eliminate forensic backlogs. It also authorizes funding for the use of forensic DNA technology to identify missing persons and unidentified human remains. Most of these provisions are part of the President's DNA initiative.

H.R. 3214 also seeks to prevent wrongful convictions. The Innocence Protection Act provisions of H.R. 3214, which are also the result of bipartisan and bicameral negotiations, will ensure that our justice system is working. They establish rules for post-DNA testing of Federal prison inmates and require the preservation of biological evidence in Federal criminal cases where the defendant remains incarcerated. These provisions also authorize funding to help States to provide competent legal services for both the prosecution and the defense in death penalty cases. They provide funds for postconviction DNA testing and bonus grants to States that adopt adequate procedures for providing postconviction DNA testing and preserving biological evidence.

This legislation came out of the Committee on the Judiciary by a vote on 28 to 1. After that vote, a few Members raised concerns about the new grant program in title III which provides grants to States which put an effective system in place for appointing and compensating attorneys in capital cases. Members from States that already have a system established by statute felt that those States should be eligible to receive these grants for improving both prosecution and defense training. Along with a few other technical tweaks, the manager's amendment allows those States to be eligible for these grants.

Additionally, the manager's amendment provides improvements to the CODIS and NDIS databases by allowing DNA samples which have been lawfully collected, other than from arrestees or voluntary samples, to be entered into CODIS. DNA samples from arrestees

may be analyzed for a match in the database but may not be retained. This distinction provides a balance between protecting individual rights and ensuring that law enforcement has the tools it needs to solve crimes. I think States like Louisiana, which recently had to track down a serial killer, can appreciate the importance of this change in the law.

Finally, I would like to respond to a couple of the complaints that I have heard about this legislation. I have heard that this bill funds advocacy for those who are opposed to capital punishment. That is not the case at all. The legislation specifically prohibits the direct or indirect use of grant funds for representation in a particular case, and the report language further specifies that grants cannot be used for advocacy.

Finally, I heard some complaints from people who support capital punishment that the innocent protection provisions in this bill will make it more difficult for the death penalty to be imposed upon those who have been convicted and have exhausted their appeals. Let me say that I am a supporter of capital punishment; and unless we use the most modern technology to make sure that those who are convicted are indeed guilty, and those who are not guilty are not put to death, sooner or later the Supreme Court will accept the invitation and declare capital punishment per se a violation of the Constitution.

I believe that this bill is something that death penalty supporters should be supporting because it will provide for a greater degree of accuracy in making sure that those who are convicted of a crime and sentenced to death by a jury in those States which do allow for capital punishment are truly guilty.

I believe that we have crafted a bill that will do much to assist law enforcement in solving crimes and ensuring that the right people are convicted. I urge my colleagues to recognize the benefit of this legislation and vote in favor of its passage today.

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

□ 1045

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

This bill is the culmination of many months of diligent bipartisan and bicameral efforts in the service of a common goal, which is to use all of the tools at our disposal to solve crimes and protect the innocent. As indicated by the chair of the committee, the bill consists of three titles. First, it authorizes $755 million for the Debbie Smith DNA Backlog Grant Program to eliminate the current backlog of unanalyzed DNA samples in this Nation's crime laboratories which, I would submit, is bordering on disgraceful. I wish, at this point in time, to commend the gentleman from Wisconsin (Mr. GREEN) and the gentlewoman from New York (Mrs. MALONEY) for their efforts to raise this issue and to see it incorporated in this omnibus bill today. Secondly, it authorizes grant programs to expand and improve the capacity of Federal, State and local crime labs to conduct DNA analyses, reduce other forensic science backlogs, train criminal justice and medical personnel in the use of DNA evidence, and promote the use of DNA technology to identify missing persons. Finally, the bill includes the Innocence Protection Act, a measure which I introduced several years ago with the gentleman from Illinois (Mr. LAHOOD), which will help ensure Federal and State inmates access to DNA testing to establish their innocence and will authorize grants to the States to improve the quality of legal representation for both indigent defendants and the public in capital cases.

I would like to thank Chairman HATCH, Senator BIDEN and all our Senate colleagues for working with us to reach this milestone. I want to express my particular appreciation to Senator LEAHY with whom the gentleman from Illinois and I first introduced the Innocence Protection Act some 3½ years ago and who has worked so hard to advance that legislation.

As with any compromise, the version of the Innocence Protection Act that is included in this bill is not all that I had wished for. But it is an important step forward, and I know that Senator LEAHY shares my satisfaction with this achievement. Finally, I want to pay tribute to the distinguished chair of the Committee on the Judiciary, the gentleman from Wisconsin (Mr. SENSENBRENNER), without whose good faith and commitment this process would not have achieved this breakthrough, which I believe represents a remarkable achievement for the Committee on the Judiciary. Our staffs have worked closely together over the course of these months and both he and they deserve our gratitude. In particular, I want to thank the chief of staff of the committee, Phil Kiko, who has made a major personal commitment to this effort and has devoted countless hours to keeping the negotiations on track. I would be remiss not to acknowledge the contribution of my own legislative director, who sits to my right for the last time as this is his last day as a member of my staff. For me, it will be painful to see him leave. He is a man of considerable talent, incredible integrity, a friend and one whose efforts in this particular initiative have truly been prodigious.

The criminal justice system, Mr. Speaker, is about the search for the truth. Like all human enterprises, it is fallible. Judges, juries, police, eyewitnesses, defense attorneys and prosecutors are all human beings and all make mistakes. As a prosecutor for more than 20 years in the greater Boston area, I know that I made my share of them, but we have the means at our disposal to minimize the possibility of error, especially where lives are at stake. We must use them, and especially where public safety is at stake, we must use them.

Debbie Smith, a courageous advocate who has done so much to help her fellow survivors of sexual assault and for whom title I of this bill is named, has said, ''It gives no comfort to the victims and their families to know that the wrong person is behind bars and the real perpetrator is free to walk the streets.''

Surely no person in America understands this better than Kirk Bloodsworth, for whom we have named another title of the bill. Mr. Bloodsworth was the first death-row inmate to be exonerated by DNA testing. Not only did DNA establish that he did not commit the terrible crime for which he was convicted, but only a few weeks ago from today, it brought about the identification of the true perpetrator.

Debbie Smith and Kirk Bloodsworth are both among the innocent whom we seek to protect. By eliminating the backlog of unanalyzed DNA samples in the Nation's crime labs, the bill will help ensure that DNA technology is fully deployed to solve past crimes and prevent future ones. And by ensuring that eligible Federal and State inmates have access to postconviction testing that can establish their innocence, the bill will help correct wrongful convictions when they occur and will prompt in those cases renewed efforts to identify the real perpetrator, as it did in the case involving Kirk Bloodsworth.

No one knows whether innocent people have been executed since the death penalty was reinstated in 1976. We do know there have been some very close calls, however. Since 1976, 111 people in 25 States have been released after spending years on death row for crimes they did not commit. Some of them came within days or hours of being put to death. It was cases like these that have called respected, conservative judges like Sandra Day O'Connor to express concern that the system, and I quote: May be well allowing some innocent defendants to be executed.

I think the closing remarks of the chair relative to the position and the posture of those that support the death penalty ought to mark well the words of Sandra Day O'Connor when it comes to this particular legislation. Many of these miscarriages of justice can be corrected by giving eligible inmates access to DNA testing. DNA testing was responsible for exonerating 12 of the people freed from death row and another 126 who were wrongfully convicted of serious crimes. In at least 34 of these cases, the same tests that exonerated an innocent person led to the apprehension of the real perpetrator. Yet access to testing often is litigated, sometimes for years, allowing the real perpetrator to continue to prey upon the neighborhoods and communities in this country. Evidence that might have

established innocence has been misplaced or destroyed. If we are to advance justice, we must ensure that biological material is preserved and DNA testing is made available in every appropriate case.

The bill takes a significant step toward achieving this goal by ensuring eligible inmates access to DNA testing and establishing the Kirk Bloodsworth Postconviction DNA Testing Program, which will help States defray those costs. But DNA is not a magic bullet that will eliminate the problem of wrongful convictions. Biological evidence, which is utilized in DNA testing, is available in less than 20 percent of violent crimes. And even where such evidence exists, postconviction testing only tells us that the system failed. It does not prevent the failures from occurring in the future. The best way to do that is to make sure that every indigent defendant who is facing the death penalty has access to a competent attorney. I was a prosecutor, as I indicated, for over 20 years and I know the adversarial process can find the truth only when the prosecution and the defense are up to the job. Our system of justice depends on it. We cannot tolerate a system that leaves capital defendants at the mercy of lawyers who are poorly trained and poorly compensated who fail to conduct a proper investigation and examine the evidence, or, worse, who drink or sleep their way through the trial. The reality is that that has occurred in the courts of justice here in America. We cannot tolerate a system that relies on reporters and journalism students to develop new evidence which was never presented in court. We cannot tolerate a system in which chance, or the luck of the draw, plays such a profound role in determining whether a defendant lives or dies and a murderer escapes justice.

The bill addresses this problem by authorizing grants to the States to improve the quality of legal representation for both indigent defendants and the prosecution and the people in capital cases. Lawyers assigned by the court to these unpopular and unprofitable cases are often overworked, inexperienced and sometimes incompetent. It is little wonder that over half of all death sentences are overturned on appeal or after postconviction review because of the errors at trial.

Ultimately, however, this bill is not about the death penalty. It is not about DNA backups. It is about restoring public confidence in the integrity of the American justice system as a whole, without which our Constitution and our democracy is put at risk. For the rule of law, due process and everything that we stand for incorporated in our justice system and in our jurisprudence is what sets America apart among the family of nations. That is a goal on which we stand united.

I look forward to working closely with my colleagues to see that this extremely important initiative is signed into law.

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

Mr. SENSENBRENNER. Mr. Speaker, I yield 2 minutes to the gentleman from Wisconsin (Mr. GREEN).

Mr. GREEN of Wisconsin. I thank the gentleman for yielding me this time.

Mr. Speaker, let me begin by thanking the gentleman from Massachusetts (Mr. DELAHUNT) and the gentlewoman from New York (Mrs. MALONEY) for their great work and their contributions to this legislation and the gentleman from Illinois (Mr. LAHOOD) for his outstanding work on it, but most of all let me personally and publicly thank the chairman of the Committee on the Judiciary for his work, because without his work, simply put, we would not be here today. I want to thank him so much for his hard work here.

DNA technology is a truly amazing tool for the modern-day investigator and prosecutor. We can identify a perpetrator from one single hair. We can now indict a person by their DNA and match that code to a name at a later time. This is the great promise of DNA technology, the promise of justice. However, sadly, justice is not always timely. Too many people have had to wait years for justice. They wait in fear as their rape kits sit on a shelf untested. They wait as dangerous criminals walk free, free to strike yet again. Debbie Smith, who has been a courageous leader on this issue, went through this battle. I have worked with Mrs. Smith and heard her story numerous times. Each time I hear the passion in her voice on this topic, it encourages me and others to fight even harder to help the hundreds of thousands of victims that have DNA samples taken but have not yet found justice. Today, Debbie, you are victorious. The fact that hundreds of thousands of pieces of vital evidence essentially sit unused is outrageous. It is unacceptable. We need to get these rape kits off the shelves so they can be used to get rapists off the streets.

The Debbie Smith Act is about justice being done. It is about rapists being caught, convicted with irrefutable DNA evidence and put away for a long, long time. It is about helping thousands of victims receive justice by harnessing an exciting, emerging technology.

I urge all of my colleagues to support this legislation. It is a critical part of restoring the public's faith in our justice system.

Mr. DELAHUNT. Mr. Speaker, I yield 2 minutes to the gentlewoman from New York (Mrs. MALONEY) who along with the gentleman from Wisconsin has done such tremendous work.

(Mrs. MALONEY asked and was given permission to revise and extend her remarks.)

Mrs. MALONEY. Mr. Speaker, this bill marks the end of a very long journey to pass legislation that will put criminals behind bars and protect the innocent. I thank the extraordinary work of the gentleman from Wisconsin (Mr. GREEN) and the gentleman from Wisconsin (Mr. SENSENBRENNER) who brought all the pieces together and the long, long leadership of the gentleman from Massachusetts (Mr. DELAHUNT), the gentleman from Virginia (Mr. SCOTT), the gentleman from New York (Mr. WEINER) and so many others that have brought this successfully to the floor.

□ 1100

In the 107th Congress, I authored a bill to provide funding to process the backlog of DNA evidence after holding a hearing with Congressman HORN where a courageous rape survivor, Debbie Smith, testified. After her testimony, there was not a dry eye in the room, where she told how she was dragged from her home and brutally raped while her husband slept upstairs. After medical attention and after many years of living in fear, Debbie finally learned that DNA processing techniques had produced a cold hit identifying her assailant.

But her story in many ways is a story of many women. There is great violence against women in America. Every 2 seconds, there is a sexual assault against a woman. And we know that DNA techniques can convict and prevent rapists from attacking in the future. We know that each rapist will attack at least seven or eight times, according to law authorities, and each unprocessed DNA kit represents an innocent person, like Debbie Smith, or a rapist who could attack again if he is not put behind bars.

This bill will literally protect many women from sexual assault. It is an extremely important bill, and it will help with this backlog of hundreds of thousands of rape kits that are sitting on shelves across America gathering dust, when, if it was processed, could convict and place a rapist behind bars.

Mr. Speaker, there are many various important aspects of this bill. I am delighted that it includes the Debbie Smith act. I thank her for her courageous work, and many, many others.

Earlier this year, I reintroduced similar legislation, along with Representative MARK GREEN. The bill would accomplish several critical objections including providing funding to process the backlog of DNA evidence, setting national standards for DNA evidence collection, providing grant money for Sexual Assault Forensic Examiner programs, and providing funding to train law enforcement authorities on the collection and handling of DNA evidence.

I am delighted that the legislation that we are about to pass today includes ''The Debbie Smith Act.'' H.R. 3214 represents a bipartisan and bicameral effort to pass legislation that will put rapists in prison.

Many domestic violence groups and activists, including former Congresswoman Liz Holtzman, have helped us to get to this point. I also want to acknowledge the outstanding efforts of Lifetime Television in fighting against domestic violence and sexual assault. And of course, this bill has had no greater champion than Debbie Smith herself.

Tragically, the dismal reality is that only 6 percent of women who have been raped will ever see their attacker spend a day in jail.

Once again, I sincerely thank Chairman SENSENBRENNER for his leadership on this issue, and I urge my colleagues to vote for this legislation so that we can put an end to this travesty of justice.

Mr. SENSENBRENNER. Mr. Speaker, I yield 2 minutes to the gentleman from Illinois (Mr. LAHOOD), who has been one of the principal motivators behind this legislation.

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

Mr. LAHOOD. Mr. Speaker, I want to thank the chairman of the full committee, the gentleman from Wisconsin (Mr. SENSENBRENNER), the gentleman from Massachusetts (Mr. DELAHUNT), and our Senate colleagues, Mr. HATCH and Mr. LEAHY, for their many, many hours of work.

I rise today as a supporter of the death penalty and an original cosponsor of the bill. In the 106th and 107th Congresses, I sponsored the Innocent Protection Act with my friend, the gentleman from Massachusetts (Mr. DELAHUNT), whom I have great admiration for. This bill, which is now included as section 3, includes the Innocence Protection Act.

I am a proponent of the death penalty, as a deterrent to violent crime, and this bill provides materials necessary to repair a flawed system, and we do have a flawed system. I believe those of us that support the death penalty have a responsibility to ensure it is applied fairly. As a just society, we must condemn the guilty, exonerate the innocent, and protect all Americans' fundamental right to truth. It is my belief that this legislation allows us to save the death penalty, to know that we are utilizing it in instances where we are confident of wrongdoing.

Mr. Speaker, we cannot afford one more innocent life to be lost due to inexperienced counsel or unprocessed DNA kits. We must permit inmates access to postconviction DNA testing to establish innocence and compensate those who have served time for crimes they did not commit.

In order to continue rightful punishment of the guilty, we must establish minimum standards for competency of counsel in capital cases. As long as innocent Americans are on death row, the guilty remain on our streets. This legislation would increase public confidence in our Nation's judicial system as it relates to the death penalty. Individuals have spent years on death row for crimes they did not commit, some within hours of execution. A death sentence is the ultimate punishment, and there must be 100 percent certainty of guilt. In protecting the innocent, we also make sure the guilty do not go free.

I applaud the chairman, I applaud the gentleman from Massachusetts (Mr. DELAHUNT) and our Senate colleagues, and I ask Members to support this legislation.

Mr. DELAHUNT. Mr. Speaker, I yield 2 minutes to the gentleman from Virginia (Mr. SCOTT), the ranking member of the Committee on the Judiciary Subcommittee on Crime, Terrorism and Homeland Security, and a leader on these issues.

Mr. SCOTT of Virginia. Mr. Speaker, I thank the gentleman for yielding me time.

This bill makes DNA technology available to our criminal justice system in a way that effectively enhances the efficiency and certainty in exonerating the innocent, as well as identifying, prosecuting and convicting the guilty.

In recent years, the advent of DNA evidence has shown us, unequivocally, we have been convicting and incarcerating innocent people, while allowing many guilty people to go free. As a result of DNA identifications, many offenders have been convicted. At the same time, 138 convicted and sentenced individuals have been exonerated by DNA evidence, including 12 who were on death row.

The numbers of suspects who have been excluded as offenders at the outset of criminal investigations is even greater. The FBI reveals that 25 percent of suspects who are DNA tested are, in fact, exonerated.

This bill includes the provisions of the Debbie Smith Act, which authorizes significant funding to process DNA analysis for evidence. Many evidence kits are not now analyzed simply because of lack of funding, which means that many offenders are evading justice just because of lack of funds. This bill will mean they will be tracked down and prosecuted.

Virginia is a leader in solving crimes and DNA technology, and all States will benefit from the provisions of the Debbie Smith Act. The Debbie Smith Act is from Virginia.

While DNA technology has provided uncontrovertible proof that innocent people have been convicted and sentenced, DNA evidence covers only a small portion of those who are ultimately found to be innocent. One frequent reason for innocent people being convicted and sentenced, even to death, is incompetent and ineffective counsel. This is also the reason why many convictions are overturned. So we are pleased that there are minimum standards assured in the bill for qualifications of attorneys who will represent potential death row inmates.

Mr. Speaker, this will actually also mean that not only innocent people will not be convicted, but also many of the convictions will in fact be upheld on appeal.

I urge my colleagues to support the legislation.

Mr. SENSENBRENNER. Mr. Speaker, I yield 2 minutes to the gentleman from Arizona (Mr. FLAKE).

Mr. FLAKE. Mr. Speaker, I rise with great reluctance today to oppose this bill, particularly because of the respect I have for the chairman and for the main sponsor on the Democratic side. I certainly support the goals of this legislation, but I think it is appropriate to ask, why is Congress authorizing $100 million in Federal funds to operate a State program?

There seems to me to be no reason for Congress to finance the State public defender system. Basic precepts of federalism dictate that each level of government should finance its own operations. Once States become accustomed to and budget for Federal funds, they can never reject the money, and Federal funding inevitably comes with increased Federal strings. We have seen that in every other area, most notably public education.

In the long run, States risk losing control over their own public defender programs. I believe there is no reason to start down that path.

I would like to yield to the gentleman from Arizona (Mr. SHADEGG), who has direct experience in the State Attorney General's office.

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

Mr. FLAKE. I yield to the gentleman from Arizona.

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

Mr. SHADEGG. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I, too, rise reluctantly to oppose the legislation, in admiration for the committee chairman and the ranking member, but I think it is important for our colleagues to know that this legislation, while it does many good things and is certainly well-intended, is opposed by the National District Attorney's Association. They wrote the Speaker of the U.S. House very recently to express their concern. They talked about the good aspects of the bill, but they expressed concern on two topics, both the funding in the bill, in terms of what it would do to death penalty cases, but also and most importantly, the standard of proof that the bill sets for a new trial.

Specifically, the National District Attorney's Association wrote that the standard of evidence is set dangerously low. What they mean by that is under this legislation, convicted felons will have the ability to make a demand for a retrial under circumstances which are far lower than any other circumstances similar in other situations, and they expressed grave concern about that. Convicted criminals will be allowed to make consecutive, multiple requests for DNA testing under this bill. They would have an ability to tie up the courts over and over again by submitting separate requests.

I reluctantly urge my colleagues to oppose this bill and join the National District Attorneys' Association in opposing the bill so we can improve it and pass it in an improved fashion.

Mr. DELAHUNT. Mr. Speaker, I yield 2 minutes to the gentleman from New York (Mr. WEINER), another author and a champion of the Debbie Smith Act and a member of the committee.

Mr. WEINER. Mr. Speaker, I thank the gentleman from Massachusetts for

his great leadership and the chairman of the committee.

Mr. Speaker, the way we treat the victims of rape in this country is a crime. Evidence that is collected at crime scenes often sits for years, sometimes beyond the statute of limitations, completely untouched by human hands. When that victim goes into a hospital emergency room, frequently they sit in triage with dozens of other people for hours at a time waiting to be examined by someone with no experience in such cases. With this legislation, we change both of those things.

More than 350,000 rape kits, evidence, sits on warehouse shelves throughout the country. We had as many as 16,000 in New York City, until the city began its own program of trying to analyze that evidence.

The technology exists, quite frankly, to match victims' DNA collected at crime scenes with those of criminals. We can make hits and we can often put people away; 154 cold cases have resulted in cases being solved, and in 204 more cases, we know who did it. And now it is just a matter of finding that perpetrator of a crime.

Can you imagine being a person who has been victimized in that way, having that crime scene created, having the evidence taken in the most invasive of ways, only to learn that it is sitting and sitting and sitting without any effort to analyze it.

Why do we have this problem? One word, money. Now the Federal Government, for the second time in this House we are passing legislation to deal with that backlog, $75 million over the next 5 years.

For those of us who have become concerned that in the past money has been grabbed by the States, never makes it to the city, this allows cities to make direct applications. This is an opportunity for us to bring justice to thousands of women. This is an opportunity for us to allow women who have been victimized by rape not to be victimized a second time by a system that does not pay enough attention to it.

I would point out to my colleagues that one of the indexed crimes is going up while all the others is going down, and that is crimes against women, rape. That is because people who perpetrate rape, we know, do it again and again and again and again. One crime we solve may stop seven women from being victimized in the future. That is why these provisions are so important.

We all see DNA evidence through the lens of our own interests. I see it as both what my friend, the gentleman from Massachusetts (Mr. DELAHUNT), says and through my lens as someone who cares about civil liberties, but also wants these crimes solved.

Mr. SENSENBRENNER. Mr. Speaker, I yield 2 minutes to the gentlewoman from Pennsylvania (Ms. HART).

Ms. HART. Mr. Speaker, I thank the chairman for yielding me time.

I rise in support of this legislation. People across the country, including 100,000 women watching Lifetime Television, have signed a petition supporting the bill. My constituents, law enforcement, have supported this bill. There are a number of reasons.

Nearly 12 years ago, a high school girl from the Pittsburgh area was raped and murdered shortly after she arrived in Fort Lauderdale for a vacation. For 12 years, that crime went unsolved. The family of that young girl was left not only with the loss of a daughter and sister, but also with the void of not knowing who committed the crime. Finally, a detective in Florida was able to match the DNA evidence to that of a convicted murderer on death row in Arkansas, and the mystery was solved.

That Fort Lauderdale officer said of matching the DNA evidence, ''It is basically getting that needle in the haystack and making the haystack smaller.''

This is what H.R. 3214 accomplishes. It makes the haystack smaller. DNA evidence is not just effective in murder cases, it is an extremely valuable tool in sexual assault cases.

A year ago, a man kidnapped and raped two women near Pittsburgh, but they could not identify him because the crimes occurred in the dark. As our district attorney noted, but for the work of the police and the coroner's division of laboratories, the man would never have been apprehended. Instead, because of DNA evidence, his crimes earned him a sentence of over 200 years in prison.

While these are all positive cases, unfortunately, there is a backlog of DNA samples. Experts have determined that DNA evidence from over 180,000 rape crime scenes have been collected and never analyzed. Imagine those families, wondering, waiting and worrying.

In addition, many labs do not have the technology to analyze these samples. The funding in this bill will provide grants to local governments to eliminate that backlog, improve technology used to collect and analyze that DNA evidence, and catch those criminals. Ultimately, this funding will help not only solve crimes, but it will make our communities safer.

In addition, the bill will improve the accuracy of our judicial system for those who believe they may have been wrongfully convicted. Despite criticisms of opponents of this bill, it will not open the floodgates of litigation by prisoners claiming innocence. It will not remove the State's responsibility for prosecution. It will help them to accomplish their purpose, and that is our job here.

Mr. DELAHUNT. Mr. Speaker, I yield 1½ minutes to the gentleman from California (Mr. SCHIFF), a distinguished member of the Committee on the Judiciary, someone whose input into this effort has been well-noted, and who has made a very significant contribution.

□ 1115

Mr. SCHIFF. Mr. Speaker, I appreciate the gentleman yielding me this time and his effort on this legislation.

As lead cosponsor of the Advancing Justice Through DNA Technology Act of 2003, I rise in strong support of this landmark piece of legislation that will solve countless crimes and potentially exonerate innocent individuals wrongly imprisoned.

For years we have attempted to deal with crime by focusing almost exclusively on increasing sentences of those that we catch rather than catching those who continue to elude all punishment. We have been tough on crime, but not always smart about our tactics.

As a former Federal prosecutor, I have long recognized what a powerful tool the use of DNA profiles has become in solving crime. The FBI DNA database contains about 1.5 million DNA profiles and has yielded thousands of matches in criminal investigations, and thousands of additional matches can and must be made.

For this reason, I introduced legislation earlier this year to increase the effectiveness of DNA databases. This legislation was aimed at replicating nationwide the success that many States have had, and I am pleased that many of these policy improvements have been included in the bill before us today.

I want to thank the majority and minority members of the House and Senate for their willingness to work together to incorporate some of the provisions that I authored to provide additional database searching capabilities for Federal, State, and local law enforcement agencies. These additional tools will help solve thousands of cold cases, including unsolved murders and rapes.

The legislation before us provides much-needed funding to eliminate the backlog of unanalyzed samples and will do much to protect the innocent and apprehend the guilty.

Mr. DELAHUNT. Mr. Speaker, I have no further speakers; but I yield the balance of the time on this side of the aisle to the gentleman from North Carolina (Mr. COBLE), my friend and the chairman of the Subcommittee on Crime and a well-known crime fighter.

Mr. COBLE. Mr. Speaker, I thank the gentleman for yielding me this time. I rise in hearty support for this legislation. I thank the gentleman from Wisconsin (Mr. SENSENBRENNER), the gentleman from Massachusetts (Mr. DELAHUNT), the gentleman from Illinois (Mr. LAHOOD), and the gentleman from Virginia (Mr. SCOTT) and many others on the subcommittee and the full committee for their hard work.

Mr. Speaker, this is a good piece of legislation, and I urge my colleagues to support it.

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

Mr. Speaker, the two gentlemen from Arizona and their arguments in opposition to the bill, I think, are really misdirected. The gentleman from Arizona (Mr. FLAKE) said that the system of

federalism in terms of State public defenders is abused by this bill, and this really is not the case at all.

One of the reasons capital convictions end up being overturned has been that there has not been adequate counsel. This bill provides money to make sure that there is adequate counsel, not just on the defense side, but on the prosecution side as well, because States that use a public defender system to provide a defense in capital cases are eligible under this bill for both prosecution and defense frames.

The other gentleman from Arizona (Mr. SHADEGG) argues that the low standard for requiring new trials would allow criminals to go free. The bill does set appropriate standards for postconviction testing and new trials, but a judge must find that there is reasonable probability that the defendant did not actually commit the offense in order to even order a DNA test; and the preponderance of evidence standard would kick in once the court has ordered the test, and the test is either not inculpatory or is inconclusive. The court would then take the DNA test into account with all other evidence in deciding whether or not to order a new trial.

Mr. Speaker, this is a good bill. It will ensure that the guilty have a better chance of being convicted and will serve their punishment, and those who are innocent will have a better chance of being found not guilty and go free. I urge the House to support this bill.

Mr. EMANUEL. Mr. Speaker, today I rise as a strong supporter and cosponsor of H.R. 3214 the ''Advancing Justice Through DNA Technology Act of 2003.'' This bill would provide prosecutors with solid DNA evidence, and a stronger defense for the accused. Ultimately, it will strengthen and renew faith in our judicial system. Allow me to offer just one example of why this bill is so important.

In 1999, Shawn Armbrust, Tom McCann and other students at the Medill School of Journalism at Northwestern University discovered that Illinois death row inmate Anthony Porter had been falsely convicted. Also through the hard work of other Medill students, the ''Ford City Four'' were also found to be wrongfully accused. The public exposure of the discoveries led to a review of all death row cases in Illinois and ultimately 156 inmates were given a blanket commutation. These remarkable events focused the global spotlight on Illinois and caused many to question the basic tenets of the judicial system. Disturbingly, Illinois, and indeed many other States, may have wrongfully executed innocent people. The Medill students combined their investigative reporting skills with new technology to free those wrongly accused. Similarly, this bill will go a long way towards ensuring that those wrongly accused. Similarly, this bill will go a long way towards ensuring that those accused of crimes have a better defense. It will also help prosecutors ensure that justice is served.

Mr. Speaker, the students at Medill opened the door by highlighting the flaws in Illinois' system. Now it is our job to guarantee a fair and impartial judicial system. H.R. 3214, the ''Advancing Justice Through DNA Technology Act of 2003'' takes us one step closer to righting the system.

Mr. NADLER. Mr. Speaker, I strongly support this legislation.

I want particularly to congratulate Mr. DELAHUNT who first introduced the Innocence Protection Act several years ago, and has worked tirelessly on this matter ever since. I want to thank the chairman and the members of the committee from both sides of the aisle for working together to put politics and sound bites aside and to pass meaningful legislation to fight crime and advance the cause of justice.

I am pleased that this bill includes the modified Innocence Protection Act that aims to reduce the possibility that innocent people will be put to death. I understand this is a delicate compromise, but I must say that this bill is only a first step, not a final step, in our efforts to reform our Nation's capital punishment laws. These laws are broken and major reform and full funding of this legislation is necessary to prevent the innocent from being wrongfully convicted and executed.

It is imperative that we eliminate the shameful backlog of untested rape kits, and this bill will go a long way toward that goal. On the issue of rape kits, again, let me say, ''It's about time.'' Many Members have been personally involved in the fight to test rape kits for several years now. I have worked with NOW, RAINN, and Liftime Television to raise awareness of this issue and to build consensus for decisive action. Together we have pushed, prodded, and demanded that Federal funding be provided to test these kits right away. Today, we are one step closer to our goal.

But we are not there yet. These programs still need to be funded, and I am hopeful that we will not simply authorize funding for these programs, but also actually appropriate funding when the time comes to pass the Commerce Justice State appropriations bill.

This issue is too important to ignore. Police Departments must have the resources they need to solve crimes and put criminals behind bars.

I am pleased that this bill includes a provision similar to the ''Rape Kit DNA Analysis Backlog Elimination Act'' which I introduced back in March 2002, which would have provided $250 million to eliminate the rape kit backlog 2 years ago. The bill before us today acknowledges that we were right back then when we requested major increases in funding, since this bill offers even more funding for this task. In addition, I am pleased to see that, like my bill, the phrase ''rape kits'' has been specifically added to our current law to further underscore the need for this funding to address rape crimes in particular. These heinous crimes deserve our full attention and the victims of the crimes deserve the certainty that DNA evidence can bring to them.

Once again, I am pleased to support this bill because it represents a serious effort to combat crime, locate and apprehend rapists, and use powerful evidence to put them in prison.

Mr. CASE. Mr. Speaker, I rise today in strong support of H.R. 3214, the Advancing Justice Through DNA Technology Act of 2003, and urge my colleagues to vote in support of final passage of this vital legislation.

Recently, my Honolulu Police Department received a grant from the U.S. Justice Department to cover the costs of conducting DNA analysis on backlogged cases, many of which are sexual assault crimes. While I am sure that we are all grateful for funding such as this, we must recognize that much more must be done, on a broader, more coordinated basis, to take full advantage of the legitimate uses of DNA evidence in criminal justice.

As an original cosponsor of H.R. 3214, I believe that this bill will bring a far better measure of justice to both victims and accuseds. It will also provide desperately needed support and resources for our local law enforcement efforts.

H.R. 3214 establishes new procedures for DNA testing for Federal inmates, and authorizes $5 million in grants over 6 years to help States defray the costs of post-conviction DNA testing. In addition, $755 million is authorized to help decrease the backlog of more than 300,000 rape kits, and more than $500 million is provided for grant programs to improve the capacity of federal, state and local crime labs to conduct DNA analyses, train criminal justice personnel in how to use DNA evidence, and promote the use of DNA technology to identify missing persons.

I commend the work of the members of the Committee on the Judiciary, especially Chairman SENSENBRENNER and Ranking Member CONYERS, who worked together in a true bipartisan fashion to develop the legislation and bring it to the floor in such a swift manner. Your efforts yielded broad support as H.R. 3214 has 249 cosponsors, which includes 69 Republicans, 179 Democrats, and 1 Independent.

Again, I urge my colleagues to support final passage of H.R. 3214.

Ms. PRYCE of Ohio. Mr. Speaker, today the House considers legislation that makes important progress in our fight against crime. H.R. 3214 represents months of bipartisan work by Members who are dedicated to improving law enforcement in our country. Through the increased and improved use of DNA evidence, law enforcement officials will be able to better identify criminals while protecting the innocent. I wholeheartedly support this bill.

Across the country, States are experiencing unprecedented backlogs in analyzing DNA evidence in criminal cases. These backlogs create interminable delays, robbing our system of the accuracy and efficiency necessary to identify the innocent, punish the perpetrators, and provide justice to victims. President Bush has recognized the gravity of this problem, and H.R. 3214 provides $755 million to help enact his initiative to reduce the backlogs of unanalyzed DNA evidence.

More specifically, H.R. 3214 includes essential provisions that provide for the testing of thousands of unexamined rape kits. According to the Department of Justice, across the United States there are at least 350,000 rape kit DNA samples that need to be analyzed. Many of these kits have been sitting on the shelves of laboratories for years. As a woman and as a Member of Congress, I find the delay in the processing of these kits appalling and unacceptable.

DNA evidence from rape kits can provide solid evidence of a perpetrator's identity. Often, these samples are the key piece of evidence, providing ''cold hits'' in cases for which there is no suspect. It is a crime in itself that the processing of these kits has been delayed so long. It is time for the Federal Government to provide the States with the assistance and direction needed to correct this injustice.

The bill we consider today provides $151 million each year for the next 4 years for

States to eliminate their rape kit backlogs. The bill also ensures that private laboratories can assist in processing rape kits. These measures will ensure that thousands of women in the United States will finally have closure.

I urge my colleagues to support this important legislation.

Mr. CONYERS. Mr. Speaker, I want to thank Chairman SENSENBRENNER, Representative DELAHUNT and Members on both sides of the aisle for their hard work in developing this bipartisan, bicameral compromise. H.R. 3214 takes the first of hopefully many steps toward improving the integrity of our criminal justice system.

First and foremost, the bill provides Federal inmates with access to DNA testing, thereby enabling them to establish their innocence after being subjected to a wrongful conviction. As many of you know, over the past few years, more than 110 innocent Americans have already been exonerated thanks to post-conviction DNA testing. This provision will ensure that others wrongfully convicted will also have an equal chance at obtaining justice.

Second, the bill authorizes grants to be awarded to States with the express purpose of improving the quality of legal representation afforded indigent defendants in capital cases. Experts have indicated that many of the most egregious cases in which an innocent person was wrongfully convicted involved attorneys who were incompetent, ill-trained, or simply ineffective. These grants will dramatically alter this situation by providing defendants with defense counsel that meet a minimum standard of competency.

Finally, the bill contains a provision—not often mentioned—but of extreme importance to those that have been subjected to a wrongful conviction. I'm speaking of the provision in the bill that increases the maximum amount of damages an individual may be awarded for being wrongfully imprisoned from $5,000 to $50,000 per year in noncapital cases and up to $100,000 per year in capital cases.

Having pointed out the many virtues of the bill, I must admit this bill remains far from perfect. I would prefer the legislation include an outright ban on the use of the Federal death penalty. I also think the bill would have been considerably better if it addressed some of the many factors that contribute to the unacceptably high rate of wrongful convictions, including eyewitness error, perjury, false confessions, and police torture.

Nevertheless, I strongly support the delicate compromise that has been reached today. And, I urge my colleagues to support this worthwhile initiative.

Mr. COBLE. Mr. Speaker, very seldom do we find a law enforcement tool that benefits everyone involved in the criminal justice system equally. DNA is this tool. Prosecutors, defendants and victims all benefit from the fact that DNA provides an unquestionable evidence of guilt and innocence. Forensic DNA technology is the future of investigations and Congress must ensure that the criminal justice system has the necessary resources so that this technology can keep pace with the future demands an eliminate any backlog that may slow its progress.

The bill before us would ensure just that. The ''Advancing Justice Through DNA Technology Act,'' would provide grants to improve the administration of justice by eliminating the DNA backlog, testing rape kits, improving forensic science and DNA labs in states, and providing training for law enforcement, prosecutors, medical personnel in DNA analysis.

There is no question that the current federal and state DNA collection and analysis system needs improvement. In many instances, public crime labs are overwhelmed by backlogs of unanalyzed DNA samples. In addition, these labs may be ill-equipped to handle the increasing influx of DNA samples and evidence. More research is needed to develop faster methods for analyzing DNA evidence and professionals involved in the criminal justice system need additional training and assistance to solve crimes.

The bill would also provide grants to states to improve the quality of legal representation for both indigent defendants and the public in capital cases. As my Chairman stated earlier, it is important to note that these grants may not be used for representation in a particular case or to fund political advocacy. This prohibition will prevent such dollars from being used to promote an anti-death penalty agenda.

The bill would also allow funding to process post conviction DNA test if certain criteria are met.

It is important to clarify that the bill allows DNA testing of evidence only when an applicant can show that it is consistent with a theory of defense, that testing would produce new material evidence to support the theory of defense, and assuming it excluded the defendant, would raise a reasonable probability that the applicant did not commit the offense.

Further, a judge would only be authorized to grant a new trial after considering potentially exculpatory DNA evidence in conjunction with all other evidence in the case.

Finally, a defendant could only apply for post conviction testing if the specific evidence to be tested was not previously subjected to DNA testing or new technology in testing has been developed and the defendant did not voluntarily waive his right to have the evidence tested. Again, it is important to note, a judge would still have to have to consider all evidence in the case.

I believe that the Innocence Protection Act provisions in the bill are necessary to both protect the rights of those wrongfully convicted and to preserve the integrity of the death penalty. As a proponent of capital punishment in appropriate cases, I also believe that individuals convicted of a crime and subsequently sentenced to death by a jury of their peers should have fair access to competent legal advice and due process under the law.

It is my opinion that as technology improves and new tools are available to investigate crimes and prosecute criminals, we must grow our justice system to accommodate such tools to preserve equal justice for all.

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

The SPEAKER pro tempore (Mr. BASS). The question is on the motion offered by the gentleman from Wisconsin (Mr. SENSENBRENNER) that the House suspend the rules and pass the bill, H.R. 3214, as amended.

The question was taken.

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

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

The yeas and nays were ordered.

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

REAUTHORIZING THE BAN ON UNDETECTABLE FIREARMS

Mr. SENSENBRENNER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3348) to reauthorize the ban on undetectable firearms, as amended.

The Clerk read as follows:

H.R. 3348

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

SECTION 1. REAUTHORIZATION OF THE BAN ON UNDETECTABLE FIREARMS.

Section 2(f)(2) of the Undetectable Firearms Act of 1988 (18 U.S.C. 922 note) is amended—

(1) by striking ''15'' and inserting ''25'';

(2) in subparagraph (B)—

(A) by striking ''and (h)'' and inserting ''through (o)''; and

(B) by striking ''and (g)'' and inserting ''through (n)''; and

(3) by striking subparagraphs (D) and (E) and inserting the following:

''(D) section 924(a)(1) of such title is amended by striking 'this subsection, subsection (b), (c), or (f) of this section, or in section 929' and inserting 'this chapter'; and

''(E) section 925(a) of such title is amended—

''(i) in paragraph (1), by striking 'and provisions relating to firearms subject to the prohibitions of section 922(p)'; and

''(ii) in paragraph (2), by striking ', except for provisions relating to firearms subject to the prohibitions of section 922(p),'; and

''(iii) in each of paragraphs (3) and (4), by striking 'except for provisions relating to firearms subject to the prohibitions of section 922(p),'.''.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Wisconsin (Mr. SENSENBRENNER) and the gentleman from Virginia (Mr. SCOTT) each will control 20 minutes.

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

GENERAL LEAVE

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 3348, the bill currently under consideration.

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

There was no objection.

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

Mr. Speaker, in the last few years, we have had to make a lot of adjustments in security for our Nation's airports, government buildings, and ports. We have recognized that this heightened security is necessary to protect the United States from terrorist threats. However, even before the events of September 11, 2001, Members of Congress

recognized the possibility of threats from terrorists, both from within and without our borders.

In 1988, Congress passed a ban on undetectable firearms to prevent the manufacture, sale, importation, shipping, possession, transfer, or receipt of firearms that could not be detected by metal detectors or x-ray machines. Since passengers are not permitted to bring firearms on to planes and individuals cannot bring firearms into government buildings, it only makes sense that we ensure that the firearms purchased in this country are detectable by the security machines in those places.

The Undetectable Firearms Act of 1988 provided a sunset on the ban after 10 years to take into account any changes in technology of security machines or firearms. The ban was extended in 1998 for an additional 5 years, and H.R. 3348 would extend this ban for an additional 10 years. The penalties will remain the same: any violation of the ban is punishable by a fine or imprisonment up to 5 years.

It is easy to see why this ban, now more than ever before, must be extended. This is not the time to put our Nation's airports in jeopardy by allowing individuals to pass through security with undetected firearms. Plastic firearms, which are real guns that can do real harm, can breach this security. We can prevent that by prohibiting the manufacture of plastic firearms in the first place, and that is what this bill does.

I would point out that both the National Rifle Association and the U.S. Department of Justice support this legislation. I would like to read into the RECORD a letter which I received 2 days ago from Chuck Cunningham, director of Federal affairs for the NRA:

Dear Chairman Sensenbrenner: On behalf of our 4 million members, I am writing to express our support for H.R. 3348, your legislation to extend the sunset of the restriction of undetectable firearms.

''It is very important to be absolutely clear about the history of this legislation. When originally passed in 1988, the Undetectable Firearms Act did not ban any existing firearm. The extension of this restriction would also not prohibit any firearm in production today. This legislation was and still is purely preventive. The sunset provision was included as a way to balance the possible future development of nonmetallic firearms against likely improvements in detection technology. The statute also allows the executive branch to reduce restrictions under the bill to adapt to those changes.

''Based on the current state of firearms and detection technology, we believe that a straight 10-year extension is an appropriate way to allow continued flexibility, while removing the issue beyond current political debates. Please let me know if we can be of assistance in the speedy passage of this legislation.

This is signed, ''Charles H. Cunningham, Director of Federal Affairs'' for the National Rifle Association.

I believe that this is commonsense legislation. I urge my colleagues to support it.

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

Mr. SCOTT of Virginia. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to thank the chairman of the Committee on the Judiciary for his leadership on this issue. In the wake of the September 11 attacks, we need to do much more to prevent dangerous firearms from falling into the hands of would-be terrorists and other violent criminals.

We could start by renewing the current assault weapons ban. We could also strengthen criminal background checks and close the gun show loophole so that rogue gun dealers will not be able to evade the current spirit of the law and sell guns to criminals and suspected terrorists. Finally, we need to protect us from firearms that cannot be detected by metal detectors or x-ray machines.

The bill before us today achieves the last of these objectives. It renews the Undetectable Firearms Act of 1988, also known as the Plastic Gun Law, which makes it illegal to manufacture, import, possess, or transfer a firearm that is not detectable by walk-through metal detectors or airport x-ray machines.

Renewing the ban on plastic guns is vital. The gun industry clearly has the technology to manufacture firearms that cannot be detected by metal detectors or x-ray machines. As early as 1986, the Congressional Office of Technology Assessment determined that the ''technology does exist to manufacture certain firearms which would be completely or almost completely nonmetallic'' and that ''plastic handguns may be available on the commercial market quite soon.''

Indeed, shortly thereafter, in 1986, an attempt was made by Libyan dictator Muammar Qaddafi to purchase more than 100 firearms produced in Austria and constructed almost entirely out of hardened plastic.

With the ongoing war on terrorism, it is even more important than ever that we take an aggressive stance against dangerous weapons that make our society vulnerable to future terrorist-related attacks. H.R. 3348 was introduced with this in mind; and while I would strongly prefer to make this bill permanent and not just an extension, I think the extension is an important step in the right direction, and I urge my colleagues to support the bill.

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

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

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Wisconsin (Mr. SENSENBRENNER) that the House suspend the rules and pass the bill, H.R. 3348, as amended.

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

A motion to reconsider was laid on the table.

□ 1130

GENERAL LEAVE

Mr. KOLBE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the motion to go to conference on H.R. 2800, and that I may include tabular and extraneous material.

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

There was no objection.

APPOINTMENT OF CONFEREES ON H.R. 2800, FOREIGN OPERATIONS, EXPORT FINANCING, AND RELATED PROGRAMS APPROPRIATIONS ACT, 2004

Mr. KOLBE. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 2800) making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 2004, and for other purposes, with a Senate amendment thereto, disagree to the Senate amendment, and agree to the conference asked by the Senate.

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

There was no objection.

MOTION TO INSTRUCT OFFERED BY MRS. LOWEY

Mrs. LOWEY. Mr. Speaker, I offer a motion to instruct conferees.

The Clerk read as follows:

Mrs. LOWEY moves that the managers on the part of the House at the conference on the disagreeing votes of the two Houses on the bill, H.R. 2800, making appropriations for foreign operations, export financing, and related programs for the fiscal year 2004 be instructed to insist on the provisions of the Senate bill providing a total of $1,726,000,000 to combat HIV/AIDS, tuberculosis and malaria.

The SPEAKER pro tempore. Pursuant to clause 7 of rule XXII the gentlewoman from New York (Mrs. LOWEY) and the gentleman from Arizona (Mr. KOLBE) each will control 30 minutes.

The Chair recognizes the gentlewoman from New York (Mrs. LOWEY).

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

Mr. Speaker, this motion to instruct the conferees on the fiscal year 2004 foreign operations bill will ensure that the House is clearly on record to provide the highest possible funding level for HIV/AIDS, tuberculosis, and malaria in 2004.

With the $700 million provided in the Labor HHS bill for these purposes, acceptance of these funding levels would bring the total amount provided for HIV/AIDS, TB, and malaria in 2004 to $2.4 billion.

This motion urges the House conferees to approve the higher levels in the Senate-passed bill. While I had

hoped to reach the level of $3 billion, as the President has promised, acceptance of this motion gets us most of the way there. A Republican-sponsored amendment to add $300 million in HIV/AIDS funding passed overwhelmingly in the other body. In addition, the Senate bill increases the amounts for TB and malaria by $30 million above House levels. This motion simply solidifies the funding levels implied by the HIV amendment and the underlying bill.

We should not forget that this House voted to authorize $3 billion to fulfill the first year of the President's 5-year/$15 billion global AIDS initiative. The President left the distinct impression during his visit to Africa that the full $3 billion would be provided in 2004, despite the fact that the President only requested $2 billion in funding.

While our attention, and much of the media's, has appropriately focused on Iraq, we must not lose sight of the fact that HIV/AIDS is not only a humanitarian crisis but it is a grave threat to global stability. The African continent is being destroyed by this pandemic. Of the 42 million people infected with HIV, almost three-quarters live in Africa. Life expectancies in Africa are falling rapidly. In some countries, people are not expected to live past their 40s. By the year 2010, there will be 40 million AIDS orphans.

There are still many countries in Africa where condom distribution, access to HIV testing, treatment, and education programs are simply not available. More resources are necessary. And our capacity to plan and deliver programs can, and must, be expanded.

The global AIDS bill, recently passed by Congress, requires that our HIV programs begin a transition from awareness and comprehensive prevention to treatment and abstinence promotion programs. This will be an expensive undertaking, and it should not replace current efforts which emphasize a balanced approach to prevention and awareness. New efforts require new resources.

We have been heartened by recent breakthroughs in the availability of drugs to treat HIV. Countries such as Thailand, India, and China are moving aggressively to produce and distribute drugs to HIV-infected populations at affordable prices. However, those same drugs remain unavailable in most African countries. Similarly, there are many promising new forms of malaria treatment now being researched. New resources will speed up their availability and save lives.

The additional funds can be used next year to speed expansion of mother-to-child transmission programs, accelerate the creation of viable treatment programs, establish drug purchase and distribution programs, expand the President's initiative beyond the 14 countries currently identified, and expand prevention programs.

With respect to the Global Fund to fight HIV, the passage of this motion will help ensure the highest possible funding level. While the House bill has $400 million for the fund, the Senate bill has only $250 million. More for HIV means more for the fund.

This additional funding can be used wisely next year. It will make a real difference and save lives and it will demonstrate to the world that when the United States makes a promise, we keep it.

Mr. Speaker, I urge support of the motion to instruct.

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

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

Mr. Speaker, I think the motion of my friend and colleague, the gentlewoman from New York (Mrs. LOWEY), deserves a few comments from me here this morning. I also would like to see more resources applied to the HIV/AIDS pandemic, as well as the other diseases such as malaria and tuberculosis that are included in our infectious diseases account and in the Global Fund. I think all of us would like to see that happen.

I certainly voted for the $3 billion authorization that passed this House earlier. I also spoke during our debate on our bill and said that I believe the amount that we had in there was a reasonable amount of money, that could be expended during the course of the coming fiscal year. I still believe that to be the case. But if we can find ways to put this money into existing programs or other programs and make sure that it works given the constraints that we have, and I think we need to acknowledge the constraints that we have, for example, on the Global Fund of contributing no more than one-third of the total dollars that are made available to that fund, if we can do that, given the constraints that we have, then I am in favor of it. For that reason, I do not oppose this motion to instruct the conferees.

But whether or not the conference provides $1.426 billion, as passed by the House, or $1.726 billion as passed by the Senate, in other words a $300 million difference there, if it is something in between, depends in my view, on three factors:

The first is the allocation that the foreign operations conference will have under the Congressional Budget Resolution. The second, of course, will be the competing priorities that we have when we go to conference. There is going to be a priority of some for more money for maternal health. There is going to be a priority for more money for education. Some will argue for the creation of jobs in the United States through export promotion.

The third factor that I think will be critical in determining exactly how much we finally are able to allocate to fighting this HIV/AIDS pandemic is the funding that not only the Foreign Operations appropriation conference gets, but the Labor HHS appropriations conference. Because they also have money in there that goes to the Global Fund and to fight this disease. Each of them contain differing House and Senate levels for the Global Fund to Fight AIDS, TB, and malaria and for other bilateral programs.

So this is not as though we are operating entirely within the confines of the Foreign Operations bill, but rather we also have to know what is going to be done by our sister subcommittee that handles Labor and Health and Human Services.

Given those three factors, Mr. Speaker, I am hopeful, however, that we will be able to add to the amount of dollars that we have now allocated for HIV/AIDS. And I look forward to working with my colleague, the gentlewoman from New York (Mrs. LOWEY) and other members of the conference committee both from the House and Senate to resolve this issue in a way that will give us the maximum funds available to fight this pandemic, which is not only a moral issue for most of us here in the Congress, but I think also a matter of national security for the United States.

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

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

Mr. Speaker, I would like to say that I know of the chairman's real commitment to this issue and know that he understands the pain and suffering that is resulting from the lack of finances in providing the education, the prevention education, the drugs that are so necessary. And now that the cost of these drugs are so very reasonable, when you think about the choices we have either to increase the dollars and save lives or not increase the dollars and continue the terrible tragedy, and I know of the chairman's commitment to this issue, I would expect that there will be a commitment on the part of the chairman to work with the leadership in the House to find the additional funds, as we know they did in the Senate, without taking the funds away from other critical programs. I am pleased that the Senate has been able to locate these additional funds.

I look forward to working with the gentleman and finding these funds for this very vital cause.

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

Mr. DAVIS of Illinois. Mr. Speaker, I want to thank the gentlewoman from New York (Mrs. LOWEY) for yielding me this time. I also want to commend the gentleman from Arizona (Chairman KOLBE) and the ranking member for the outstanding work that they have both done in shaping this legislation.

I rise in support of the Lowey motion to instruct conferees on the Foreign Ops appropriation bill to reflect the Senate version of assistance for the U.S. Agency for International Development, for child survival and disease programs for HIV/AIDS, polio, malaria, tuberculosis, and other infectious diseases, including family planning and reproductive health programs.

I commend the gentlewoman from New York (Mrs. LOWEY) for this motion because it reflects her keen insight and understanding and sensitivity to the health and medical needs of underdeveloped nations, especially in Africa.

Mr. Speaker, this motion is not a budget breaker. It is not a program alterer. It does not change any program, nor does it create any serious imbalances. It simply asks that the conferees support the other body's mark which is $1,726,000,000. It is not a lot of additional money between the two. But when we think of what a little bit of money can do in Africa, what it can do for individuals who are simply waiting to die, who have no hope, who have lost it all, given up, who have said that the only thing that they can do is wait and hope that something happens, well, this gives hope to those millions, this gives hope to those thousands, it is a very rational motion. I am pleased to support it.

Mr. Speaker, again, I commend both the gentleman from Arizona (Chairman KOLBE) and the gentlewoman from New York (Ranking Member LOWEY) for the outstanding work that they have done.

Mr. KOLBE. Mr. Speaker, I continue to reserve the balance of my time.

Mrs. LOWEY. Mr. Speaker, I yield 4½ minutes to the distinguished gentlewoman from California (Ms. LEE) who has been a real leader on this issue and has certainly traveled to Africa over and over again to see the pain and suffering.

Ms. LEE. Mr. Speaker, let me just take a moment to thank the gentlewoman from New York (Mrs. LOWEY) for her tireless efforts on the Foreign Operations Appropriations subcommittee to secure more funding for our global AIDS, tuberculosis, and malaria programs. She has been consistent and has really helped put the appropriations funding process in perspective. So I just want to commend and thank the gentlewoman from New York (Mrs. LOWEY) for her leadership.

Mr. Speaker, I rise today to join all of our colleagues by supporting this motion to instruct conferees to accept the Senate's level of funding for our global AIDS, TB, and malaria programs in the fiscal year 2004 Foreign Operations Appropriations bill.

□ 1145

Mr. Speaker, AIDS, TB and malaria have quite simply ravaged Africa and the developing world. Every year over 6 million people worldwide die needlessly, sometimes of all three of these diseases. Six million people. Can you imagine. Just think for a minute. Six million people. Six million. That is roughly equivalent to losing the entire State of Indiana, Massachusetts, or Washington every single year.

Now, the vast majority of these deaths could be prevented for just over $300 a year, a price that is really continuing to drop. HIV/AIDS patients who are really on the brink of death can be revived with lifesaving antiretroviral therapies. For just $10 an entire course of DOTS treatment, TB-infected patients, who are often coinfected with AIDS, can be cured. For just 2 to $3 we can provide individuals with an insecticide-treated bed net to kill mosquitos and reduce malaria infections.

That is not a lot of money to save so many millions of lives, Mr. Speaker. These are not complicated interventions. Success stories like the clinic run by Dr. Paul Farmer in Haiti have proven that members of the community can be trained in a single week to monitor and provide effective drug treatments with a minimal level of supervision while ensuring maximum adherence of patients to an often-strict drug regime.

Programs like these must be strengthened and accelerated. With the help of the Global Fund to fight TB, AIDS, and malaria and the World Health Organization's new three by five AIDS initiatives, the capacity to scale up such programs will be greatly improved. Contrary to what many say and believe, the capacity is there to provide the care and treatment and prevention. These NGOs and these faith-based organizations, they only need the resources to do that. So that is where we must come in.

By agreeing to this motion to instruct the conferees, we can expand upon the initiatives of the Global Fund and WHO while also strengthening our own bilateral AIDS program.

This is very necessary, this motion. Last week the other body added the $289 million for the Global AIDS Fund via the defense budget authority, I believe, the budget authority offsets to their version of the foreign ops appropriations bill.

I want to be clear, though. This motion should not infringe on the $400 million that the House has already endorsed for the Global Fund this year. While I urge my colleagues to accept this motion, I must again voice my discontent that we are still not at the $3 billion which we authorized.

Secretary of State Colin Powell, I want to remind us all that he has said time and time again that the global AIDS pandemic is far more deadly and insidious than any form of terrorism. So by failing to treat it as such, we devalue the lives of those who are already suffering and dying. And by delaying the full funding of this initiative now, we only make the task more difficult later on.

Mr. Speaker, I want to thank the gentlewoman from New York (Mrs. LOWEY) for her leadership and for making sure that this body moves forward in addressing this pandemic in the way that we should.

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

Mrs. LOWEY. Mr. Speaker, I yield 3 minutes to the gentlewoman from Michigan (Ms. KILPATRICK), a distinguished member of the Subcommittee on Foreign Operations, Export Financing, and Related Programs of the Committee on Appropriations, and a strong leader on this very issue.

Ms. KILPATRICK. Mr. Speaker, I thank the gentleman from Arizona (Mr. KOLBE) for his leadership. I enjoy working with him and the things we do together.

To my ranking member, the gentlewoman from New York (Mrs. LOWEY), who continues to be a bright spot as we help and serve countries all over this world, I thank her for her leadership, generally and particularly on the HIV/AIDS issue.

Mr. Speaker, I rise to support the motion to instruct and ask that this body also support the motion to instruct. The pandemic that we see all over the world, HIV and AIDS, is serious trouble. That is what a pandemic is.

It started in the continent of Africa, moving to Asia, to India, to the former Soviet Union and other places of the world. This is truly a pandemic that can be contained, not cured, but can be contained with the proper resources.

As has been mentioned before, HIV/AIDS, TB, and malaria are illnesses and diseases that, if contained properly with education of those who are infected and in those regions of the world, we can cease the pandemic and begin to address the problems that we now face.

The motion to instruct provides the resources that our country can give to those countries who find themselves in assault. We must do no less than to support the motion to instruct.

We know how to contain this. We know where it is in pandemic proportions. When the resources are available in our world community, in our world global AIDS effort, we will find more children more healthy in their communities, in their families, in their countries. The troops that we send out across this world in these various places where the pandemic is, we then have resources to address that so that they do not then encounter these very same illnesses.

The nongovernmental organizations, the NGOs that practice and actually teach and educate, and in some instances actually treat and provide the services, are there, are up and ready and can dispense the money that we have available.

The faith-based network that is around this world, they give resources, training, education, as well as treatment. So I support the gentlewoman from New York (Mrs. LOWEY) in her effort. It is important that we go along with the Senate. And this motion to instruct is a small step towards the $3 billion and the $15 billion commitment that this President made for a 3-year commitment.

I hope that we will support the motion to instruct. It is the right way, and again, less than the President has advised he would do but better than what we have right now. I urge Members to support the motion to instruct.

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

Mrs. LOWEY. Mr. Speaker, I have no further speakers, and I reserve the balance of my time to close.

The SPEAKER pro tempore (Mr. BASS). The gentlewoman from New York (Mrs. LOWEY) has the right to close.

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

Mr. Speaker, let me say that I appreciate the comments we have heard here today. The expression of concern about the HIV/AIDS pandemic is one that I share and I think all Members of the House share.

I would just note that we are concerned not only about this HIV/AIDS pandemic which is already ravaging the continent of Africa, but we are very concerned about the growing scourge in South Asia, in India, in Central Asia, and in China and in Russia. These are countries where the epidemic is just beginning to take off.

We have an opportunity to do something there about preventing it from becoming that much worse. So I would hope that as we go through with the efforts to fight this disease that we focus not just on where it is already taking such a heavy toll but in preventing it from taking a very heavy toll in other places.

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

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

Mr. Speaker, I would like to again express my appreciation for the support of the chairman for the dollars that were appropriated in the Senate side. However, I have heard rumors which I strongly oppose that there are those who are talking about an across-the-board cut. As we know, there are many possibilities for adjustments in the 302(b); and I would hope that we can work together with the leadership in both Houses in making the adjustment of the 302(b) and add the additional dollars that have been included in the Senate bill.

We know that given the incredible progress that is made, we know that when we can save lives for $300 a year that we have a moral obligation to do as much as we can within the confines of what is possible; and I look forward to working closely with the gentleman in finding these additional dollars, adjusting the 302(b), and appropriating in conference the dollar amount that has already been appropriate in the Senate. I thank the chairman for his acceptance of this motion to instruct.

Mr. HOYER. Mr. Speaker, I rise in support of the motion offered by Mrs. LOWEY to accept the Senate's level of funding for the U.S. contribution in fiscal year 2004 to global programs to combat the spread of HIV/AIDS.

Mr. Speaker, this should not be a difficult motion for Members on either side of the aisle to support.

It simply calls for the adoption of a funding level for HIV/AIDS programs that was supported in the Senate last week by a vote of 89–1.

Furthermore, it does not even reach the authorized level of funding that was signed into law by the President and supported by 375 Members of this House in May.

In fact, the President during his State of the Union Address committed $15 billion in foreign assistance spending over 5 years to stop the spread of HIV/AIDS. Congress has since authorized this level through the enactment of H.R. 1298.

Regrettably, the President's budget did not call for the full $3 billion authorized for FY 2004, and the amount provided in the House version of the fiscal year 2004 Foreign Operations bill falls woefully short of that $3 billion which is necessary to begin making good on our commitment.

Mr. Speaker, the problem of HIV/AIDS is especially acute on the Continent of Africa, particularly sub-Saharan Africa, where 29.4 million people are living with HIV and AIDS.

Put another way, while the African Continent accounts for only about 10 percent of the world's population, more than 70 percent of the worldwide total of infected people reside there; and there are 11,000 new infections in Africa every day.

Earlier this year I had the opportunity to travel to South Africa and saw first hand the extent of the pandemic, the challenges facing African countries as they attempt to deal with this scourge, and the dire need for economic assistance to implement prevention programs and to provide treatment for those already infected.

We are at a crucial stage in the global war against HIV/AIDS, with the number of worldwide deaths expected to double from last year's estimate of just over 5 million to nearly 12 million next year.

To those who would argue that we cannot afford the additional funding provided in the Senate bill, I say that even this level is still not enough.

Mr. Speaker, we have the opportunity to help stop the spread of this HIV/AIDS, to provide comfort and relief to those already suffering its effects, and to give hope to millions around the world who live in despair because of this horrible disease.

Our compassion and morality command that we seize that opportunity and live up to the commitment we have made.

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

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

There was no objection.

The SPEAKER pro tempore. The question is on the motion to instruct offered by the gentlewoman from New York (Mrs. LOWEY).

The motion to instruct was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore. Without objection, the Chair appoints the following conferees: Messrs. KOLBE, KNOLLENBERG, LEWIS of California, WICKER, BONILLA, VITTER, KIRK, CRENSHAW, YOUNG of Florida, Mrs. LOWEY, Mr. JACKSON of Illinois, Ms. KILPATRICK, Mr. ROTHMAN, Ms. KAPTUR and Mr. OBEY.

There was no objection.

MILITARY FAMILY TAX RELIEF ACT OF 2003

Mr. SAM JOHNSON of Texas. Mr. Speaker, I move to suspend the rules and concur in the Senate amendments to the bill (H.R. 3365) to amend title 10, United States Code, and the Internal Revenue Code of 1986 to increase the death gratuity payable with respect to deceased members of the Armed Forces and to exclude such gratuity from gross income.

The Clerk read as follows:

Senate amendments:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE, ETC.

(a) SHORT TITLE.—This Act may be cited as the ''Military Family Tax Relief Act of 2003''.

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

(c) TABLE OF CONTENTS.—

Sec. 1. Short title, etc.

TITLE I—IMPROVING TAX EQUITY FOR MILITARY PERSONNEL

Sec. 101. Exclusion of gain from sale of a principal residence by a member of the uniformed services or the Foreign Service.

Sec. 102. Treatment of death gratuities payable with respect to deceased members of the Armed Forces.

Sec. 103. Exclusion for amounts received under Department of Defense homeowners assistance program.

Sec. 104. Expansion of combat zone filing rules to contingency operations.

Sec. 105. Modification of membership requirement for exemption from tax for certain veterans' organizations.

Sec. 106. Clarification of the treatment of certain dependent care assistance programs.

Sec. 107. Clarification relating to exception from additional tax on certain distributions from qualified tuition programs, etc. on account of attendance at military academy.

Sec. 108. Suspension of tax-exempt status of terrorist organizations.

Sec. 109. Above-the-line deduction for overnight travel expenses of National Guard and Reserve members.

Sec. 110. Tax relief and assistance for families of Space Shuttle Columbia heroes.

TITLE II—REVENUE PROVISION

Sec. 201. Extension of customs user fees.

TITLE I—IMPROVING TAX EQUITY FOR MILITARY PERSONNEL

SEC. 101. EXCLUSION OF GAIN FROM SALE OF A PRINCIPAL RESIDENCE BY A MEMBER OF THE UNIFORMED SERVICES OR THE FOREIGN SERVICE.

(a) IN GENERAL.—Subsection (d) of section 121 (relating to exclusion of gain from sale of principal residence) is amended by redesignating paragraph (9) as paragraph (10) and by inserting after paragraph (8) the following new paragraph:

''(9) MEMBERS OF UNIFORMED SERVICES AND FOREIGN SERVICE.—

''(A) IN GENERAL.—At the election of an individual with respect to a property, the running of the 5-year period described in subsections (a) and (c)(1)(B) and paragraph (7) of this subsection with respect to such property shall be suspended during any period that such individual or such individual's spouse is serving on qualified official extended duty as a member of

the uniformed services or of the Foreign Service of the United States.

''(B) MAXIMUM PERIOD OF SUSPENSION.—The 5-year period described in subsection (a) shall not be extended more than 10 years by reason of subparagraph (A).

''(C) QUALIFIED OFFICIAL EXTENDED DUTY.—For purposes of this paragraph—

''(i) IN GENERAL.—The term 'qualified official extended duty' means any extended duty while serving at a duty station which is at least 50 miles from such property or while residing under Government orders in Government quarters.

''(ii) UNIFORMED SERVICES.—The term 'uniformed services' has the meaning given such term by section 101(a)(5) of title 10, United States Code, as in effect on the date of the enactment of this paragraph.

''(iii) FOREIGN SERVICE OF THE UNITED STATES.—The term 'member of the Foreign Service of the United States' has the meaning given the term 'member of the Service' by paragraph (1), (2), (3), (4), or (5) of section 103 of the Foreign Service Act of 1980, as in effect on the date of the enactment of this paragraph.

''(iv) EXTENDED DUTY.—The term 'extended duty' means any period of active duty pursuant to a call or order to such duty for a period in excess of 90 days or for an indefinite period.

''(D) SPECIAL RULES RELATING TO ELECTION.—

''(i) ELECTION LIMITED TO 1 PROPERTY AT A TIME.—An election under subparagraph (A) with respect to any property may not be made if such an election is in effect with respect to any other property.

''(ii) REVOCATION OF ELECTION.—An election under subparagraph (A) may be revoked at any time.''.

(b) EFFECTIVE DATE; SPECIAL RULE.—

(1) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the amendments made by section 312 of the Taxpayer Relief Act of 1997.

(2) WAIVER OF LIMITATIONS.—If refund or credit of any overpayment of tax resulting from the amendments made by this section is prevented at any time before the close of the 1-year period beginning on the date of the enactment of this Act by the operation of any law or rule of law (including res judicata), such refund or credit may nevertheless be made or allowed if claim therefor is filed before the close of such period.

SEC. 102. TREATMENT OF DEATH GRATUITIES PAYABLE WITH RESPECT TO DECEASED MEMBERS OF THE ARMED FORCES.

(a) INCREASE IN AMOUNT OF DEATH GRATUITY.—

(1) IN GENERAL.—Section 1478(a) of title 10, United States Code, is amended by striking ''$6,000'' and inserting ''$12,000''.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall take effect as of September 11, 2001, and shall apply with respect to deaths occurring on or after that date.

(b) EXCLUSION FROM GROSS INCOME.—

(1) IN GENERAL.—Subsection (b)(3) of section 134 (relating to certain military benefits) is amended by adding at the end the following new subparagraph:

''(C) EXCEPTION FOR DEATH GRATUITY ADJUSTMENTS MADE BY LAW.—Subparagraph (A) shall not apply to any adjustment to the amount of death gratuity payable under chapter 75 of title 10, United States Code, which is pursuant to a provision of law enacted after September 9, 1986.''.

(2) CONFORMING AMENDMENT.—Subparagraph (A) of section 134(b)(3) is amended by striking ''subparagraph (B)'' and inserting ''subparagraphs (B) and (C)''.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply with respect to deaths occurring after September 10, 2001.

SEC. 103. EXCLUSION FOR AMOUNTS RECEIVED UNDER DEPARTMENT OF DEFENSE HOMEOWNERS ASSISTANCE PROGRAM.

(a) IN GENERAL.—Section 132(a) (relating to the exclusion from gross income of certain fringe benefits) is amended by striking ''or'' at the end of paragraph (6), by striking the period at the end of paragraph (7) and inserting '', or'', and by adding at the end the following new paragraph:

''(8) qualified military base realignment and closure fringe.''.

(b) QUALIFIED MILITARY BASE REALIGNMENT AND CLOSURE FRINGE.—Section 132 is amended by redesignating subsection (n) as subsection (o) and by inserting after subsection (m) the following new subsection:

''(n) QUALIFIED MILITARY BASE REALIGNMENT AND CLOSURE FRINGE.—For purposes of this section—

''(1) IN GENERAL.—The term 'qualified military base realignment and closure fringe' means 1 or more payments under the authority of section 1013 of the Demonstration Cities and Metropolitan Development Act of 1966 (42 U.S.C. 3374) (as in effect on the date of the enactment of this subsection) to offset the adverse effects on housing values as a result of a military base realignment or closure.

''(2) LIMITATION.—With respect to any property, such term shall not include any payment referred to in paragraph (1) to the extent that the sum of all of such payments related to such property exceeds the maximum amount described in clause (1) of subsection (c) of such section (as in effect on such date).''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to payments made after the date of the enactment of this Act.

SEC. 104. EXPANSION OF COMBAT ZONE FILING RULES TO CONTINGENCY OPERATIONS.

(a) IN GENERAL.—Section 7508(a) (relating to time for performing certain acts postponed by reason of service in combat zone) is amended—

(1) by inserting '', or when deployed outside the United States away from the individual's permanent duty station while participating in an operation designated by the Secretary of Defense as a contingency operation (as defined in section 101(a)(13) of title 10, United States Code) or which became such a contingency operation by operation of law'' after ''section 112'',

(2) by inserting in the first sentence ''or at any time during the period of such contingency operation'' after ''for purposes of such section'',

(3) by inserting ''or operation'' after ''such an area'', and

(4) by inserting ''or operation'' after ''such area''.

(b) CONFORMING AMENDMENTS.—

(1) Section 7508(d) is amended by inserting ''or contingency operation'' after ''area''.

*(2) The heading for section 7508 is amended by inserting ''**OR CONTINGENCY OPERATION**'' after ''**COMBAT ZONE**''.*

(3) The item relating to section 7508 in the table of sections for chapter 77 is amended by inserting ''or contingency operation'' after ''combat zone''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to any period for performing an act which has not expired before the date of the enactment of this Act.

SEC. 105. MODIFICATION OF MEMBERSHIP REQUIREMENT FOR EXEMPTION FROM TAX FOR CERTAIN VETERANS' ORGANIZATIONS.

(a) IN GENERAL.—Subparagraph (B) of section 501(c)(19) (relating to list of exempt organizations) is amended by striking ''or widowers'' and inserting '', widowers, ancestors, or lineal descendants''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 106. CLARIFICATION OF THE TREATMENT OF CERTAIN DEPENDENT CARE ASSISTANCE PROGRAMS.

(a) IN GENERAL.—Section 134(b) (defining qualified military benefit) is amended by adding at the end the following new paragraph:

''(4) CLARIFICATION OF CERTAIN BENEFITS.—For purposes of paragraph (1), such term includes any dependent care assistance program (as in effect on the date of the enactment of this paragraph) for any individual described in paragraph (1)(A).''.

(b) CONFORMING AMENDMENTS.—

(1) Section 134(b)(3)(A), as amended by section 102, is amended by inserting ''and paragraph (4)'' after ''subparagraphs (B) and (C)''.

(2) Section 3121(a)(18) is amended by striking ''or 129'' and inserting '', 129, or 134(b)(4)''.

(3) Section 3306(b)(13) is amended by striking ''or 129'' and inserting '', 129, or 134(b)(4)''.

(4) Section 3401(a)(18) is amended by striking ''or 129'' and inserting '', 129, or 134(b)(4)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2002.

(d) NO INFERENCE.—No inference may be drawn from the amendments made by this section with respect to the tax treatment of any amounts under the program described in section 134(b)(4) of the Internal Revenue Code of 1986 (as added by this section) for any taxable year beginning before January 1, 2003.

SEC. 107. CLARIFICATION RELATING TO EXCEPTION FROM ADDITIONAL TAX ON CERTAIN DISTRIBUTIONS FROM QUALIFIED TUITION PROGRAMS, ETC. ON ACCOUNT OF ATTENDANCE AT MILITARY ACADEMY.

(a) IN GENERAL.—Subparagraph (B) of section 530(d)(4) (relating to exceptions from additional tax for distributions not used for educational purposes) is amended by striking ''or'' at the end of clause (iii), by redesignating clause (iv) as clause (v), and by inserting after clause (iii) the following new clause:

''(iv) made on account of the attendance of the designated beneficiary at the United States Military Academy, the United States Naval Academy, the United States Air Force Academy, the United States Coast Guard Academy, or the United States Merchant Marine Academy, to the extent that the amount of the payment or distribution does not exceed the costs of advanced education (as defined by section 2005(e)(3) of title 10, United States Code, as in effect on the date of the enactment of this section) attributable to such attendance, or''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2002.

SEC. 108. SUSPENSION OF TAX-EXEMPT STATUS OF TERRORIST ORGANIZATIONS.

(a) IN GENERAL.—Section 501 (relating to exemption from tax on corporations, certain trusts, etc.) is amended by redesignating subsection (p) as subsection (q) and by inserting after subsection (o) the following new subsection:

''(p) SUSPENSION OF TAX-EXEMPT STATUS OF TERRORIST ORGANIZATIONS.—

''(1) IN GENERAL.—The exemption from tax under subsection (a) with respect to any organization described in paragraph (2), and the eligibility of any organization described in paragraph (2) to apply for recognition of exemption under subsection (a), shall be suspended during the period described in paragraph (3).

''(2) TERRORIST ORGANIZATIONS.—An organization is described in this paragraph if such organization is designated or otherwise individually identified—

''(A) under section 212(a)(3)(B)(vi)(II) or 219 of the Immigration and Nationality Act as a terrorist organization or foreign terrorist organization,

''(B) in or pursuant to an Executive order which is related to terrorism and issued under the authority of the International Emergency Economic Powers Act or section 5 of the United

Nations Participation Act of 1945 for the purpose of imposing on such organization an economic or other sanction, or

''(C) in or pursuant to an Executive order issued under the authority of any Federal law if—

''(i) the organization is designated or otherwise individually identified in or pursuant to such Executive order as supporting or engaging in terrorist activity (as defined in section 212(a)(3)(B) of the Immigration and Nationality Act) or supporting terrorism (as defined in section 140(d)(2) of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989); and

''(ii) such Executive order refers to this subsection.

''(3) PERIOD OF SUSPENSION.—With respect to any organization described in paragraph (2), the period of suspension—

''(A) begins on the later of—

''(i) the date of the first publication of a designation or identification described in paragraph (2) with respect to such organization, or

''(ii) the date of the enactment of this subsection, and

''(B) ends on the first date that all designations and identifications described in paragraph (2) with respect to such organization are rescinded pursuant to the law or Executive order under which such designation or identification was made.

''(4) DENIAL OF DEDUCTION.—No deduction shall be allowed under any provision of this title, including sections 170, 545(b)(2), 556(b)(2), 642(c), 2055, 2106(a)(2), and 2522, with respect to any contribution to an organization described in paragraph (2) during the period described in paragraph (3).

''(5) DENIAL OF ADMINISTRATIVE OR JUDICIAL CHALLENGE OF SUSPENSION OR DENIAL OF DEDUCTION.—Notwithstanding section 7428 or any other provision of law, no organization or other person may challenge a suspension under paragraph (1), a designation or identification described in paragraph (2), the period of suspension described in paragraph (3), or a denial of a deduction under paragraph (4) in any administrative or judicial proceeding relating to the Federal tax liability of such organization or other person.

''(6) ERRONEOUS DESIGNATION.—

''(A) IN GENERAL.—If—

''(i) the tax exemption of any organization described in paragraph (2) is suspended under paragraph (1),

''(ii) each designation and identification described in paragraph (2) which has been made with respect to such organization is determined to be erroneous pursuant to the law or Executive order under which such designation or identification was made, and

''(iii) the erroneous designations and identifications result in an overpayment of income tax for any taxable year by such organization,

credit or refund (with interest) with respect to such overpayment shall be made.

''(B) WAIVER OF LIMITATIONS.—If the credit or refund of any overpayment of tax described in subparagraph (A)(iii) is prevented at any time by the operation of any law or rule of law (including res judicata), such credit or refund may nevertheless be allowed or made if the claim therefor is filed before the close of the 1-year period beginning on the date of the last determination described in subparagraph (A)(ii).

''(7) NOTICE OF SUSPENSIONS.—If the tax exemption of any organization is suspended under this subsection, the Internal Revenue Service shall update the listings of tax-exempt organizations and shall publish appropriate notice to taxpayers of such suspension and of the fact that contributions to such organization are not deductible during the period of such suspension.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to designations made before, on, or after the date of the enactment of this Act.

SEC. 109. ABOVE-THE-LINE DEDUCTION FOR OVERNIGHT TRAVEL EXPENSES OF NATIONAL GUARD AND RESERVE MEMBERS.

(a) DEDUCTION ALLOWED.—Section 162 (relating to certain trade or business expenses) is amended by redesignating subsection (p) as subsection (q) and inserting after subsection (o) the following new subsection:

''(p) TREATMENT OF EXPENSES OF MEMBERS OF RESERVE COMPONENT OF ARMED FORCES OF THE UNITED STATES.—For purposes of subsection (a)(2), in the case of an individual who performs services as a member of a reserve component of the Armed Forces of the United States at any time during the taxable year, such individual shall be deemed to be away from home in the pursuit of a trade or business for any period during which such individual is away from home in connection with such service.''.

(b) DEDUCTION ALLOWED WHETHER OR NOT TAXPAYER ELECTS TO ITEMIZE.—Section 62(a)(2) (relating to certain trade and business deductions of employees) is amended by adding at the end the following new subparagraph:

''(E) CERTAIN EXPENSES OF MEMBERS OF RESERVE COMPONENTS OF THE ARMED FORCES OF THE UNITED STATES.—The deductions allowed by section 162 which consist of expenses, determined at a rate not in excess of the rates for travel expenses (including per diem in lieu of subsistence) authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, paid or incurred by the taxpayer in connection with the performance of services by such taxpayer as a member of a reserve component of the Armed Forces of the United States for any period during which such individual is more than 100 miles away from home in connection with such services.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid or incurred in taxable years beginning after December 31, 2002.

SEC. 110. TAX RELIEF AND ASSISTANCE FOR FAMILIES OF SPACE SHUTTLE COLUMBIA HEROES.

(a) INCOME TAX RELIEF.—

(1) IN GENERAL.—Subsection (d) of section 692 (relating to income taxes of members of Armed Forces and victims of certain terrorist attacks on death) is amended by adding at the end the following new paragraph:

''(5) RELIEF WITH RESPECT TO ASTRONAUTS.—The provisions of this subsection shall apply to any astronaut whose death occurs in the line of duty, except that paragraph (3)(B) shall be applied by using the date of the death of the astronaut rather than September 11, 2001.''.

(2) CONFORMING AMENDMENTS.—

(A) Section 5(b)(1) is amended by inserting '', astronauts,'' after ''Forces''.

(B) Section 6013(f)(2)(B) is amended by inserting '', astronauts,'' after ''Forces''.

(3) CLERICAL AMENDMENTS.—

*(A) The heading of section 692 is amended by inserting '', **ASTRONAUTS,**'' after ''**FORCES**''.*

(B) The item relating to section 692 in the table of sections for part II of subchapter J of chapter 1 is amended by inserting '', astronauts,'' after ''Forces''.

(4) EFFECTIVE DATE.—The amendments made by this subsection shall apply with respect to any astronaut whose death occurs after December 31, 2002.

(b) DEATH BENEFIT RELIEF.—

(1) IN GENERAL.—Subsection (i) of section 101 (relating to certain death benefits) is amended by adding at the end the following new paragraph:

''(4) RELIEF WITH RESPECT TO ASTRONAUTS.—The provisions of this subsection shall apply to any astronaut whose death occurs in the line of duty.''.

(2) CLERICAL AMENDMENT.—The heading for subsection (i) of section 101 is amended by inserting ''OR ASTRONAUTS'' after ''VICTIMS''.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to amounts paid after December 31, 2002, with respect to deaths occurring after such date.

(c) ESTATE TAX RELIEF.—

(1) IN GENERAL.—Section 2201(b) (defining qualified decedent) is amended by striking ''and'' at the end of paragraph (1)(B), by striking the period at the end of paragraph (2) and inserting '', and'', and by adding at the end the following new paragraph:

''(3) any astronaut whose death occurs in the line of duty.''.

(2) CLERICAL AMENDMENTS.—

*(A) The heading of section 2201 is amended by inserting '', **DEATHS OF ASTRONAUTS,**'' after ''**FORCES**''.*

(B) The item relating to section 2201 in the table of sections for subchapter C of chapter 11 is amended by inserting '', deaths of astronauts,'' after ''Forces''.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to estates of decedents dying after December 31, 2002.

TITLE II—REVENUE PROVISION

SEC. 201. EXTENSION OF CUSTOMS USER FEES.

Section 13031(j)(3) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(j)(3)) is amended by striking ''March 31, 2004'' and inserting ''March 1, 2005''.

Amend the title so as to read: ''An Act to amend title 10, United States Code, and the Internal Revenue Code of 1986 to increase the death gratuity payable with respect to deceased members of the Armed Forces and to exclude such gratuity from gross income, to provide additional tax relief for members of the Armed Forces and their families, and for other purposes.''.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Texas (Mr. SAM JOHNSON) and the gentleman from New York (Mr. MCNULTY) each will control 20 minutes.

The Chair recognizes the gentleman from Texas (Mr. SAM JOHNSON).

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

Mr. Speaker, I am proud to stand before the House today in support of the Military Family Tax Relief Act.

I want to start out today by saying how extremely proud I am of the men and women who serve in our military. No matter where I go, I have absolute rapt attention from everyone when I talk about the members of our Armed Forces. I hope our troops know that. All across the Nation, citizens are proud of the work our troops do and Americans are grateful for the sacrifices that they and their families make for the defense of our Nation.

This bill doubles the military death benefit gratuity to $12,000 and excludes from taxation that whole amount. Just last week we passed this concept for the third time. This will be the last time this Congress will need to vote on this bill because this version has been approved by our colleagues on the Senate side of the Capitol, and we will be passing the exact bill so that President Bush can sign it into law.

This bill is also retroactive to September 11, 2001, so that all of our men and women who have died in service of their country since that day will receive this benefit. This is what a grateful country does for the families of those servicemembers. I am proud that we will be fixing the problem of having

a knock at the door by the military chaplain which will no longer be followed by a knock at the door from the tax man. This bill does that and more.

It will also make taxes a smaller problem for active military and reserves. The Military Families Tax Relief Act provides reasonable accommodations to members of the military so that they too can benefit from the current $500,000 exclusion from capital gains on the sale of a home. To get this exclusion, a family must live in a home for at least 2 of the previous 5 years. This is generally a reasonable requirement, but for those serving in the military such a requirement is out of their control when orders ship them to any of the four corners of the Earth.

As a 29-year veteran of the Air Force, my wife and I moved many times. In the last 7 years we had seven different moves. So I know firsthand about being transferred. And sometimes you live in base housing, and sometimes you live in your own home.

□ 1200

It was a part of the job then and it still is today, and I think it is a reasonable accommodation for the tax code to hold them harmless for those times when they are not living in their homes. As long as the servicemember or his or her family have lived in the home for 2 years, the tax code will hold them harmless for years away from home at distant postings. Servicemembers are not going to be able to become real estate moguls by buying properties all over the country and getting this treatment for each. Only one property at a time is eligible for this exclusion.

I am glad to report that another provision I have been working on has also been included. It will permit students at our Nation's military academies to be treated as being on scholarship for purposes of Section 529 education savings accounts. It is only the United States military academy students who are not eligible for this benefit. Serving this country is a noble profession. Congress will now encourage, not discourage, young people to join our Armed Forces, especially today.

I think when hardworking, patriotic young Americans are rewarded with an appointment to a service academy we should not turn around and impose a 10 percent penalty on their parents who saved for their children's education. We should provide the same penalty-free withdrawals for the plebe, the middy and the cadet as we provide for those who play sports, earn an academic scholarship or pay for school through ROTC.

This is a great bill. It is long overdue. It has been a long time since 9/11, and we are trying to take care of our military, and this is retroactive back to that point.

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

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

I am pleased to be back on the floor this week to discuss an expanded version of the bill that we talked about last week. I am thankful to the gentleman from New York (Mr. RANGEL) for again designating me to manage the bill on the Democratic side, and it is always a great honor to be on the floor with a true American hero like the gentleman from Texas (Mr. SAM JOHNSON).

Last week when we discussed this bill, we were talking about how it was so inadequate compared to the tremendous sacrifices made by the men and women in uniform serving our country. So I am very happy to be discussing a bill which is expanded in its scope, and will, in addition to the initial provisions, provide a number of new elements of tax relief for the men and women of our Armed Forces. These include: special rules for the sale of a principal residence, tax-free assistance payments for dependent care and homeownership, liberalized tax return filing requirements, and deductions for overnight travel expenses of the National Guard and Reserve. There is also a provision in The Bill to provide tax relief for the families of our shuttle *Columbia* heroes.

So I would again state to my colleague from Texas and to the Speaker and all of the Members that I still think, even with its additions, it is a very, very modest bill for the members of our Armed Forces. I thank our colleagues for their unanimous support last week, and I hope they give us that same support today.

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

Mr. SAM JOHNSON of Texas. Mr. Speaker, I reserve my time.

Mr. MCNULTY. Mr. Speaker, I am pleased to yield 3 minutes to the gentleman from Maryland (Mr. CARDIN), a member of the committee.

Mr. CARDIN. Mr. Speaker, let me thank my friend from New York for yielding me this time and also thank my friend from Texas for his service to our country and for this bill coming before us.

This is an important bill. It contains many provisions that will be important for the people who are affected by the changes that are made, our military families that have served our Nation so well. They deserve the consideration of this legislation, and I encourage my colleagues to support it.

As the gentleman from Texas (Mr. SAM JOHNSON) pointed out, this is either the fourth or fifth time that we have been taking this bill up in this body, and at last, it looks like we are going to be able to get this bill to the President for signature, and I think that is good news for military families.

I think we should learn the lesson, though, that the other body put in offsets, revenue offsets, so that there will be no net impact on the deficit as a result of passage of this legislation. That is as a result of adding Customs fees, user fees to the legislation. That is a good thing to do. We have a large deficit. We should try to pay for what we do here, and I am encouraged about what we have done on this legislation. And I hope we will use it as an example for other legislation that has come out of the committee I serve on, but is not paid for. And I expect it is going to have a much more difficult time in the other body, until we also figure out a way to find offsets for tax changes that we bring forward.

As I pointed out, Mr. Speaker, this is a bill that contains many important provisions for the military families that will be affected by it. We have mentioned the death benefit. Obviously, this is the least that we can do.

We mentioned some of the tax impacts of certain benefits that are changed by this. The home sale tax relief, that is very important for military families that are often called upon to sell their homes, to make it a little bit easier for them to handle the tax consequences of a move.

The overnight expenses for our National Guard and Reservists, above-the-line deduction of $500. It is a modest amount, but I think it recognizes the fact that our National Guard and Reservists are a very important part of our national defense and homeland security needs. That became particularly apparent in our current efforts on fighting terrorism in Iraq. We have called upon our Reservists. We have called upon our National Guard. We should recognize the fact that they have additional expenses that should be treated fairly in our tax code, and I hope as my friend, the gentleman from New York (Mr. MCNULTY) pointed out, I hope the provisions in this bill are a starting point, not an ending point for dealing with these tax issues. So we can try to provide some appropriate relief to our military families.

Let me last mention the point that the gentleman from Texas (Mr. SAM JOHNSON) raised about those in our military academies that have been discriminated against under Section 529, the educational savings accounts. I am glad that we finally are able to correct that error in the law. I have the honor of representing the jurisdiction that includes the United States Naval Academy, and we have been contacted by families that felt that was terribly unfair, and they were right. Now, we have listened to them, and we have corrected that. It is another reason why I hope that we will unanimously support this very important legislation.

Mr. SAM JOHNSON of Texas. Mr. Speaker, I appreciate the gentleman from Maryland's (Mr. CARDIN) remarks. I yield such time as he may consume to the gentleman from New York (Mr. HOUGHTON), our distinguished subcommittee chairman on the Committee on Ways and Means.

Mr. HOUGHTON. Mr. Speaker, I thank the gentleman very much for those kind words. I will not take a lot of time because so much has been said, and much of it is felt even though the

words have not been there, but it is clear when I stand up here, I am going to support this bill, and I encourage everyone else who knows anything about the issues here to support it.

We started this bill back in July of last year, and it has finally come to the finish line after many trips back and forth between here and the Senate. What the bill does is, as I am sure as has already been spoken, provides a number of tax benefits for the active military, as well as the Reservists. Also, we made modest improvements to help the families of the members of the military who have given the supreme sacrifice.

I am not going to go into the details, Mr. Speaker, of this bill. We have discussed these over the past year. We have discussed them ad infinitum. So those are really behind us, and furthermore, the most important thing is the bill is paid for.

I was in Iraq several weeks ago, and it was an impressive time for a variety of reasons, not the least of which is the fact that I met people from not only my own district but from other districts, and with all the problem of the greed and the discussion about the economic system here, here these people are laying their lives on the line, they are getting underpaid, they are tired, they go out in this absolutely crushing heat. The only thing they asked of us when we were there was are you with us, are you supportive of us, and this is one small thing I can do to say, yes, we are.

Mr. MCNULTY. Mr. Speaker, I yield 3 minutes to the gentleman from Massachusetts (Mr. MCGOVERN), a friend who was an author of one of the original bills to increase the tax free benefits for service personnel.

Mr. MCGOVERN. Mr. Speaker, I thank my colleague from New York (Mr. MCNULTY) for yielding me the time and for all of his great leadership on this and so many other issues that impact military families.

I also want to pay my respects and acknowledge the great leadership of the gentleman from Texas (Mr. SAM JOHNSON) for all he has done.

Mr. Speaker, I rise in strong support of H.R. 3365. Among other things, this legislation, as has been mentioned, includes several provisions that my colleague from Arizona (Mr. RENZI) and I have been working on for some time. This bill doubles the military death gratuity from $6,000 to $12,000, makes it tax exempt, and makes those changes are retroactive to September 11, 2001. Currently, the gratuity is $6,000, of which about $3,000 is subject to Federal taxes.

The death gratuity is a lump-sum payment to the surviving spouse of a military servicemember killed in the line of duty or to the children of the servicemember in equal shares if there is no spouse. The purpose of the benefit is to provide cash quickly to the survivors in order to help them meet immediate needs.

Mr. Speaker, I am also pleased that this bill contains a number of other provisions that were part of the Armed Forces Tax Fairness Act which will benefit the brave men and women serving our Nation overseas. As we have seen just this week, the loss of life continues for our men and women in uniform serving in Iraq and Afghanistan.

All of us are united in expressing our condolences for the families left behind. We are also united in wanting to ensure that the surviving families' most pressing needs are met. This bill takes a small but important step in that direction, and it is the right thing to do.

Mr. Speaker, I want to commend the tireless work of the gentleman from Texas (Mr. EDWARDS), who has been an incredible leader on this whole issue, as well as the gentleman from North Carolina (Mr. JONES). They were pioneers on this issue and so many other benefits that are important to our military and their families.

I also want to acknowledge the gentleman from Missouri (Mr. SKELTON), my good friend and colleague, the ranking member of the House Committee on Armed Services, for ensuring that language to increase the death gratuity and make it retroactive to September 11, 2001 would be included in the Defense authorization conference report.

Mr. Speaker, as has been said, this bill contains other benefits for our uniformed men and women, and while I believe we need to do much, much more in order for the actions of this House to meet up with its rhetoric, nonetheless these are important steps in the right direction. They are a symbol that we respect the men and women who serve our country and who serve in our military.

Mr. Speaker, this bill is long, long, long overdue, and I am pleased that both the House and the Senate have come together to send this legislation to the President's desk. I urge my colleagues to vote yes on H.R. 3365, and I call upon President Bush to sign it quickly.

Mr. SAM JOHNSON of Texas. Mr. Speaker, I yield such time as he may consume to the gentleman from Arizona (Mr. RENZI) who is an author of some of this bill.

Mr. RENZI. Mr. Speaker, I want to begin by thanking those people who have worked across party lines to help bring together this substantial piece of legislation and the many elements that make it up. A good deal of thanks goes to the gentleman from Texas (Mr. DELAY) for helping us to move through the logjam.

The gentleman from North Carolina (Mr. JONES), one of the innovators, as well as the gentleman from Massachusetts (Mr. MCGOVERN), and in the final days, the gentleman from California (Mr. THOMAS) of the Committee on Ways and Means all deserve an immense amount of credit, as well as our great leader here, the gentleman from Texas (Mr. SAM JOHNSON).

I want to focus on a couple of elements of the bill that I think need to be communicated. First of all, to our soldiers in Afghanistan and Bosnia, to our soldiers out there in Iraq, on the tip of the spear, defending our sacred liberties and freedoms, when they do come home, we want them to know that we worked on a bipartisan basis to provide them with tax relief and an increase in benefits.

I had the duty to go up and see Lori Piestewa's family up on the Hopi reservation when we lost the first Native American woman in battle in Iraq, and we had a discussion of the benefits that came to that family. She left behind two children, a boy and a girl, and the Hopi reservation is a tough place. Poverty is immense. The housing conditions there are tough, and Lori's children are going to be okay. They are left with a beautiful grandmother in Perci Piestewa, but to think we were going to provide a $6,000 death gratuity benefit and come back in and tax it on the initial $3,000 was unconscionable.

That began the initiative with the gentleman from North Carolina (Mr. JONES) that allows us to look at some of the key legislation that many of our friends across both aisles have offered for so long.

I would also like to point out to the American people that part of this tax package and benefit includes the ability to now shut down the nonprofit organizations that were developed by the al Qaeda network, those Wahabists, those extreme fundamental Islamic organizations that existed in the United States that were set up in order for high-wealth sheiks to donate money into, those organizations that were set up in order to be a channel for illegal contributions that were gained through the sale of stolen goods both in America and in South America.

□ 1215

When the terrorist organizations are now identified, this bill allows us to go in and shut down those nonprofit organizations so terrorist organizations do not continue to get tax breaks while our military families do not. This provides the ability and the tools for the Department of Justice to go in there and shut those organizations down.

Finally, let me speak to the fact that the veterans service organizations who have carried the mantle and the banner for so long on behalf of our veterans also benefit from this bill. As a member of the Committee on Veterans' Affairs on the Republican side, we have worked with many of our colleagues on the Democratic side to come up with language that allows an expansion of linear dependence to be included toward the classification of that nonprofit organization. At a time when we are losing 1,400 to 1,500 of our greatest veterans from World War II, this allows the ability for their sons and daughters of the American Legion, for delinear descendants to be included and counted as members within the organization so

those VSOs can have a future and a legacy that has been fought for by their fathers and mothers.

In closing, Mr. Speaker, I want to again emphasize that the military men and women overseas deserve this bill. The time has come for us to put aside any partisan politics, any type of logjam from the past; and I urge my colleagues to pass this Fallen Patriots Act today.

Mr. MCNULTY. Mr. Speaker, I yield 4 minutes to the gentleman from Texas (Mr. EDWARDS).

Mr. EDWARDS. Mr. Speaker, I have the privilege of representing over 42,000 Army soldiers at Fort Hood, Texas. At present, 17,000 of those soldiers are fighting for our country in Iraq and risking their lives. By the end of next year, over 30,000 of my constituents will have served in Iraq.

There is no way our Nation or this Congress can repay its debt of gratitude to those troops, to all of our servicemen and -women, any more than we can repay our debt of gratitude to our friend and colleague, the gentleman from Texas (Mr. SAM JOHNSON), for his service and sacrifice to our country during time of war. But this is a good and significant downpayment on that debt of; gratitude, and I commend those who have worked on a bipartisan basis to pass it, the gentleman from Texas (Mr. SAM JOHNSON), the gentleman from New York (Mr. MCNULTY), the gentleman from Arizona (Mr. RENZI), and the gentleman from Massachusetts (Mr. MCGOVERN), who have fought for this issue, improvements in death gratuity payments, for so very long.

I think the question I would like to raise in a few moments is not why is this good bill passing today, but why did it take so much effort and time to pass it over the past year. This bill, these benefits to our servicemen and -women, could have passed and should have passed 7 months ago. The House passed the bill unanimously in March. Seven days later, on March 27 to be exact, the Senate passed the bill. It came back. Unfortunately, the House leadership chose to sit on the bill for 7 months, apparently because the bill was being paid for by closing the tax loophole for Benedict Arnolds who turn their backs on our country and renounce their citizenship to keep from paying American taxes.

Despite the good news of this bill today, I have continuing concerns that our veterans and servicemen and -women seem to have to work so hard and to beg for very meager benefits, even those in this bill. Why did it take the Military Officers Association running a radio ad over the last several weeks to get the attention of the House leadership on this bill? Why did it take a press conference with me and others, many veterans groups and military family groups, several weeks ago to get the attention of the House leadership to bring this bill forward?

A Congress that passed quickly this year a $230,000 tax break for wealthy Americans making $1 million a year in dividend income, a Congress which can do that should have been able to pass this bill months ago.

Mr. Speaker, it is of concern to me that we continue to have a disabled veterans tax, to actually, in effect, tax disabled veterans for their disabilities by reducing their military retirement income. We continue to underfund VA health care.

I hope today is not considered a final payment, but a first payment on our debt of gratitude to our servicemen and -women. With the leadership on both sides of the aisle who played such a key role in this bill, I am confident that it will be. But I am going to continue to raise concerns in this House when our veterans have to beg for a $1 billion benefit over 12 years, or 10 years, whereas the Committee on Ways and Means can pass out a $60 billion corporate tax break just last week and dividend tax cuts that help our wealthiest Americans.

We need to make our servicemen and -women and their families and America's veterans a first priority, not an afterthought. I salute the gentleman from Texas (Mr. SAM JOHNSON), the gentleman from Arizona (Mr. RENZI), and the gentleman from New York (Mr. MCNULTY) for this positive step forward. Let it be the first of many other steps forward in honoring our servicemen and -women and veterans with our words and our deeds.

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

Mr. Speaker, let me just make one comment to clear the record. The House did not sit on this bill, as was stated by the previous speaker. I think the gentleman failed to realize the Senate sent that first bill back July 2002. Since that time, the House has passed bill after bill after bill. It was passed three times this year, on April 9, June 12, and October 29. Then again this month we passed this bill, and the last one was totally clean.

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

Mr. SAM JOHNSON of Texas. I yield to the gentleman from Texas.

Mr. EDWARDS. Mr. Speaker, I think it is important to keep the record straight. I believe the record will show that the House passed H.R. 1307, the Armed Forces Tax Fairness Act, on March 20. The Senate passed it on March 27, and since that time period the bill has been sitting in the House. The House leadership could have brought that bill to the floor of the House for a vote literally months ago. We would need to accept the one major Senate amendment in that bill which said we ought to pay for tax benefits for our service men and women and their families by closing the loopholes on Benedict Arnolds who turn their backs on America and renounce their citizenship to keep from paying taxes.

I think there was a delay on this bill, but my main focus today is to say thank you to the gentleman for his leadership in getting it to the floor today and on to the President for his signature. And let us work together better in the future to see that our veterans and service men and women do not have to work so hard and beg to get even meager benefits. And I know the gentleman with his distinguished career of service to our country would not disagree with that.

Mr. SAM JOHNSON of Texas. Mr. Speaker, I do not disagree with that, and I think we are in accord on both sides of the aisle today. It is wonderful that we can support our troops in a bipartisan manner.

Mr. EDWARDS. Mr. Speaker, I thank the gentleman from Texas for his leadership.

Mr. SAM JOHNSON of Texas. Mr. Speaker, I reserve the balance of my time.

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

Mr. Speaker, in closing, I am going to repeat what I said last week: we need to keep our priorities straight. Part of that, for me, is to remember that had it not been for all of the men and women who wore the uniform of the United States military through the years, the rest of us would not have the privilege of going around bragging—as I often do—about how we live in the freest and most open democracy on the face of the Earth. Freedom is not free. We have paid a tremendous price for it.

I try not to let even a single day go by without remembering with deepest gratitude all of those who, like my own brother, Bill McNulty, made the supreme sacrifice, and like those 16 young Americans who died in that helicopter incident just a few days ago. We should also remember the veterans who came back home, like the one who is managing this bill, a true American hero who was a prisoner of war for 7 years, who endured torture on our behalf, and then came home and continues to render outstanding service to his community, his State and his Nation.

Mr. Speaker, these are the things that I am most grateful for today. All of those Americans who served before us, and people like the gentleman from Texas (Mr. SAM JOHNSON), have been, are, and will continue to be the reasons why when I get up in the morning the first two things I do are to thank God for my life and veterans for my way of life.

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

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

Mr. Speaker, I appreciate the comments of the gentleman from New York (Mr. MCNULTY). I agree with the gentleman; what he says is true. I remember an inscription on the wall that we left over there which I think says it all: Freedom has a taste to those who fight and almost die that the protected will never know. That is what this Nation is all about, freedom. And, man, I

will tell you, America is great. This is for our service men and women that we pass this in a bipartisan way.

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

The SPEAKER pro tempore (Mr. QUINN). The question is on the motion offered by the gentleman from Texas (Mr. SAM JOHNSON) that the House suspend the rules and concur in the Senate amendments to the bill, H.R. 3365.

The question was taken.

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

Mr. SAM JOHNSON of Texas. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

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

GENERAL LEAVE

Mr. SAM JOHNSON of Texas. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and to include extraneous material on the Senate amendments to H.R. 3365.

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

There was no objection.

WAIVING POINTS OF ORDER AGAINST CONFERENCE REPORT ON H.R. 2559, MILITARY CONSTRUCTION APPROPRIATIONS ACT, 2004

Mrs. MYRICK. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 429 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 429

Resolved, That upon adoption of this resolution it shall be in order to consider the conference report to accompany the bill (H.R. 2559) making appropriations for military construction, family housing, and base realignment and closure for the Department of Defense for the fiscal year ending September 30, 2004, and for other purposes. All points of order against the conference report and against its consideration are waived. The conference report shall be considered as read.

The SPEAKER pro tempore. The gentlewoman from North Carolina (Mrs. MYRICK) is recognized for 1 hour.

Mrs. MYRICK. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the 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.

The rule waives all points of order against the conference report to accompany H.R. 2559, Military Construction Appropriations Act for Fiscal Year 2004, and against its consideration. The rule provides that the conference report shall be considered as read.

This conference report provides funds for all types of construction projects on military installations here in the U.S. and abroad. The projects range from barracks and housing to training ranges and runways.

Mr. Speaker, we are asking a lot of our military today, and our military personnel on active duty know they will be deployed overseas and perhaps on dangerous missions. So we want to provide them a quality of life for themselves and for their families that will allow them to serve, knowing their families will be taken care of with good health care and good housing.

□ 1230

We must honor the most basic commitments we have made to the men and women of our Armed Services. We must ensure a reasonable quality of life to recruit and retain the best and the brightest to America's fighting forces. Most importantly, we must do all in our power to ensure a strong, able, dedicated American military so that this Nation will be ever vigilant and ever prepared.

I would like to take a moment to highlight some of the key areas of the bill. First, $1.2 billion is provided for troop barracks. This is a $58 million increase from last year's level. This sends a positive message to our unaccompanied personnel stationed all around the world that their quality of life is a priority. It also provides $2.7 billion to operate and maintain existing housing units and $1.1 billion for new housing units. Military families also have a tremendous need for quality child care, especially single parents and families in which one or both parents may face lengthy deployments. To help meet this need, the bill provides $16.5 million for child development centers.

In conclusion, we have focused our efforts on programs that directly support the men and women in our Armed Forces. We would like to do more, of course. We always have and we will always try to do that. The bottom line is this: With this conference report, we meet the military's critical infrastructure needs and their efforts to improve the quality of life for our men and women in the Armed Forces.

To that end, I urge my colleagues to support the rule and support the conference report.

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

Mr. MCGOVERN. Mr. Speaker, I want to thank the gentlewoman from North Carolina (Mrs. MYRICK) for yielding me the customary 30 minutes, and I yield myself such time as I may consume.

Mr. Speaker, I would like to express my appreciation for the bipartisan work of the conferees, and especially for the leadership of Chairman KNOLLENBERG and ranking member EDWARDS, whose long service to meeting the needs of our uniformed men and women is well known to all the Members of this House.

Mr. Speaker, in June when the House passed its version of H.R. 2559, it was $41 million less than the President's request and was a $1.5 billion cut from fiscal year 2003 funding levels. The conference report, while an improvement somewhat over the House-passed bill, is still defective. While it is $199 million more than the amount requested by President Bush, it still reduces funding overall for military construction by $1.38 billion from the fiscal year 2003 levels. Mr. Speaker, we simply cannot continue selling our military men and women short.

We have all seen the pictures from Fort Stewart in Georgia where our Guard and Reserves, returning wounded and sick from Iraq, are warehoused in the most miserable conditions. How can we stand on the floor of this House day after day, week after week declaring how much we support our military men and women when the funding providing for family housing in this conference report is over $400 million less than last year? That total is even worse than what it was in the original House-passed bill. How can we stand on the floor of the House day after day and week after week and say that we are engaged in a long-term struggle against a global enemy and then cut military construction funds by $600 million from last year's level?

Mr. Speaker, poor facility conditions are not only unsafe, they hamper readiness, contribute to low morale and decrease troop retention. According to the Pentagon, 180,000 of the 300,000 units of military housing are substandard. Sixty-eight percent of our military facilities have deficiencies so serious that they might impede mission readiness, or they are so deteriorated that they cannot support mission requirements. The current reductions in funding for construction in these facility categories means that the rate at which buildings are renovated or replaced has increased from 83 years to 150 years.

Mr. Speaker, I said it in June, and I am going to say it again. This is a national scandal. I keep hearing that since the events of September 11, we live in a changed world. I keep hearing how much we appreciate our Armed Forces, how much we appreciate their sacrifice and their service. Then why do we keep cutting and cutting and cutting the military construction appropriations bill? If we truly appreciate our military men and women, should we not give them and their families decent housing? I keep being told, just wait for next year and the funding will get better. Only it never gets any better. It just keeps getting worse. ''Next year'' should be now.

This conference report, while a small improvement overall from the House-passed bill, continues to be, in the

words of Chairman KNOLLENBERG, woefully inadequate. This is what happens when our priorities are wrong. This is what happens when we deny our Nation the most basic revenue needed to adequately fund our national priorities. We rob our valiant military personnel of decent homes and facilities. We rob our veterans of their basic benefits. We cut back funding for schools and child care for military families, and we are faced with passing a bill like this.

I call upon the President to include in his fiscal year 2005 budget request a budget figure that genuinely begins to meet the military construction and family housing needs of our Armed Forces. Mr. Speaker, I regret that this is the best that this Congress can do for our military and their families.

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

Mrs. MYRICK. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

PROVIDING FOR CONSIDERATION OF H.R. 1829, FEDERAL PRISON INDUSTRIES COMPETITION IN CONTRACTING ACT OF 2003

Mrs. MYRICK. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 428 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 428

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 2(b) of rule XVIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 1829) to amend title 18, United States Code, to require Federal Prison Industries to compete for its contracts minimizing its unfair competition with private sector firms and their non-inmate workers and empowering Federal agencies to get the best value for taxpayers' dollars, to provide a five-year period during which Federal Prison Industries adjusts to obtaining inmate work opportunities through other than its mandatory source status, to enhance inmate access to remedial and vocational opportunities and other rehabilitative opportunities to better prepare inmates for a successful return to society, to authorize alternative inmate work opportunities in support of non-profit organizations, and for other purposes. The first reading of the bill shall be dispensed with. General debate shall be confined to the bill and shall not exceed one hour equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary. After general debate the bill shall be considered for amendment under the five-minute rule. It shall be in order to consider as an original bill for the purpose of amendment under the five-minute rule the amendment in the nature of a substitute recommended by the Committee on the Judiciary now printed in the bill. Each section of the committee amendment in the nature of a substitute shall be considered as read. During consideration of the bill for amendment, the Chairman of the Committee of the Whole may accord priority in recognition on the basis of whether the Member offering an amendment has caused it to be printed in the portion of the Congressional Record designated for that purpose in clause 8 of rule XVIII. Amendments so printed shall be considered as read. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. Any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore (Mr. QUINN). The gentlewoman from North Carolina (Mrs. MYRICK) is recognized for 1 hour.

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

Mr. Speaker, yesterday the Committee on Rules met and granted an open rule for H.R. 1829, the Federal Prison Industries Competition in Contracting Act. Coming from a district that is facing many challenges in the manufacturing sector, I am very pleased to see this bill on the floor today. Federal Prison Industries, FPI, is a depression-era Federal agency that has a special status in the Federal procurement process that forces government agencies to buy from FPI without competition. Over 300 products and services are produced by Federal prisoners that totaled nearly $680 million in sales to the Federal Government in 2002. Federal agencies are forced to buy these products and services from FPI even though the private sector has proven they can better address the needs of Federal agencies by providing higher quality products, cheaper and faster. I understand that there is concern about prisoners having jobs, et cetera. I have no problem with that. I have always supported that. But we are living in an era where the Federal Government needs to also save as much money as possible when we are looking at procurement, and this is an area we can do that.

This will simply allow the private sector to compete for contracts that are paid for with their own tax dollars. The bill will end the monopoly that FPI holds over all government purchases, including office furniture and textiles. In my own district in North Carolina, I hear from many small business owners who are growing increasingly frustrated with the ongoing challenges of dealing with government procurement when FPI is involved. If this monopoly was ended, these companies could compete on a level playing field. That is all we have ever asked for, is just a level playing field to provide the government with their products. This bill would help stop the bleeding of jobs from the textile and furniture industries. H.R. 1829 will provide protections for businesses of all sizes, and also the hardworking, law-abiding workers they employ, from FPI's unfair practice.

As a cosponsor of this bill, I would like to commend the gentleman from Michigan (Mr. HOEKSTRA) for sponsoring this fine piece of legislation. As many of you know, this legislation enjoys broad support from a somewhat unusual coalition, including majority and minority leadership, conservatives and liberals, and business and labor groups. To that end, I look forward to a fair, open, and thorough debate on this bill. It is a good bill. I urge my colleagues to support this rule and the underlying legislation.

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

Mr. HASTINGS of Florida. Mr. Speaker, I thank the gentlewoman for yielding me the time, and I yield myself such time as I may consume.

Mr. Speaker, I rise today in opposition to H.R. 1829, the Federal Prison Industries Competition in Contracting Act of 2003. In 1934, Congress established Federal Prison Industries, a government corporation that employs inmates in Federal prisons to produce goods and services for the Federal Government. FPI employs 21,000 inmates in 111 prison factories to manufacture a number of products for the government. Prisoners manufacture such items as clothing, textiles, electronics, fleet management and vehicular components, graphics and industrial products. In return for cheap labor, inmates receive valuable job training opportunities that teach them the necessary skills that may help them become productive, hardworking citizens once they reenter society.

Under current Federal law, FPI is a mandatory source of goods and services for Federal agencies. That means, Mr. Speaker, that any agency that wants to buy at least $2,500 worth of goods and services must first seek to do so through FPI. If FPI cannot process an order, the agency is then given a waiver to make the purchase from another source.

Mr. Speaker, this legislation seeks to phase out, over a 5-year period, the preference given to Federal Prison Industries in contracts with Federal agencies. Supporters claim that it is unfair to exclusively employ prisoners when small businesses and private firms want to secure contracts with the Federal Government. However, I claim that if it ain't broke, don't fix it. I claim that it is unfair to spend $587 million tax dollars to dissolve an effective and self-sustaining program.

□ 1245

I claim that it is unfair to obligate an additional $75 million a year for the

next 5 years to implement an educational and vocational program to replace the already successful educational and vocational program. I say that is a wasteful way to spend tax dollars.

As a former judge, I know the importance of prison employment training programs. I personally witnessed the benefits of giving prisoners constructive work when incarcerated. While the FPI may be reform, I propose we seek other options. I propose we first ask the Bureau of Prisons what they think about reforming FPI. I propose we ask the Federal agencies that receive FPI products and services what improvements can be made. I am not convinced that H.R. 1829 is necessary or that it is the best solution in reforming Federal Prison Industries. Mr. Speaker, I will oppose H.R. 1829.

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

Mrs. MYRICK. Mr. Speaker, I yield 6 minutes to the gentleman from Michigan (Mr. HOEKSTRA), the sponsor of this bill.

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

Mr. Speaker, H.R. 1829, the Hoekstra-Frank-Collins-Maloney-Sensenbrenner-Conyers Federal Prison Industries Competition in Contracting Act of 2003 will bring fundamental and necessary comprehensive reform to Federal Prison Industries, Incorporated.

This is a Depression-era authorizing statute that permits it to operate in a manner that is detrimental to all participants in the Federal procurement process except Federal Prison Industries. Change is needed.

Because of FPI's status as a mandatory source, noninmate workers and the firms that employ them are completely precluded from having the opportunity to even bid, to even bid, on almost $700 million in Federal contracting opportunities, contracting opportunities that are funded by the tax dollars of those workers and those firms. Workers are denied the job opportunities funded by these Federal contracts.

That is why the bill is supported by a broad coalition of business groups led by the U.S. Chamber of Commerce and NFIB. That is why the bill is concurrently supported by organized labor led by the AFL–CIO with the vocal support of its affiliated unions whose members are most impacted. They included the IAM, the International Association of Machinists and Aerospace Workers; UNITE!, the Union of Needletrades, Industrial, and Textile Employees; the UAW, the United Automobile, Aerospace and Agricultural Implement Workers of America; AFSCME; the IBT, the International Brotherhood of Teamsters; and CJA, the United Brotherhood of Carpenters and Joiners of America.

Because of FPI's mandatory-source status, FPI's captive Federal agency customers cannot get the best value for the taxpayer dollars entrusted to their care. They are required, required, to purchase from FPI. FPI, rather than the Federal agency, determines whether FPI's offered product and promised delivery schedule meets the mission needs of the buying agency. FPI, rather than the buying agency, determines whether FPI's price represents even an approximation of a fair and reasonable price.

That is why H.R. 1829 enjoys the support of Federal managers represented by Federal Managers Association.

The justification for FPI's mandatory-source status is that inmate work opportunities help combat idleness and better prepare inmates for a successful return to society. Neither of these cited benefits are linked to the corrosive manner in which FPI is currently permitted to operate in the Federal market.

Frequently cited is the statistic that inmates participating in prison industry programs are 24 percent less likely to return to prison. That finding is drawn from the report of a multiyear study by the Federal Bureau of Prisons, the ''Post-Release Employment Project.'' What the proponents of the status quo forget to mention is that the same PREP study demonstrated that inmates participating in remedial and vocational education programs were 33 percent less likely to return to prison. Such programs better prepare inmates for a successful return to society; but FPI does not use one dime, not one dime of its gross profits, which were $72 million in fiscal year 2002, to fund such educational programs. No. Those gross profits are devoted exclusively to FPI's expansion.

H.R. 1829 provides additional funding to expand the opportunities for Federal inmates to participate in remedial and modern hands-on vocational training programs, those that are most likely to reduce recidivism. H.R. 1829 will require FPI to help fund the broad array of alternative rehabilitative programs authorized by the bill.

Similarly, H.R. 1829 provides alternative work opportunities for inmates by authorizing them to do work for nonprofit entities. No one is against prisoners working. No one is against prisoners acquiring the skills to be successful once they leave. So we offer them additional work opportunity; plus we enable them to continue to compete for Federal Government business. All 1829 does is say they have to compete for the business, and they have to compete successfully if they are going to get it.

I also intend to offer an amendment that will broaden the bill in this regard, allowing Federal inmates to perform services in support of units of local governments and special-purpose districts like school districts. A public service inmate program run by the Ohio Department of Corrections now provides more inmate jobs than the Department's traditional industries program. Such a program provides no unfair competition to the private sector and costs less to operate than the traditional prison industry program.

Mr. Speaker, I urge adoption of the rule and look forward to what I expect will be a spirited debate on the bill tomorrow. This is an important issue. My colleague on the Permanent Select Committee on Intelligence indicated that there is not a need for change. There is a phenomenal need for change around the country. Members have joined in this effort to reform Federal Prison Industries because their constituents have been negatively impacted. They have lost the opportunity to provide goods and services to the Federal Government. Even though they can provide them at a better price and a better quality and a better delivery schedule, they cannot even compete for the business. That is why we have got a broad coalition of business, labor, and Federal Government procurement managers who are saying this is the way to go. They sense the need for change.

Mr. HASTINGS of Florida. Mr. Speaker, I yield 5 minutes to the gentleman from Virginia (Mr. SCOTT), my good friend.

Mr. SCOTT of Virginia. Mr. Speaker, the Federal Prison Industries program, or FPI, has been around since the 1930s. Under the law, the Federal agencies are required to buy needed products from FPI if they can meet the order. The purpose of the program is to teach prisoners real work skills so when they are released from prison, they will be able to find and hold jobs to support themselves and their families and be less likely to commit more crimes.

And it is clear that the program works to do just that. Follow-up studies covering as much as 16 years of data have shown that inmates who participate in prison industries are more likely to be employed and less likely to commit crimes than others who do not participate in the program. And while this certainly benefits the offenders and their families, that is beside the point from a public policy perspective. The real benefit is that all of us, as a result of the program, are less likely to be victims of crimes. We are prepared to spend billions of dollars in prison construction and prison upkeep in our efforts to reduce crime. This program reduces crime and pays for itself.

H.R. 1829 will result in fewer inmate jobs, with increased taxpayer costs and an increase in crime. The CBO, for example, estimates it will cost at least $177 million just in extra security costs to guard the inmates made idle by this bill.

The total revenues of FPI represent a very small percent, approximately ¼ of 1 percent of Federal agency procurement dollars, about the same as it was when it started in 1934. Furniture and apparel industries are two industries in which FPI does most of its work; but when asked, a representative of these industries conceded that FPI sales represent ''insignificant'' and ''negligible''

portions of their industries. And if such industries have problems, it is not due to FPI. On textiles, for example, I was told that 600,000 jobs were lost over the last 10 years. Where there are approximately 7,000 prisoners working in textiles in FPI, we certainly cannot blame 7,000 prisoners for the loss of 600,000 jobs.

The program generates almost as much business as it takes in by pumping three quarters of the roughly $600 million it takes in back into the economy to purchase supplies and whatnot, primarily from small minority and women-owned and disadvantaged businesses. The FPI has received awards for spending almost 60 percent of its expenditures in these small and disadvantaged businesses.

I am the first to concede that there may be problems with FPI which should be fixed. When a small business making a single product such as an Army helmet is dependent on the Department of Defense for contracts for its operations, FPI should not be able to take away that business. But this bill should be fixing the problems not by gutting it by taking away all its primary source of contracts. And while the bill suggests that the lack of competition is a problem, the bill seeks to stranglehold FPI as a competitor not only by strengthening the prohibitions against activities in the commercial market but also in the government as well. We are already seeing the effects of a Department of Defense restriction in FPI passed last year. The information I have obtained from the program indicates that it has already had to close 13 factories and eliminate over 1,700 inmate jobs and expects to eliminate an additional 500 jobs before the end of the year.

We should fix these problems, but we should do so in a way that assures the viability of the vital crime-reducing program. With additional prisons scheduled to come on line over the next few years, we can ill afford to diminish the successful crime-reduction program. But for their crimes and imprisonment, they are indistinguishable from the rest of us; and treating them as if they are a foreign competitor and viewing the work as private businesses, we should not be in a position where the policy of the committee with oversight responsibility for the safe and efficient operation of our prisons should be at risk.

Mr. Speaker, these are important jobs. This program reduces crime. We can do better than just gut the entire program with a meat ax approach. We can improve the program without ending it. So I would hope that we would defeat the rule and, if the rule passes, defeat the bill.

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

Mr. HASTINGS of Florida. Mr. Speaker, I yield 3 minutes to the gentlewoman from New York (Mrs. MALONEY).

Mrs. MALONEY. Mr. Speaker, I thank the gentleman for yielding me this time and for his leadership.

I rise in support of this rule and in support of the bill that will protect the jobs of American taxpayers. In a time when 3 million workers have lost their jobs, we should be doing everything possible to keep workers employed. FPI is not competing on a level playing field. It pays its workers pennies and is not required to pay taxes. With its predatory practices, FPI has contributed to the closure of private companies and the loss of tens of thousands of jobs throughout our Nation.

With its predatory practices, I confronted them in 1997 when they tried to close one of my constituent's company, Glamour Glove. FPI sought to simply come in and take away all the competitively won contracts with the Department of Defense to make military gloves. If they had succeeded, Glamour Glove would be out of business and the workers of UNITE! would have been out of work. Outraged, I appeared before the FPI board with the gentleman from Michigan (Mr. HOEKSTRA), who was facing similar challenges in his own district, and we were successful in negotiating and saving these jobs; but this effort led to the bill that we have before us today.

□ 1300

It has been a 7-year effort. I thank the gentleman from Michigan (Mr. HOEKSTRA) for helping me save the jobs in Glamor Glove and for his work on this legislation.

By passing this bill, we will save thousands of jobs across this country, and we will protect competition. We will allow the prison industries to compete with hardworking, tax-paying workers in America. This legislation will ensure that contracts are awarded to the company that will provide the best products, delivered on time and at the best prices, thereby saving not only jobs, but taxpayer dollars; in short, the way the free market is supposed to operate.

The bill has large bipartisan support, over 140 of our colleagues on both sides of the aisle, and it has support both from the business community, led by the Chamber of Commerce, and organized labor, led by the AFL–CIO.

Passage of this legislation will not mean that inmates will sit idly in prison. It also requires and provides for alternative rehabilitative opportunities, including work in support of nonprofit public service organizations, to better prepare inmates for a successful return to society.

I urge my colleagues to put an end to this unfair, government-sponsored monopoly, which really would be more at home in communist Russia, under Fidel Castro or in mainland China, where people are paid pennies for their work, where there is no competition and workers are stripped of their jobs and thrown out on the street and not even given an opportunity to compete. This allows our workers to compete. It will save jobs. It is good for America, it is good for workers, and it is good for business. I urge a yes vote on the underlying bill and the rule.

Mr. HASTINGS of Florida. Mr. Speaker, I yield 2 minutes to the gentleman from Illinois (Mr. DAVIS), my good friend from Chicago.

Mr. DAVIS of Illinois. Mr. Speaker, I want to thank the gentleman for yielding me time.

Mr. Speaker, at first blush, I thought that this was a good bill, good piece of legislation, that it made some sense. But then I thought about the fact that the goal of our prison system really should be to try and make sure that individuals are better off when they leave than they were when they got there.

If they cannot read, we need to teach them how to read; if they cannot write, we should teach them how to write; if they have got drug problems, we should give them counseling and treatment; if they do not have job skills, if they have never had a work ethic, then we ought to provide opportunities for them to learn what work is all about.

We ought to provide an opportunity for them to develop a skill, so that when they get out, there is something that they can do, other than stand on the corner and holler ''crack and blow,'' or ''pills and thrills.'' Any diminution of opportunity for these individuals to work is not in the best interest of America. It will cause recidivism, and those who get out will be right back. So I would urge us to look seriously.

I understand competition. I understand small business. I am an avid supporter of small business, but I believe that we would do much more harm than good by denying any single person incarcerated the opportunity to work and learn a skill.

I will vote no, and urge that we reject this rule and this bill.

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

Mrs. MYRICK. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

PROVIDING FOR CONSIDERATION OF H.J. RES. 76, FURTHER CONTINUING APPROPRIATIONS, FISCAL YEAR 2004

Mr. LINDER. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 430 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 430

Resolved, That upon the adoption of this resolution it shall be in order without intervention of any point of order to consider in

the House the joint resolution (H.J. Res. 76) making further continuing appropriations for the fiscal year 2004, and for other purposes. The joint resolution shall be considered as read for amendment. The previous question shall be considered as ordered on the joint resolution to final passage without intervening motion except: (1) one hour of debate on the joint resolution equally divided and controlled by the chairman and ranking minority member of the Committee on Appropriations; and (2) one motion to recommit.

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

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

Mr. Speaker, H. Res. 430 is a closed rule that provides for the consideration of H.J. Res. 76, a continuing resolution that will ensure further appropriations for fiscal year 2004. The rule provides for 1 hour of debate in the House, equally divided and controlled by the chairman and ranking minority member of the Committee on Appropriations. The rule waives all points of order against consideration of the joint resolution and provides for one motion to recommit.

Mr. Speaker, we passed the first continuing resolution, H.J. Res. 69, in late September, continuing appropriations through October. The provisions of H.J. Res. 75, which was the second CR enacted by this Congress, are scheduled to expire this Friday, November 7.

Under the joint resolution that H. Res. 430 makes in order, the provisions of that second continuing resolution would be extended until November 21, 2003. In brief, for the fiscal year 2004 appropriations bills that have not yet been enacted into law, the CR provides 2 additional weeks of funding for those Federal departments and agencies whose operations depend on the enactment of those appropriations.

We are approaching the completion of this first session of the 108th Congress, but there are a number of appropriations bills and other must-do legislative priorities that we are working to resolve. Additional time is needed. Nonetheless, it is our goal to have this represent the last continuing resolution, as the appropriators are working hard to complete conference reports and are moving toward making the tough decisions that will lead us to the end of the appropriations process for this year. This continuing resolution gives us the time needed to complete this process in an orderly manner.

The Committee on Rules approved this rule yesterday. I urge my colleagues to join me in supporting its passage.

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

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

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

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

Mr. Speaker, since George W. Bush got his job and Republicans took over the entire Federal Government, nearly 3 million Americans have lost their jobs. So, under these circumstances, you might think the Republicans who control the town and the government and CBS would be very conscientious about doing their jobs. But here we are, once again, passing yet another continuing resolution to keep the government running because the Republican Congress refuses to do the most fundamental job the American people have given to it. While millions of Americans cannot find any jobs, Republicans refuse to do the jobs that they have and the taxpayers pay us to do. The House has not put in a full week's worth of work in months.

So what is the problem Mr. Speaker? After all, the Republicans control this body, the other body, the Presidency. Are they stuck haggling with each other over how much to shortchange schools this year? Or looking for an excuse to continue penalizing disabled veterans? Or arguing over which slick procedural trick to use to try to hide the hundreds of billions of dollars in debt they have run up?

Well, one thing is for sure, you know this is not a Republican Party priority, because when the Republican Party wants something, the Republican Party is ruthlessly efficient.

Just take a look at the record. When it comes to Republican priorities, like tax breaks for the small, elite group of big contributors who fund Republican campaigns, this Congress has been tremendously successful. But when it comes to the priorities of the American people, like tax relief for the military and working families, this Congress cannot or will not get it done.

Mr. Speaker, Republican leaders have protected big corporate tax dodgers, but Republicans will not do anything about the high health care costs or help the millions of Americans who need unemployment insurance in the midst of President Bush's jobless recovery. They actually blocked a Democratic pay raise for the military, which would have given the soldiers in Iraq and Afghanistan a $1,500 bonus.

Mr. Speaker, I fear this is not a government of the people, by the people and for the people. It is a government of the Republican Party, by the Republican Party, and for the Republican Party.

Unfortunately, the rest of America does not seem to matter. Today, millions of hardworking Americans no longer share in the prosperity they enjoyed during the Democrat-led economic boom of the nineties. George W. Bush has compiled the worst record of job loss of any President since Herbert Hoover in the Great Depression. Some 1.4 million Americans have been unemployed for so long in this economy that they have exhausted their unemployment insurance. After the end of this year, Americans who lose their jobs, people like the nearly 3 million jobs lost since President Bush took office, will not be able to enroll in unemployment insurance.

Over that same period, the Republican fiscal irresponsibility turned record surpluses into astronomical and out-of-control deficits, increasing the debt tax on all Americans and threatening the future of Medicare and Social Security. And it is getting worse. In the coming years, the tax breaks for the wealthiest few will become even more expensive, at the same time that the Bush administration will be asking taxpayers to send untold hundreds of billions of dollars to Iraq.

This government has no plan to clean up the mess it has made of America. Instead, they just keep offering more of the same and hope the American people will not notice that their Congress has stopped working for them, because it is too busy using the power of the people's government to protect the privileges of their party.

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

Mr. LINDER. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

RECOGNIZING AND HONORING FIREFIGHTERS AND OTHER PUBLIC SERVANTS WHO RESPONDED TO 2003 CALIFORNIA WILDFIRES

Mr. SHAYS. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 425) recognizing and honoring the firefighters and other public servants who responded to the October 2003, historically devastating, outbreak of wildfires in Southern California.

The Clerk read as follows:

H. RES. 425

Whereas in late October 2003, Southern California simultaneously experienced a number of devastating wildfires destroying thousands of homes, taking many lives, and burning hundreds of thousands of acres of grasslands and forests exceeding the devastation of any fires in the past century;

Whereas in the space of a few days, all of the resources of local firefighting companies were called upon to man fire lines on first one and then on many fronts;

Whereas firefighters were thrown into extraordinarily dangerous situations because of the fast-moving, fuel- and wind-driven fires;

Whereas firefighters exhibited resilience and courage in continuing to stay on the lines often in back-to-back shifts while knowing, in some instances, that their own families were in danger or that their personal homes had been lost and even giving the ultimate sacrifice of life;

Whereas those firefighters who were called initially were later assisted by skilled and courageous pilots flying water-drop flights in the most challenging wind and smoke conditions and by firefighters from throughout the State of California and neighboring States;

Whereas additional emergency personnel, such as law enforcement and medical personnel, have coordinated with local authorities and firefighters and have performed beyond the call of duty in the preservation and protection of human lives; and

Whereas members of the Armed Forces have once again met their country's call to duty, providing valuable firefighting assets and assistance to California's emergency response efforts; their actions are in keeping with the finest traditions of United States military service: Now, therefore, be it

Resolved, That the House of Representatives recognizes and honors those firefighters and every public servant who participated in responding to the October 2003, historically devastating, outbreak of wildfires in Southern California and commends them for their dedicated service to the people of California.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Connecticut (Mr. SHAYS) and the gentleman from Illinois (Mr. DAVIS) each will control 20 minutes.

The Chair recognizes the gentleman from Connecticut (Mr. SHAYS).

GENERAL LEAVE

Mr. SHAYS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H. Res. 425.

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

There was no objection.

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

Mr. Speaker, House Resolution 425 recognizes and honors the deserving firefighters in southern California for their response to the devastating wildfires there which have affected so many lives. The raging fires have scorched hundreds of thousands of acres and burned thousands of homes in one of the worst disasters in California history. Regrettably, 22 people have lost their lives due to the fires.

Mr. Speaker, the devastation of the blazes has been overshadowed by the vigilance and bravery of the men and women who have fought the fires nonstop over the last 2 weeks. These firefighters have endured extreme heat and dangerous smoke in saving countless lives and properties. Their incredible work will help all California citizens go back to their everyday lives once the fires are fully extinguished, and, indeed, the fires may be nearing the end. Due to the firefighters' efforts, many believe that the blazes are becoming contained and the worst is over. People are already returning home, children are going back to school and interrupted utility service is resuming.

□ 1315

These facts are a testament to the determination of the Southern California firefighters for their unyielding efforts. The firefighters have indeed earned the thanks of a grateful House of Representatives.

Mr. Speaker, the President joined many of our colleagues yesterday during a visit to the ravaged area. I think the President thoughtfully summed up the situation in California during his tour when he observed, ''I see human tragedy and heartache. I see the loss of a lot of material possessions. However, I see a strong spirit which exists here. I see people who are resolved to rebuild their lives. Amidst their tears they do see hope. And that is a great tribute to the people in this part of California.''

Mr. Speaker, we commend the firefighters in California for their invaluable lifesaving work. The thoughts of the Members of this House are with the resilient citizens of California during this extraordinarily trying time.

I urge adoption of the resolution.

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

Mr. DAVIS of Illinois. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H. Res. 425, introduced by the gentlewoman from California (Mrs. DAVIS).

Mr. Speaker, the fires raging through Southern California have killed 20 people, destroyed more than 3,400 homes, and scorched over 750,000 acres of forests. Most of the deaths and demolished homes were in San Diego County, where a 280,000-acre blaze was apparently started by a lost hunter who set a signal fire.

Every year, fires and other emergencies take thousands of lives and destroy property worth billions of dollars. Firefighters are on the front lines between the public and the devastation the fire can cause. Firefighters help protect the public interest from these dangers by rapidly responding to a variety of emergencies. Firefighting involves hazardous conditions and long, irregular hours.

Firefighters must be prepared to respond immediately to a fire or to any other emergency that arises. Because fighting fires is dangerous and complex, it requires organization and teamwork.

When fires break out in forests and parks, firefighters are brought in to suppress the blaze by using heavy equipment, hand tools, and water hoses. Forest firefighting is rigorous work. One of the most effective means of battling a blaze is to create fire lines by cutting down trees and digging out grass and all other vegetation, thereby creating bare land in the path of the fire that deprives it of fuel. Elite firefighters, called smoke jumpers, parachute from airplanes to reach otherwise inaccessible areas. This is extremely hazardous, because the crews have no way to escape if the wind shifts and causes the fire to burn towards them.

That is what firefighters do. They risk their lives for the public, and Steven Rucker was not any different. Steven Rucker died in the line of duty last week while battling the Cedar fire near the town of Julian in San Diego County. Steven Rucker and three other firefighters were battling to save a home as part of a strike team called in to battle the immense San Diego County blaze. The four men were working to save a structure when the swirling flames overwhelmed their position.

Rucker's colleagues, Captain Doug McDonald, Engineer Shawn Kreps, and Firefighter/Paramedic Barrett Smith were injured on the lines before the group was evacuated by helicopter from the scene.

We owe the California firefighters, and all firefighters, a debt of gratitude for what they do to protect us from the devastation of fires. That gratitude should be extended when the fire is blazing and when it has dimmed.

I support this resolution, and I urge all of my colleagues to do the same.

Mr. Speaker, it is my pleasure to yield 6 minutes to the gentlewoman from California (Mrs. DAVIS), the sponsor of this bill.

Mrs. DAVIS of California. Mr. Speaker, I want to thank the gentleman from Connecticut (Mr. SHAYS) and the gentleman from Illinois (Mr. DAVIS) for managing House Resolution 425, and I also want to thank and let the gentleman from California (Mr. HUNTER), my colleague from San Diego, know how much I honor working with him on this, as well, as we honor brave firefighters with this resolution.

We all sympathize with our colleague, the gentleman from California (Mr. HUNTER), for he was one of the victims of this devastating fire. He exemplifies the thousands of families whose homes were leveled. He celebrates the resilience of families whom we heard over and over again say, We will rebuild.

I am proud to welcome every member of the California congressional delegation as cosponsors of this bill, as well as Members from around the country, including those States which sent firefighters to help.

As I had an opportunity to visit the burned-out communities, streets, and neighborhoods of San Diego City and County, I was struck by the velocity of this fire storm. In the community of Scripps Ranch, the eucalyptus trees did not burn. The fire moved so quickly that the trees did not ignite, yet almost every home on several streets on the ground turned to ash.

As I toured in a helicopter, I was overwhelmed by the sheer magnitude of the 280,000 acres in San Diego that burned and the capriciousness of the fire that leveled 2,232 residences while, in some places, neighboring houses remained standing.

Yet, the mission of the firefighters was clear: saving lives first and then property. That is what they did; that is what they always do. They were joined by law enforcement, who handled the evacuation of tens of thousands of families.

This bill is just a small way to say thank you, thank you to people whose

bravery, whose courage and perseverance went so far beyond the ordinary.

Many of my colleagues have read the individual events and acts of heroism. I know I join with the gentlewoman from California (Ms. WOOLSEY) in honoring the firefighter from her district, Steven Rucker, who volunteered to go to San Diego along with thousands of firefighters from throughout the State and the country and gave the ultimate sacrifice of his life. We remember also his colleagues who remain seriously burned from the fire that swiftly overran their position.

In addition, we have read of numerous, just numerous unnamed firefighters who performed way beyond their own safety. Responding to a 911 call, firefighters, choking from the smoke, entered a home to find an elderly woman. When they pulled her to safety, she told them that her husband was still inside the house. It took three attempts to enter the burning home to find him. He was trying to move in his walker toward safety. And then they brought him out and worked to get the couple air-lifted to a hospital.

We learned of firefighters overcome with frustration and sadness in the early-morning darkness when the fast-moving blazes prevented them from reaching secluded homes to warn the residents and to try to help them escape. Four of the residents of one community died. There were 22 fire-related deaths in Southern California, and we join in expressing our condolences to their families for their losses.

The stories, I say to my colleagues, are legion, and all San Diegans hold great appreciation for the dedication of the Julian firefighters who, with so much determination, saved the historic mining town that is home to all of our fantasies of the world's best apple pies. So dedicated were they that many of them lost their own homes on the neighboring hillsides while protecting the village. I talked to a firefighter who saved many homes, only to learn that his own home was taken by the firestorm.

The simultaneous fires throughout Southern California put extreme stress, not only on the resources that we are all committed to share in mutual response, but in overwhelming all of those resources. The coordination of so many agencies and equipment was indeed a critical, critical effort.

We thank, in particular, the firefighters from Northern California, the central valley, and neighboring States. I saw fire trucks lined up not only from Novato and Milpitas, but also from Fresno and Sacramento, from Arizona and Nevada, all different colors of firefighting equipment. It was impressive, and we knew of their efforts.

We are proud of our servicemen and women who are at the ready to offer their support and to supply backup resources to meet this implacable foe.

There is another whole story of neighbors helping neighbors, strangers helping the tens of thousands of evacuees, and the dominant spirit of victims who have committed their will to rebuild.

There will be many, many days to contemplate the lessons from this tragedy and many will be focusing on lessons learned. San Diego has learned much about the preparation, coordination, and effort needed to be prepared to respond to seasonal fires, as well as homeland security threats. We will have much to offer, I believe, our country in that search for answers.

But today, we have one very simple message: from the bottom of our hearts, we thank each and every one of you, the firefighters.

Mr. SHAYS. Mr. Speaker, I thank the gentlewoman for her introduction of this legislation, and I yield 1½ minutes to the gentleman from Nevada (Mr. GIBBONS).

Mr. GIBBONS. Mr. Speaker, we always seem to find the words to express our gratitude for heroes, and today I rise in strong support for H.R. 425, a resolution to recognize those heroes, honor the brave men and women who responded to the horrendous wildfires that plagued Southern California last month.

While we all recognize that hundreds of first responders from the State of California bravely risked their lives to fight these wildfires, many Americans were less aware that hundreds of Nevada's first responders were also enlisted in this fight. In fact, during the course of this deadly natural disaster, the State of Nevada deployed over 450 brave Americans to Southern California to join our neighbors in this effort to quell this deadly natural disaster. These Nevadans included dozens of firefighters, paramedics, and highly skilled mechanics.

Northern Nevada-based crews from the United States Forest Service and the Bureau of Land Management, along with engine crews from the Nevada Division of Forestry, Reno, Sparks, Storey County, Elko County, and North Lake Fire Protection District, were dispatched on October 27 to fight the Southern California fires. Two strike teams composed of firefighters from Las Vegas, Clark County, Henderson, Pahrump, the Nevada Test Site and the Naval Air Station at Fallon drove by personal car to offer their support to a base camp in Santee.

Mr. Speaker, I encourage all of my colleagues to join me in supporting this resolution. The brave first responders from all over the western States and Nevada have earned this honor, and I am pleased to recognize their selfless efforts today.

Mr. DAVIS of Illinois. Mr. Speaker, it is my pleasure to yield 3 minutes to the sensitive Democratic leader, the gentlewoman from California (Ms. PELOSI).

Ms. PELOSI. Mr. Speaker, I thank the gentleman for yielding me this time and my colleague, the gentlewoman from California (Ms. WOOLSEY), for allowing me to speak out of turn here.

I want to commend my colleagues from California, (Chairman HUNTER) and (Mrs. DAVIS), for bringing this resolution to the floor, enabling Members of Congress to express our appreciation for the brave service of the firefighters in our great State of California. These firefighters battled 17 wildfires over the course of more than a week, saving countless lives and protecting us in this great natural disaster. I want to join with my California colleagues in offering my praise, respect, and admiration for the heroic men and women who put their lives at risk under extremely hazardous conditions to contain this disaster and minimize the damage to land, homes, and businesses in Southern California.

During our debate last week on another piece of legislation, I conveyed my condolences to all of our colleagues who had lost lives and families who had lost their homes in Southern California. I especially wanted to express concern to our distinguished chairman, the gentleman from California (Mr. HUNTER), for the loss of his home in the fire, and hope that his family will be made whole, as well as all of the families of the region affected.

The tales of these firefighters, Mr. Speaker, are tales of bravery and sacrifice. We mourn the loss of the gentlewoman from California's (Ms. WOOLSEY) constituent, Marin County firefighter Steven Rucker, who made the ultimate sacrifice. We all extend our sympathy to his family at home and his friends at the firehouse.

□ 1330

In San Diego County, represented by my colleague, the gentlewoman from California (Mrs. DAVIS), who I acknowledged earlier for her leadership, as well as by the gentleman from California (Mr. FILNER) and the gentleman from California (Mr. CUNNINGHAM) and others, a number of volunteer firefighters have sacrificed their own homes while battling the blazes to preserve the homes of others in their communities.

I would also like to commend the efforts of the 72 members of the San Francisco Fire Department who were quick to join the strike teams to assist our neighbors to the south. These devastating fires have burned almost 750,000 acres, caused the death of 22 of our fellow Californians, and destroyed more than 3,500 homes. It is almost inconceivable.

As we prepare to help families and communities recover from devastation and loss, we recognize without the tireless and heroic efforts of thousands of firefighters, our losses could have been much greater. We salute their bravery, their heroism, and the decisions they make every day to risk their own safety even to protect the safety of others. I might add we commend and salute their families, their courageous families.

I commend my colleagues, the gentlewoman from California (Mrs. DAVIS) and the gentleman from California (Mr.

HUNTER). I also want to, once again, acknowledge the gentlewoman from California (Ms. WOOLSEY) who has so sensitively dealt with the loss of her constituent Steven Rucker. And we all acknowledge the debt we owe to California's bravest for their successful efforts to contain these massive fires.

Mr. Speaker, I again thank the gentleman from Illinois (Mr. DAVIS) for his leadership and for yielding time.

Mr. SHAYS. Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. MCKEON).

Mr. MCKEON. Mr. Speaker, I want to thank the gentleman from Connecticut (Mr. SHAYS) for yielding the time. I want to thank the gentleman from California (Chairman HUNTER) and the gentlewoman from California (Mrs. DAVIS) for their support and their bringing this legislation before us, as has already been mentioned.

The gentleman from California (Mr. HUNTER) lost his home. I know he has been handling it a whole lot better than I would.

I rise today, Mr. Speaker, to express my heartfelt support for this bill, House Resolution 425, which honors the courageous firefighters and other emergency service persons who so tirelessly fought the devastating wildfires of southern California.

Over the past couple of weeks, more than 14,000 firefighters from five States have taken to the front lines in this wildfire, selflessly risking their lives for the protection of their fellow Americans. These ongoing fires have ravaged almost 750,000 acres, destroyed over 3,500 homes, and resulted in the loss of 22 lives, including the life of a young firefighter by the same of Steven L. Rucker, an engineer from the Novato Fire District.

On October 29, 2003, Engineer Rucker made the ultimate sacrifice for his fellow man while defending a home in the Cedar Fire incident in San Diego County. It is the bravery of Firefighter Rucker and other heroes like him in the Los Angeles County Fire Department who saved my district and the lives and property of my neighbors, friends, and families in the Stevenson Ranch and Sunset Point areas of the Santa Clarita Valley, where the fire literally came within feet of their homes.

My community was spared from major devastation as a result of the efforts of our firefighters from the Nation, from the county and from the areas surrounding, as well as the efforts of the Armed Services and other emergency personnel who came to the rescue.

Mr. Speaker, on behalf of my constituents from the 25th District of California, I express my deep gratitude to our firefighters for their continued bravery and valor in fighting this wildfire and urge my colleagues to unanimously adopt this resolution.

Mr. DAVIS of Illinois. Mr. Speaker, I yield 6 minutes to the gentlewoman from California (Ms. WOOLSEY).

Ms. WOOLSEY. Mr. Speaker, I thank the gentleman from Illinois (Mr. DAVIS) for organizing today's effort. And I rise to support H. Res. 425 and to honor the memory of firefighter Steve Rucker, a resident of Novato, California, and to wish the speedy recovery of three other Novato firefighters, Captain Doug McDonald, Shawn Kreps, and Barrett Smith. These four men were among the dozens of firefighters from my district who sped to southern California to fight the recent fires, fires that burned hundreds of thousands of acres.

The day before yesterday, I stood alongside Steve's colleagues, firefighters, and police officers and watched the mile-long precession that carried his casket from the airport in Santa Rosa to his beloved city of Novato. My heart was filled with emotion as I watched the great sadness this community felt, the sadness and the grief that come with the death from within the family. But lingering in this grief, there was also pride, pride in recalling the time and heroism of one of their own, these four firefighters served the Novato Fire Protection District.

Novato is a prosperous place, a family town that touches San Francisco Bay and reaches into the golden coastal hills. But the warm sun of Indian summer never lulls Novato firefighters. They know that the days before the rains come are the most dangerous times of the year. They also know that firefighters throughout the State are members of a large community and when help is needed anywhere, they are honored to help.

So it was with that and without any contractual obligation but out of compassion and comradeship that Shawn Kreps drove Novato fire engine 6162 all night a week ago Monday to join the fire lines at the Cedar fire, more than 400 miles from Novato. And so it was that Steve Rucker, Doug McDonald, Shawn Kreps, and Barrett Smith found themselves Wednesday on a back road, 5 miles from the rural village of Julian, fighting to protect a scattering of homes.

Fire can be a fierce and swift enemy, and when flames suddenly threatened to engulf the men, all they could do is run for their lives. Steve Rucker did not make it. Apparently the intense heat of the fire seared his lungs. And when Captain McDonald went out to look for his friend, he was critically burned. Fortunately, Kreps and Smith suffered minor injuries, and I expect they will have many fires to fight in the future. Captain McDonald, however, remains hospitalized with serious burns, the wounds of a hero, and my prayers go out to him and his family.

It was too soon for 38-year-old Steve Rucker to leave this earth. He left behind a loving wife, Cathy, a 7-year-old daughter Kerstin, and a 3-year-old son Wesley, in a home he had just built. His friends in the department knew Steve as ''The Ruckster,'' a cheerful, enthusiastic man ready to joke, ready to laugh, a man they could counted on to be a calm and competent firefighter and paramedic. A man who loved his job. He was, according to his friends and colleagues, a firefighter's firefighter.

In fact, they told me just the other day that Steve was the ''go-to guy'' during times of tragedy like now, and that his loss was felt even greater because they really needed him to help them get through their pain. Twelve thousand firefighters battled the flames that threatened to burn from southern California to the Pacific Ocean. Steve Rucker was the only firefighter to die in this historical battle. In this, he receives a measure of immortality. He also stands for all of those brave men and women who unselfishly risked their lives to save others, whether facing a wall of flames on a rural back road or the billowing smoke of the World Trade Center.

Mr. Speaker, Steve Rucker was an irreplaceable man, but his family must go on without him. I wish them consolation in knowing that this man, son, husband, father, died giving the gift of himself.

Mr. SHAYS. Mr. Speaker, I yield 5 minutes to the gentleman from California (Mr. HUNTER).

Mr. HUNTER. Mr. Speaker, I thank the gentleman for yielding me the time, and I want to thank my colleagues for cosponsoring this resolution and for the initiative of the gentlewoman from California (Mrs. DAVIS) on this resolution.

And, Mr. Speaker, I thought I would lead off simply by reading the names of the people who lost their lives in this fire. Steven Rucker, Galen Blacklidge, Christy-Anne Seiler Davis, Edward Downs, Nancy Morphew, Mary Peace, Asleigh Roach, Stephen Shacklett, James Shohara, Solange Shohara, Randy Shohara, Robin Sloan, Jennifer Sloan, Ralph Westy, Charles Cunningham, James McDermith, Chad Williams, Gene Knowles. And there are some other names which have not yet been released, and we will recount them when they are released.

Mr. Speaker, this was a time of enormous disaster and tragedy for our colleagues and for our neighbors and friends who lived in our communities who have lost so much, some who have lost their lives. It is also a time of great heroism. And I was reminded as the stories came in of the firefighters and the valiant stands that they were making as they were trying to keep these fires from advancing into our neighborhoods. I was reminded that all the heroism that is displayed by uniformed services in this country are not just being displayed on the battlefields of the Middle East, but rather in these battles that we undertake in the West, especially all over the country, but for some reason during this season in the West and those Santa Ana winds come up, those battles are to protect our communities against fire.

And it was very moving to be out yesterday and the day before when we carried the body of Steve Rucker, who was the Novato firefighter who has been so eloquently described by my colleagues, when we carried his body to the C–130 to take him home. And I rode in the procession with Maureen McDonald, who is the wife of Doug McDonald, who was Steven's partner, who also was caught by this fire, and who was burned over 30 percent of his body and is currently doing well in San Diego in the hospital.

And I was taken by the great bravery and the eloquence of this lady, this Maureen McDonald whose own husband was in very difficult condition, but who was focusing all of her attention on the Rucker family. When I asked her to talk a little bit about how she had gotten to know the Ruckers, she said something that will always stick with me: She said, ''I met them in the glow of the birth of their first child.'' So she had met them right after they had that first baby, and that was Kerstin, who now is some 7 years old, Wesley is now 2. But for me that personalized this fire.

And this country enjoys not only great freedoms, but a wonderful, wonderful way of life. I mean, every part of this country has great charm, but for us in California, most of us can go to the ocean fairly easily, fairly quickly, one can go to the desert within a couple miles from almost any part of southern California, one can go to the mountains, those great, beautiful mountains. You can raise your family in these wonderful, wonderful surroundings. And yet we have some dangers and some tragedies that we are protected from by those people that wear the uniform of the various firefighting units and communities.

And I noticed as Steve Rucker's body was being carried to the C–130 that that community is one community as they all lined up. It was indeed seamless. There were not individual areas or districts represented. They were all firefighters. They were all people who gave so much so that we might have this great wonderful life that we enjoy in California and other places.

So, Mr. Speaker, I saw the coming together of the firefighters, all these units they came in to honor Steve Rucker. And also it was good to see the President come out with the outgoing Governor of California, Gray Davis, stand side by side with him and the incoming Governor, Mr. Schwarzenegger, and to see them all together after some heavy duty political arm wrestling to all unite in common cause. And the common cause was to thank the people that wear firefighting uniforms.

I think that the language of the gentlewoman from California (Mrs. DAVIS) in this resolution very eloquently expresses that, and, certainly, I want to thank her and everyone who participated in putting this resolution together.

□ 1345

Mr. DAVIS of Illinois. Mr. Speaker, I yield 2 minutes to the gentlewoman from California (Ms. MILLENDER-MCDONALD).

Ms. MILLENDER-MCDONALD. Mr. Speaker, I thank the gentleman for yielding me time. I would like to thank my colleague, the gentlewoman from California (Mrs. DAVIS), and also the gentleman from Connecticut (Mr. SHAYS), for bringing forth this resolution that is just so timely. To my colleague and friend who just spoke, the gentleman from California (Mr. HUNTER), our best regards to him because we know that his district was extremely devastated, including the loss of his home; and we are with him on whatever he needs us to be with him on.

I rise today, Mr. Speaker, in support of H. Res. 425. As a Representative from Southern California and a resident of Los Angeles County, I want to thank those brave men and women who are firefighters and public servants who have worked so hard to put out those fires that have devastated Southern California. They are truly our heroes. We thank them so much.

As I stand here today, our firefighters continue to make excellent progress towards containing four major fires involving over 271,000 acres of State, Federal, and private lands. Three of these fires involve national forest lands. Six other fires totaling an additional 473,778 acres have been contained. Three more fires are expected to be fully contained by the end of the week.

The devastation of these wild fires in Southern California is unprecedented, Mr. Speaker. To date, the Forest Service wild fire cost is $45 million. The total cost of wild fires is $92 million, which represents all fires both contained and active.

I look forward to working with Congress and with the administration, and we thank the President for being out there this week to look at the devastation and to continue to provide more emergency relief to California in the near future. We will work together to get our State, our region, and our citizens back on their feet.

Mr. SHAYS. Mr. Speaker, I yield 3½ minutes to the gentleman from California (Mr. CUNNINGHAM).

Mr. CUNNINGHAM. Mr. Speaker, this body should be proud. The California delegation, Republicans, Democrats, united. There were no party lines. There were no district lines in California. Members whose districts were not even affected called to help and offered concern.

The day before yesterday, the gentlewoman from California (Mrs. DAVIS), the gentleman from California (Mr. HUNTER), the gentleman from California (Mr. ISSA), and myself went through 10 town hall meetings with FEMA, Red Cross, SPA and other government agencies. We witnessed in some cases firefighters who had fought fires, saving other people's homes while their own homes burned down.

I witnessed people at each of these emergency centers that had actually lost their homes, and they were volunteering at those centers to help other people that had lost their homes and things. The events of 9–11 showed that people do come together, and it did so in the State of California also.

In Lake Wolford we saw the sight of a young girl, her brother was driving a car, overcome by smoke, crashed the car and she died a horrible death in front of the firefighters that could not get to her to save her life.

We honor our firefighters. We lost 23 firefighters in 2003. We lost a firefighter, Steven Rucker, in this fight. Captain Doug McDonald its fighting for his life with over 18 percent of his body burned.

If you really want to help our firefighters, if you really want to pay them homage, there are some things we can do. We are putting in the defense bill that there are strange laws where Federal tankers cannot get airborne. They could be there fully loaded with water and chemicals, and they cannot touch the fire if State and local funds have not maxed out. We are changing that, and we are asking for this body's help to do that.

Firefighters for years have asked for us to put more roads in our forests, not just to have access to the fire, but so that they can get out. We lost 15 firefighters in Colorado because they could not get out of the fire. They did not have a road to come through. But yet we have been stopped from doing that by some people in this body and the other body.

The bark beetle, we asked to be able to cut the dead wood and the trees, and not to cut just the dead wood but to cut wherever the bark beetles are. And that same group stopped us from doing that. In Julian, we lost most of Julian because of bark beetle trees and the fuel. The firefighters could not get to it.

We also have for a decade been wanting to take care and thin brush out. For a decade. We have dead brush piled on dead brush every year, and we want to thin it; but we cannot do it because of a bird called a gnat catcher and the desert tortoise and those things. Well, I ask this body, how many of the endangered species do we have today? They are all burned up.

Can you imagine what the winter rains are going to do with the mud and erosion in our lakes and streams? Those who stopped us from doing that are responsible for the aftermath that we are going through right now.

So we can make those changes, ladies and gentlemen. Honor the firefighters and give them what they need.

Mr. DAVIS of Illinois. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, there is no greater gift that one can give than his or her own life. There is no greater service than

one can provide than looking after the needs of others while neglecting those of your own. I urge passage of this resolution.

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

Mr. SHAYS. Mr. Speaker, I yield 3 minutes to the gentleman from California (Mr. ISSA).

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

Mr. ISSA. Mr. Speaker, my colleague who just spoke, the gentleman from California (Mr. CUNNINGHAM), spoke from the heart and from years of experience in this body. In Congress talk is cheap.

This resolution splendidly lays out our feelings as a body for the brave and courageous acts of firefighters during this statewide fire emergency. As the firestorms spread throughout California at a rate never before seen, we became acutely aware of just how much we depend on the brave men and women who come from all over the country to fight our wild fires. But here today as we speak in such kind words of Steven Rucker, and we talk about his important contribution and we talk about the loss of 22 innocent people, it is certainly my profound wish and my dedication here that they not die in vain. And although these losses of life seem senseless today, they will be even more senseless if a year from now we have more wild fires with more build-up of fuel that could have been cleared away if the President's Healthy Forest Initiative which has now been passed by both of our bodies does not, in fact, become law.

If we talk profoundly and then our actions are hollow, then talk is cheap. So I ask this body here today in the passing of this resolution, a very appropriate one, to cast your vote not just for this resolution but to have this resolution have meaning a year from now. A year from now someone probably will die, but if fewer die because we acted between now and then to streamline firefighting, yes, to facilitate the dollars necessary to clear underbrush and fuel that has been building up but also to work on the core cause of that fuel building up, the fact that America has not managed its forests properly, the President laid down a marker asking us to produce a bill to manage forests, we have done so. Once conferenced and becoming law, we would begin the process of giving meaning to these firefighters' selfless acts by ensuring that in years to come there will be for the first time in a generation fewer wild fires rather than more.

Mr. Speaker, I rise today in support of H. Res. 425, recognizing and honoring the firefighters and public servants who responded to the October, 2003 wildfires in California.

The fires of the past 2 weeks have ravaged the southern California landscape, consuming over 746,000 acres and destroying 3,587 homes. The fires have also claimed the lives of at least 22 in San Diego County. The sense of loss and devastation that is felt by many of my constituents and other residents of southern California cannot be overstated. The scope of these fires, in terms of lives lost and property damaged, was beyond comparison to anything we have experienced in recent memory. These events were truly a catastrophe, and we mourn with those who have suffered loss.

But I also want to take this opportunity to honor the thousands of men and women who put themselves in harm's way to fight the fires and provide emergency humanitarian assistance to people in need. Over 14,000 firefighters from five different states participated in the firefighting effort. This was particularly dangerous duty, with firefighters confronting quickly-moving wind-driven blazes. Firefighters exhibited resilience and courage, often working back-to-back shifts on the front lines while knowing that, in some cases, their own homes were threatened.

I am particularly proud of the incredible effort made by firefighters to save the town of Julian in my district. Early last week, the Cedar Fire, which eventually destroyed nearly 300,000 acres and more than 2,200 homes, was burning a direct path toward Julian. It looked like the town would be completely destroyed. Through an incredibly heroic effort, firefighters were able to save the town and the lives of dozens of people who were trapped by the fires.

One of these firefighters was Steven Rucker of Marin County. He was battling a part of the Cedar Fire that was dangerously approaching the outskirts of Julian, when his crew was entrapped by a wind-driven blaze. The fire moved so quickly they were not able to reach their engine before becoming engulfed in the flames. Three of his colleagues, Captain Doug McDonald, Shawn Kreps, and Barret Smith were seriously injured in the incident. These men will be remembered as heroes. Their resolve, in the face of extreme danger, is a testament to the fine men and women we have serving us in fire departments throughout California and its neighboring states.

I also want to honor the thousands of men and women who have assisted with the relief and support effort these past 2 weeks. Private non-profit charities, public emergency organizations like the Red Cross and the Federal Emergency Management Agency, local and state law enforcement agencies, emergency medical teams, as well as thousands of community volunteers have all extended themselves to bring critical relief to those who were in the greatest need. These efforts saved lives and brought comfort to those who had lost property. We would be in a much more difficult situation without them.

Mr. Speaker, I am proud to be a co-sponsor of H. Res. 425, which honors the brave men and women who stood in the face of danger and saved the lives and property of so many. We owe these heroes a debt of gratitude. I urge my colleagues to support this resolution.

Mr. SHAYS. Mr. Speaker, how much time remains?

The SPEAKER pro tempore (Mr. TERRY). The gentleman from Connecticut has 4 minutes remaining.

Mr. SHAYS. Mr. Speaker, I yield the balance of my time to the gentleman from California (Mr. LEWIS).

Mr. LEWIS of California. Mr. Speaker, I thank the gentleman for yielding me time.

My colleague, the gentlewoman from San Diego, California (Mrs. DAVIS), I appreciate her helping with this very important recognition of a group of our citizens that have given everything we could ask in order to protect our community.

Many do not know that my district, which includes the San Bernardino National Forest, was as dramatically impacted by this fire as any in the country or any in California. The San Bernardino National Forest has been in desperate condition for some time, in no small part because of serious management problems we have experienced in recent years; also in no small part because of a series of years of serious drought that has allowed the ever-present bark beetle to kind of have its way with our forests. And presently there are literally millions of trees standing tall, but which are dead.

It looks like fall time here in the East, but in our forests it is not fall at all. Instead the trees are yellow because they have died. Indeed, we cannot control that piece of nature; but on Saturday I had the occasion to travel with the Under Secretary who is responsible for the Federal Emergency Management Agency. He is the Under Secretary with homeland defense responsibilities.

As we flew over the forest, there were two things that were very obvious to both of us. The first was that where fire has effectively taken place, the erosion that is bound to take place as soon as the rains start to fall will be a tremendous challenge—to see the Earth move as a result of those rainfalls in the future. It is going to have a huge effect upon our ability to rebuild the forest. But the other factor that was a stark reality was that at least three-quarters of those trees we were so worried about which were standing dead are still standing. Many of those trees were not caught up in the fire, and they are indeed a fire looking for somewhere in the future to happen.

Both the Under Secretary and I immediately saw the challenges that lie before us. Indeed, I would like to spend just a moment expressing my deep appreciation for a community that was ready, for they saw on the horizon this huge challenge that was facing the San Bernardino National Forest.

The firefighters, the law enforcement officers, citizens from the community for months came together learning more and more about the challenge that lay ahead. The Lord gave us a fire about 6 weeks before this big one, and that fire caused us to recognize that it could really happen. In that case, we actually had some 600 people leave their homes in order to protect their own lives. Very quickly it became obvious that real fire, of a nature that we had not seen for perhaps 20 years, was about to take place. And so our people got ready.

Community leaders in every city and town throughout the mountains recognized that we were in this together and

their preparations saved many a life. There is little doubt that the combination of our firefighters, law enforcement officers, and those citizens themselves made all the difference. We are grateful for their recognizing this crisis and being ready to respond.

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

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

Mr. BACA. Mr. Speaker, I thank the gentleman and majority leaders on both sides. I stand in support of this resolution, H. Res. 425.

□ 1400

I went out there with the gentleman from California (Mr. LEWIS), and we saw many of the firefighters who were willing to stand up and fight for us. We saw the devastation in our immediate area, but one really cannot explain what happens when a person is willing to go on the battle line.

Many of these men and women were willing to fight for us, when all of us are willing to witness what happens right now, and we saw the fires that are going on, but these men and women continued to go back into the battle because they knew what it meant to save that particular home or save that forest or save our immediate areas in terms of our communities.

I know that my son, Joe Baca, Jr., and I and the highway patrol went directly into the fires and saw some of these homes that were burning, and we saw the firefighters that were willing to fight the fight. They did not ask any questions, but these men and women continued to be brave and continued to work on behalf of us.

I stand in support of this resolution. I commend both sides for coming up and honoring these men and women who are heroes and continue to fight in our behalf, and we need to continue to support individuals that are willing to stand on the line for us.

Mr. FILNER. Mr. Speaker, I rise today to support H. Res. 425, a resolution honoring and commemorating the heroic efforts of the firefighters who fought to save lives and property. These firefighters exhibited resilience and courage, continuing to stay on the lines, often in back-to-back shifts and, in some instances, knowing that their own families were in danger or that their personal homes had been lost.

The fires that swept across Southern California tested our resolve. All of us in the fire's path were forced to wrestle with the magnitude of the destructive force bearing down on our neighborhoods. Clearly, we owe a huge debt of gratitude to the brave firefighters who met this huge obstacle head on, and I think all of us were impressed by the outpouring of compassion in our communities as neighbors helped neighbors, and strangers came to the aid of those they had never met.

I have made a commitment to my constituents to fight for our neighbors as we begin the difficult process of rebuilding. I will be a vocal advocate in Washington for the necessary federal assistance being made available so our neighbors can begin to put their lives back together. Just yesterday, I took part in meetings with the President of the United States when he visited San Diego to tour the fire damage, telling him that our people need all the resources of the federal government marshaled for their support over the upcoming weeks and months. There will be questions that need to be answered about what preparations were made to combat a fire of this magnitude in our region, and I will not pull punches in getting to the bottom of any culpability that could have hampered our ability to stop this fire.

In addition to co-sponsoring this important legislation, I have co-sponsored two other important fire related bills. H.R. 3407, the California FIRE Act, to provide $500 million in immediate disaster relief to the victims of the California fires, and H.R. 3431, the Firefighters Medical Monitoring Act, to keep track of the health of the California firefighters after the fires are extinguished. We must ensure that the firefighters who put their lives at risk do not become ill following the fires. I recently voted in favor of the Supplemental Appropriations bill because of the terrible suffering and devastation endured by the citizens of San Diego County as a result of the firestorm, $500 million was added for Federal Emergency Management Agency (FEMA) disaster assistance in California. Last week, I contacted FEMA Director Michael Brown and President Bush, urging them to make a FEMA center operational immediately in San Diego, to help my constituents in processing the necessary paperwork to begin the process of rebuilding their lives. This important funding will allow FEMA to open one-stop clearinghouses for information and assistance in expediting the huge volume of disaster claims that will result from this tragedy.

I know, in a very personal way, the suffering of San Diegans in the recent firestorm and because I want to say ''thank you'' to the thousands of professional firefighters who exhibited so much bravery and courage in recent days, I support this important bill.

Mr. DREIER. Mr. Speaker, I rise today to express my strong support for House Resolution 425, which recognizes and honors the firefighters and other public servants who responded to the devastating wildfires in Southern California which began last month. I commend Congressman DUNCAN HUNTER and Congresswoman SUSAN DAVIS for their work on recognizing these heroic efforts.

More than 14,000 firefighters from five different states were called upon to fight these fires. Those on the fire lines continue to make excellent progress toward full containment, which in the course of the past three weeks, consumed over 745,000 acres, destroyed over 3,500 homes, and took the lives of twenty-two individuals.

Among those lives lost was firefighter Steven L. Rucker, who died in the line of duty on Wednesday, October 29, 2003, battling the Cedar Fire in San Diego County. Steve, just 38 years old, was an 11 year veteran of Novato Fire District. He is survived by his wife and two children. This tragic loss, as well as the hard battle the firefighters are still engaged in, is why we come to the House Floor today.

It is devastating to hear the numbers of people lost, homes gone, and communities that are faced with rebuilding. However, by far greater numbers are the people saved, homes protected, and communities sheltered by the tireless efforts of firefighters. I also want to take this time to recognize all the volunteers who are working at the various shelters, many of whom lost their own homes in these fires.

And while we still look forward to full containment of the fires that have burned in five counties in Southern California, we are already working toward rebuilding, mitigating for potential mudslides and erosion during the rainy season, and looking at every opportunity to prevent another disaster of this magnitude. The firefighters are aided in this by support from a number of federal agencies including the U.S. Forest Service, the Federal Emergency Management Agency, the Small Business Administration, the Army Corps of Engineers, and the U.S. Department of Agriculture's Natural Resources Conservation Service.

We are resolved, in remembering Steve Rucker and the other fire victims, as well as in sharing the devastation with those who lost their homes and businesses, to do all we can to ensure the expedited delivery of federal disaster assistance dollars, to coordinate with federal, state, and local agencies to assist in the recovery effort, and most importantly, to engage in preventing further damage from potentially damaging winter storms.

Mr. Speaker, I encourage all my colleagues to join me in supporting this resolution today.

Mrs. BONO. Mr. Speaker, I rise in strong support of H. Res. 425, a bill recognizing and honoring the firefighters and other public servants who responded to the October 2003, historically devastating, outbreak of wildfires in Southern California.

Whether it be the tragic day of September 11, 2001 or a single structure fire in town, it is the brave firefighter who rushes in when others rush out. It is only fitting then, that we take time to honor these brave men and women who took on the flames that wrecked so much damage in Southern California.

The 45th Congressional District lost twenty-one homes. But I believe if it were not for the valiant efforts of those individuals who risked their lives to battle this blaze, the devastation could have been even worse.

Sadly, we lost Steve Rucker, a 38-year-old fire engineer from the Novato Fire Protection District near San Francisco. Steve, a husband and father, stood up to this fire while hundreds of miles away from his home. The amazing thing is that Steve, and the thousands of other firefighters, fought these flames as if they were threatening their own homes and families. It was a battle fought as much with the heart as anything else.

It certainly takes a special kind of spirit to serve as a firefighter. I know many of these individuals knew this was their calling from the earliest of ages—probably after seeing a bright red fire truck make its way down the street. But from those childhood dreams grew the reality that this job was fraught with danger. Yet still, these men and women pursue with vigor the job that captivated them so many years ago. They work so very hard at protecting us and our homes.

I am also grateful to those in the Red Cross and hundreds of other volunteers who spent their time and efforts comforting the victims of this disaster. I cannot imagine what it is like to lose one's home, but how much more tragic would it have been to have nowhere to go and no one to help. But at this time, strangers turned into family and all that is good about human spirit rose above this disaster.

Californians are full of courage and do not weaken in the face of adversity. The will to rebuild took root even in the darkest of hours. But if not for our firefighters and volunteers, keeping such faith would have been much more difficult.

On behalf of the constituents of the 45th Congressional District of California, I want to thank these individuals for their tireless efforts and extreme bravery during our time of need.

Mr. CALVERT. Mr. Speaker, I rise today to honor and pay tribute to each and every firefighter and citizen whose dedication to our communities and families of Southern California again demonstrated exceptional spirit and strength in a time of disaster. Our nation is fortunate to have dedicated citizens who willingly and unselfishly give their time and talent and make their communities a better place to live and work. Our firefighters confronted the unprecedented fires which swept through our region with unwavering courage. They exemplify community leadership. I was fortunate enough to accompany President Bush yesterday as he thanked these spirited public servants and talked to the victims and survivors of the Southern California fires.

Without the dedication and tireless passion of our Firefighters and public servants there would have been even more extensive destruction of property and devastation of lives above and beyond the 3,300 homes and 4,000 other structures destroyed and hundreds of thousands of acres burned. Our Firefighters fought and finally brought under control these devastating wildfires and continue in aiding the victims left homeless in the wake of the destruction.

I know I speak for all the people from California's 44th district when I say that our thoughts and prayers have been with the firefighters as they worked vigorously to contain and control the wildfires. Laboring day and night in extreme conditions, the firefighters that responded to the Southern California wildfires will always have our nation's respect for their dedication to their profession. There is no better example for Americans than those who stare down adversity and meet every challenge with true conviction, just as the firefighters have done during this very difficult time.

While the firefighter worked tirelessly on the front lines of the fires, the support personnel that were tasked with an overwhelming job of reconstruction and recovery are equally honored for their efforts. Often it is the aftermath of a crisis that brings the most arduous challenges. The dedicated public servants that have come to the aid of their victims of the Southern California wildfires are to be commended for their ongoing contributions. Law enforcement, medical personnel, emergency responders, and community leaders have all come together to complete a daunting task; recovering from the loss of loved ones and property, and rebuilding in the aftermath.

I am proud to cosponsor H. Res. 425, recognizing and honoring the firefighters and public servants who responded to the October 2003 Southern California wildfires. I am sincerely grateful for the leadership and sacrifice firefighters and their families endure in order to secure property and protect our lives. As a native Southern Californian I know that our communities will persevere through this tragedy and successfully rebuild our beloved homes and families. We all stand ready to help in any way I can.

Mr. SCHIFF. Mr. Speaker, I rise today to support House Resolution 425 honoring the heroic efforts of the firefighters and safety personnel who responded so bravely to the devastating outbreak of wildfires in Southern California.

At the peak of the blazes, more than 14,000 firefighters from across California and several other Western states were deployed over hundreds of miles in an arc around Los Angeles and into San Diego County as far south as the Mexican border.

These courageous men and women have gone far beyond the call of duty. Fighting fires that took the lives of 20 people, destroyed more than 3,400 homes and scorched more than 750,000 acres since igniting in different locations around Southern California nearly two weeks ago, they worked around the clock, despite considerable risk to their personal safety, in order to ensure the well-being of the nearly 100,000 evacuated residents.

And as the evacuated sought safety and shelter, the American Red Cross, the Federal Emergency Management Agency, and a number of similar organizations mobilized hundreds of volunteers to assist in providing clothes, food and other essential items to the many who were forced to abandon all of their possessions. As the rebuilding process begins, these same agencies and organizations will serve as a helping hand to too many Southern California residents whose homes have been either badly damaged or lost.

I would like to pay special recognition to the firefighters in my California District who were called upon to fight these blazes. Coordinated by the Glendale Fire Department, firefighters from my District were called to battle one of the very earliest blazes and for two weeks after the first blaze, devoted almost every resource in the District to assisting in the effort to knock down these fires. I have no doubt that their heroic actions saved thousands of lives.

This is a devastating time for Southern California residents. I send my deepest condolences to the families who have lost loved ones and to the thousands who have lost homes to these fires. It is only then appropriate that through the passage of House Resolution 425 we honor the actions of the firefighters and safety personnel who prevented the additional loss of life and property. I urge all Members to support this resolution and pay respect to some of our Nation's bravest heroes.

Mr. GOODLATTE. Mr. Speaker, I rise today in support of House Resolution 425 honoring those who fought the devastating fires that have struck Southern California. In particular, I want to mention Steven Rucker, 38 years old and the father of two young children, who died fighting the Cedar fire, which began on the Cleveland National Forest and moved over 25 miles in less than 10 hours. He joins the roll of 29 other wildland firefighters who perished this summer across this country. Every wildland firefighter who takes up this occupation knows that on the next fire, they could face a similar fate.

Brave men and women choose the profession of firefighting with a keen awareness of the dangers inherent in the job. What they do requires bravery similar to that required of our armed forces. However, they fight a foe that isn't driven by ideology, or religion, or a lust for power. Wildfire has none of these motivations, and is something altogether more unpredictable as a result. If not for the efforts of our firefighters, many more homes and businesses, not just in California but across the country, would be lost, and many more civilians would have lost their very lives.

House Resolution 425 focuses on the Southern California fires, which are fresh in our memories. However, I think it's important that we recognize that wildland firefighters face these dangers in many states across the country. Wildland firefighters have died on the fire ground in States as diverse as Florida, Arkansas, Indiana, Montana, New York, Wisconsin, Texas, Louisiana, and Oregon over the last ten years. Moreover, when wildfires strike anywhere in the United States, wildland firefighters from across the country—Federal, state, and local—mobilize to defend our forests, our homes, our families, from the devastation brought about by catastrophic fire.

The firefighters who bravely face these infernos also understand something that many here in Washington are just beginning to grasp; that these wildfires are getting worse because we've tied the hands of our Federal land managers and prevented them from addressing hazardous fuel buildups. We have a bill that begins to address this issue, and I hope we can work with the other body to finish that important work soon.

I am saddened by the loss of life and the destruction of our resources that we witnessed in the last weeks. I am humbled by the bravery of our wildland firefighters and the tenacity of all our first responders without whom the disaster in California would have been far worse. I am honored to join my colleagues whose constituents have suffered so much in recent weeks in passing this resolution.

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

The SPEAKER pro tempore (Mr. TERRY). All time has expired.

The question is on the motion offered by the gentleman from Connecticut (Mr. SHAYS) that the House suspend the rules and agree to the resolution, H. Res. 425.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the resolution was agreed to.

A motion to reconsider was laid on the table.

FURTHER MESSAGE FROM THE SENATE

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

H.R. 1904. An act to improve the capacity of the Secretary of Agriculture and the Secretary of the Interior to plan and conduct hazardous fuels reduction projects on National Forest System lands and Bureau of Land Management lands aimed at protecting communities, watersheds, and certain other at-risk lands from catastrophic wildfire, to enhance efforts to protect watersheds and address threats to forest and rangeland health, including catastrophic wildfire, across the landscape, and for other purposes.

FRANCIS X. MCCLOSKEY POST OFFICE BUILDING

Mr. SHAYS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3379) to designate the facility of the United States Postal Service located at 3210 East 10th Street in Bloomington, Indiana, as the ''Francis X. McCloskey Post Office Building.''

The Clerk read as follows:

H.R. 3379

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

SECTION 1. FRANCIS X. MCCLOSKEY POST OFFICE BUILDING.

(a) DESIGNATION.—The facility of the United States Postal Service located at 3210 East 10th Street in Bloomington, Indiana, shall be known and designated as the ''Francis X. McCloskey Post Office Building''.

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the Francis X. McCloskey Post Office Building.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Connecticut (Mr. SHAYS) and the gentleman from Illinois (Mr. DAVIS) each will control 20 minutes.

The Chair recognizes the gentleman from Connecticut (Mr. SHAYS).

GENERAL LEAVE

Mr. SHAYS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the bill under consideration.

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

There was no objection.

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

H.R. 3379 designates the facility of the United States Postal Service located at 3210 East 10th Street, Bloomington, Indiana, as the Francis X. McCloskey Post Office Building. Congressman Frank McCloskey, a six-term Representative from Indiana, sadly passed away at age 64 on Sunday, November 2, 2003.

Mr. Speaker, I want to join with the gentleman from Indiana (Mr. HILL) in offering the deepest sympathies to the family of Frank McCloskey and to say to the Chair and to the other Members of this House, Frank was an extraordinarily caring individual, tremendously hardworking, a gentle man and a very effective Member of Congress. Mr. Speaker, he was a devoted Member of this body, with whom many of us served, and we are all saddened to hear the news that he had passed away on Sunday and are grateful for the opportunity to remember him here today.

Mr. Speaker, I urge passage of H.R. 3379.

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

Mr. DAVIS of Illinois. Mr. Speaker, I rise in support of H.R. 3379, and I yield 3 minutes to the gentleman from South Carolina (Mr. SPRATT), the ranking member of the Committee on the Budget.

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

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

Mr. Speaker, I rise to pay tribute to an old friend and dear colleague. Frank McCloskey and I came to Congress together in 1983, and for all the time that he served here, we sat beside each other on the Committee on Armed Services. I enjoyed him as a person. He became a good friend. I admired him as a colleague. I learned a lot from him.

Frank was plain and unpretentious, but beneath a serious and even studious sort of demeanor, he was passionate about the things that he believed in and dogged in their pursuit. He stayed on top of the issues. We get confronted continually with issue of all sorts.

I will never forget the morning after Reagan made his SDI speech, March 1983. Frank was the one member of the committee then who was probing the Defense Department witnesses about strategic defense. He was skeptical but he was always, always informed and diligent and fair-minded as a critic. Long before Srebrenica, he was troubled, deeply, personally conflicted about the war and current issues in the Balkans, and he was an early advocate and lone supporter of our intervention there. There were those who said it was not feasible, it was not possible or it was not desirable, but in the long run Frank McCloskey's position was vindicated.

Frank McCloskey was not glib. He was not flashy. He was not smooth. He was not, in Sam Rayburn's famous analogy, a show horse, but he was a workhorse. He took his job seriously and never himself. He was never one to preen or pontificate. There was no conceit about him. He was a plain spoken Hoosier who worked hard in the House, worked hard for his constituents, and every election ran hard to hold on to his seat.

Frank was gone from the House before we really knew it, and now he is gone altogether. Naming this post office after him is completely appropriate, though it seems a small gesture. This does give us, however, at least the chance to say to an old colleague whom we greatly respected, well done. Well done for all the years you served here. Well done in all your friendships you have given to us, and also to say to Frank and his family, we have never forgotten you, and this bill proves it.

I hope this post office will also give his constituents, whom he served so well, cause to remember him and all that he did for them. Our hearts go out to his family. We understand their grief. We share their loss, but we hope that they will take solace in hearing his old colleagues here in the House say that the years he spent here were years well spent in service to his country.

While he left here more than 8 years ago, I believe his example still shines among us, as the passage of this resolution will demonstrate.

Mr. DAVIS of Illinois. Mr. Speaker, it is my pleasure to yield 5 minutes to the gentleman from Indiana (Mr. HILL), the sponsor of this legislation.

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

Mr. HILL. Mr. Speaker, I thank the gentleman for yielding such time to me.

Mr. Speaker, this past Sunday we lost in Indiana another man by the name of Frank. A couple of months ago we lost our Governor, Frank O'Bannon, and this past Sunday, we have lost Frank McCloskey.

Frank was born on June 12, 1939, in Philadelphia, Pennsylvania. He graduated from Bishop Kendrick High School in Norristown, Pennsylvania in 1957, and got his undergraduate degree at Indiana University in 1968, his law degree at Indiana University in 1971. He served in the United States Air Force from 1957 until 1961. He was a newspaper reporter from 1961 to 1968. Admitted to the Indiana bar in 1971.

He became mayor of the great city of Bloomington, Indiana for 10 years, from 1972 until 1982. He was elected at the ripe old age of 32 years of age. He was in the U.S. Congress from the 8th District from 1983 until 1995.

He was an attorney, he was a good guy, and we are going to miss him. We are losing too many Franks in Indiana. Frank was a special guy. I like what the gentleman from South Carolina (Mr. SPRATT) had to say about Frank. He was a good and decent fellow, mellow, mild, dedicated, especially to the cause in Bosnia and made many trips over there. He was a good Congressman.

He created some controversy in this House on an election one time, and I think some Members still remember that, but the House has always been full of controversy, and we look beyond that in these kind of special things that happen to people in their lives.

It is the right thing for us to do today to honor Frank McCloskey by naming this post office after him.

I spoke with Frank last week in the hospital, and he told me he did not want to go. He was still fighting, wanted to fight to live, but he actually told me that he thought that he was not going to win this fight, but he went down swinging.

We have always respected that element in Frank McCloskey. He was a fighter for the things that he believed in, to the last day that he died.

My heart and my prayers go out to Roberta, his wife; his daughter, Helen; and his son, Mark, and to the people of Bloomington, Indiana who loved Frank McCloskey. They will miss him, I know, but we honor him here today by naming this post office in the city that he loved, in Bloomington, Indiana.

Mr. DAVIS of Illinois. Mr. Speaker, it is my pleasure to yield 3 minutes to the gentlewoman from Indianapolis, Indiana (Ms. CARSON).

Ms. CARSON of Indiana. Mr. Speaker, I would commend my colleague the gentleman from Indiana (Mr. HILL) who represents the district that the Honorable Frank McCloskey represented so well, and certainly appreciate very much the fact that he has expedited this measure to the floor today on behalf of a great man.

Congressman Frank McCloskey passed away Sunday after a long battle with cancer, and as my colleagues already know, the Honorable Frank McCloskey served more than 10 years as mayor of Bloomington and was an elected Member of Congress for 6 years.

What I think, Mr. Speaker, that I would emphasize today is that this country has produced great scientists. When I fly back and forth from Indianapolis on a weekly basis, I think about the incredible brilliance of the Wright brothers who taught us how to annihilate space and circumscribe time, and I am wondering when and where and how we will be able to amass that same kind of talent to eradicate this deadly, deadly disease called cancer.

Frank McCloskey was a very strong man who brought to the ears and eyes of America the problems with ethnic cleansing among the Balkans in Bosnia, a very courageous and decent individual, and I know that his wife Roberta is full of pain, even though she would not want to see him in pain any longer. His congressional career, the leadership that he exhibited, the fact that he worked at the local bases and was just an ordinary person, a reporter for the Star and the Herald-Telephone in Bloomington, and the City News Bureau in Chicago, named director of the Kosovo programs for the Democratic National Institute for International Affairs, where he was teaching leaders how to govern democratically.

I am pleased to support this effort by the gentleman from Indiana (Mr. HILL) on H.R. 3379 designating the Frank X. McCloskey Post Office in memory of the former Frank McCloskey, to the citizens of Bloomington and, yes, to the entire State of Indiana, and I urge all of my colleagues to support this legislation and keep Frank and his family very near and dear in our thoughts and prayers.

Mr. SHAYS. Mr. Speaker, I yield such time as he may consume to the gentleman from Indiana (Mr. BUYER).

Mr. BUYER. Mr. Speaker, I rise in support of H.R. 3379, a bill to designate the Bloomington, Indiana, post office in honor of the late Congressman FRANK McCloskey.

Indiana has lost one of its more dedicated and valued public servants. Frank McCloskey, his sincerity, his compassion for people not only here in America but around the world, was very profound.

I served with him on the Committee on Armed Services when I was a new Member here, and he was very informative because in the 1993 time period he was very eager to teach a new President at that time about the plights in Bosnia, at a time where our country wanted to turn more inward, and he wanted to focus us more outward.

As I look back on that, a lot of things that Frank spoke of came to pass, and for that reason, for his public service, not only as the mayor of Bloomington but also what he helped do for our country in a very difficult time in the world, this is an honor fitting of the gentleman, and for that, I urge my colleagues to join me in support of this bill.

□ 1415

Mr. DAVIS of Illinois. Mr. Speaker, I yield 3 minutes to the gentleman from Indiana (Mr. VISCLOSKY), the pride of northeastern Indiana, and my neighbor and friend across the water.

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

Mr. VISCLOSKY. Mr. Speaker, I want to join my colleagues in asking all of the House to support this resolution on behalf of a great American, a true Hoosier, and an outstanding public servant, that is, the former Indiana Congressman, Frank McCloskey. Frank devoted his life to serving people, whether it was in the military service of our country, whether it was as a mayor, whether it was as a Member of Congress, or subsequently as a private citizen. He was a man of great passion over those things that mattered to him and those things that mattered to people who could least defend and protect themselves.

Frank McCloskey was a noble man engaged in noble work, and he was a man of courage. The gentleman from Indiana (Mr. HILL) mentioned he was courageous to the last breath that he took. He was always courageous in the words he spoke and in the actions he took in the House of Representatives. Frank did come to Congress in 1983, and he served his district with distinction for 12 years. He was passionate about helping working families, their children and their parents.

It is also said, and it is certainly true, that Frank was as much at home in the coal mines of southern Indiana as he was in the halls of Congress. Frank authored legislation for children to make sure that companies could not send free samples of drugs or cleaning products through the mail without child safety caps. In 1990, he authored other legislation against deceptive practices.

But subsequent to his public service in the United States Congress, he acted most nobly when he took great interest in humanitarian issues worldwide. He was one of the first U.S. public servants to visit Bosnia when it was embroiled in warfare and ethnic cleansing. He successfully brought the suffering to the attention of the American people, our government, and championed humanitarian intervention; and he continued that work throughout his life.

In 2002, Frank was named director of the Kosovo Programs for the National Democratic Institute for International Affairs, where he taught other leaders from around the globe how to govern democratically. I would close by again reflecting on Mr. McCloskey's courage, courage of his convictions, of his life, and of his commitment to everyone.

Mr. DAVIS of Illinois. Mr. Speaker, I yield 2 minutes to the gentlewoman from California (Ms. PELOSI), the Democratic leader.

Ms. PELOSI. Mr. Speaker, I thank the gentleman for yielding me this time, and I thank the gentleman from Indiana (Mr. HILL) for making this resolution possible this afternoon.

Mr. Speaker, it is with great personal sadness that I rise to pay tribute to Frank McCloskey, who passed away on Sunday surrounded by family and friends, and that is exactly how he lived, surrounded by family and friends. Frank was a respected colleague in this body, a dear friend and a faithful public servant. He was the mayor of Bloomington for 10 years. He was just out of law school when he was elected mayor of Bloomington, and he was always in touch with his district. He was so proud to represent Indiana in the Congress, and those of us who served with him learned from him every single day about the wonders of Indiana and about the prospects for our great country.

Frank was a fighter, a gentleman, a diplomat, a lovely and gracious man, but a fighter. He believed in causes greater than himself, and he worked tirelessly to achieve them. Anyone who served in Congress with Frank knew once he grabbed hold of an idea, he did not let go. In his work on the Committee on Armed Services and Committee on Foreign Affairs, he knew that our highest priority as Members of Congress was to provide for the common defense. He honored that commitment and became an expert on national defense policy. He was passionate and eloquent in his support for the people of Bosnia and a leader in stopping the genocide there. What a source of pride that must have been for him. The gentleman from Connecticut (Mr. SHAYS) is nodding his head and acknowledging that Mr. McCloskey was such a champion for human rights and respecting the dignity and worth of every person. He cared deeply for the people of Bosnia and refused to believe that the United States could not stop the atrocities occurring there. On that issue, Frank was ahead of his time, as he was on so many issues.

I thank the gentleman from Indiana (Mr. HILL) for his work to designate the Francis X. McCloskey Post Office Building. Frank served on the post office and civil service subcommittee, and I know it would be a source of great pride to have a post office named in his honor.

Our thoughts and prayers are with Roberta and their two children. I had

the pleasure of being in their company on a number of occasions and spoke to Frank as recently as last week. He was still a fighter and was fighting to get through this rough patch. But he knew that he had wonderful things in store, but they might not be with us here on Earth. We hope it is a comfort to Roberta and Frank's children that so many people share their loss. We miss Frank not only as a colleague, but as a precious and dear friend. He was a leader. People who never met him benefited from his great service in this Congress of the United States. Again our sympathies go out to his family, to his constituents whom he cared so much about, and I thank again the gentleman from Indiana (Mr. HILL) for making this tribute to Frank possible.

Mr. DAVIS of Illinois. Mr. Speaker, I yield 3 minutes to the gentleman from Maryland (Mr. HOYER), the Democratic whip.

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

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

Mr. Speaker, Dr. Martin Luther King, Jr., once remarked, ''An individual has not started living until he can rise above the narrow confines of his individualistic concerns to the broader concerns of all humanity.''

Today as we note the untimely passing on Sunday afternoon of our friend and former colleague, Indiana Congressman Frank McCloskey, who lost a year-long battle with cancer, let it long be remembered that this Hoosier embraced not only the important concerns of his constituents in southwest Indiana, but also the broader concerns of all humanity.

In the early 1990s, I worked very closely with Congressman McCloskey and others to call attention to the atrocities and ethnic cleansing perpetrated by Slobodan Milosevic and his henchmen in Bosnia. Many in the international community, indeed many in this country, looked away. Frank McCloskey did not.

A fact-finding trip to Bosnia in 1991 stirred and galvanized Frank's passion. As a member of the Committee on Armed Services and Committee on Foreign Affairs, Congressman McCloskey was among the first in Congress to call for air strikes against Serbian positions in Bosnia-Herzegovina from which Bosnians were being shelled and murdered. Frank urged that Slobodan Milosevic be tried as a war criminal, which now is happening. He and I worked to lift the arms embargo against Bosnia, and he was not shy in criticizing the Clinton administration when he disagreed with its handling of that conflict.

Mr. Speaker, political expediency practically demanded that Frank McCloskey focus on shoring up his position in the 8th Congressional District. As is well known, he won his first election to this body in 1984 by four votes. But in spite of the fact that he won six congressional races in one of the most competitive districts in America, political calculation did not crowd out the humanity in Frank McCloskey's heart. He was commanded by conscience to do what he believed was right.

Frank McCloskey lived a full life serving in the Air Force, working as a newspaper reporter, and serving as Bloomington's mayor for 10 years before he was elected to this Congress.

Let me close, Mr. Speaker, by quoting John Kennedy who inspired Frank and inspired many of us in this body. Kennedy said: ''I believe in human dignity as the source of national purpose, human liberty as the source of national action, the human heart as the source of national compassion, and in the human mind as the source of our invention and our ideas.''

Mr. Speaker, those were words that Frank McCloskey lived by. We mourn his loss and offer our condolences to Roberta, his wife of 30 years, and his two children, Helen and Mark, as well as his family and many friends. Frank McCloskey made this a better body. He made this country better. We mourn his loss.

Mr. Speaker, Dr. Martin Luther King, Jr., once remarked that: ''An individual has not started living until he can rise above the narrow confines of his individualistic concerns to the broader concerns of all humanity.''

Today, as we note the untimely passing on Sunday afternoon of our friend and former colleague, Indiana Congressman Frank McCloskey—who lost a year-long battle with cancer—let it long be remembered that this Hoosier embraced not only the important concerns of his constituents in southwest Indiana but also the broader concerns of all humanity.

In the early 1990s, I worked very closely with Congressman McCloskey and others to call attention to the atrocities and ethnic cleansing perpetrated by Slobodan Milosevic and his henchmen in Bosnia.

Recall that as the former Yugoslavia disintegrated and Milosevic trained his fury on Bosnia, millions were displaced, hundreds of thousands were killed, and tens of thousands were raped and tortured.

Many in the international community—indeed many in this country—looked away. Frank McCloskey did not.

A fact-finding trip to Bosnia in 1991 stirred and galvanized Frank's passion, which, as the Indianapolis Star said on Monday, dominated both the twilight of his life and his political career. At the time of his death, he was the Director of Kosovo Programs for the National Democratic Institute for International Affairs, where he taught leaders how to govern democratically.

Back in the 1990s, as a member of the Armed Services and Foreign Affairs Committees, Congressman McCloskey was among the first in Congress to call for air strikes against Serbian positions in Bosnia-Herzegovina. He believed such strikes were needed to prevent hostilities from spilling over to Croatia, Kosovo, Macedonia and other provinces.

Frank urged that Milosevic be tried as a war criminal, which now in fact is happening. He and I worked to lift the arms embargo against Bosnia. And he was not shy about criticizing the Clinton administration when he disagreed with its handling of the conflict.

Mr. Speaker, political expediency practically demanded that Frank McCloskey focus on shoring up his position in the Eighth Congressional District. As is well know, he won his first attempt at re-election to this body in 1984 by four—yes, four—votes.

But in spite of the fact that he won six congressional races in one of the most competitive districts in America, political calculation did not crowd out the humanity in Frank McCloskey's heart. He was commanded by conscience to do what he believed was right—for his constituents, for his nation, and for humanity, too.

Mr. Speaker, Frank McCloskey crowded an enormous amount of living into his 64 years. He served our Nation for 4 years in the Air Force; graduated from Indiana University with bachelor's and law degrees; worked as a newspaper reporter in Chicago, Bloomington and Indianapolis; and served as Bloomington's mayor for 10 years before being elected to Congress.

Still, though his contributions were many, one cannot help but think that they would have been even greater had he been given the gift of more time in his life.

Let me close by quoting John F. Kennedy, who inspired Frank McCloskey, as well as myself: ''I believe in human dignity as the source of national purpose,'' said President Kennedy, ''Human liberty as the source of national action, the human heart as the source of national compassion, and in the human mind as the source of our invention and our ideas.''

Mr. Speaker, those were words that Frank McCloskey lived by.

We are all the beneficiaries of his tireless efforts on behalf of human rights and basic dignity.

As we mourn his loss and honor him by naming this post office in his honor, I want to express my sincere condolences to his wife of 30 years, Roberta, and his two children, Helen and Mark, as well as his family and many friends.

Mr. SHAYS. Mr. Speaker, I yield such time as he may consume to the gentleman from Virginia (Mr. WOLF).

Mr. WOLF. Mr. Speaker, I want to second what the gentleman from Maryland (Mr. HOYER) said. Because of Frank McCloskey's life, there are a lot of people alive in Bosnia-Herzegovina, Croatia, Serbia, and Kosovo. He, along with several other Members, did more to sensitize this Congress, which was not very interested at that time in those areas. Neither the Clinton administration nor the Congress, quite frankly, wanted to do anything with regard to what took place. Frank McCloskey went over there and because of his actions did a lot of good and saved a lot of lives.

Also, as many people know, even after Congressman McCloskey left this Congress, he continued his work. He did not let this cause go. I want to rise to salute Congressman McCloskey; and on behalf of all of the people that are alive in Bosnia-Herzegovina, Croatia, Slovenia, Serbia and Kosovo, who may not even know the reason why, I thank

Frank on their behalf and want to let his family know he made a tremendous difference not only for their district, not only for our country, but for our entire world.

Mr. DAVIS of Illinois. Mr. Speaker, I yield 2 minutes to the gentlewoman from Ohio (Ms. KAPTUR).

Ms. KAPTUR. Mr. Speaker, I thank the gentleman from Illinois (Mr. DAVIS) for yielding me this time and compliment the gentleman from Indiana (Mr. HILL) for bringing forward this resolution, along with the gentleman from Connecticut (Mr. SHAYS).

All of us cared very deeply for our beloved colleague, Frank McCloskey. To his wife, Roberta, to his children, family and friends, to the citizens of Indiana, you sent America a beautiful man to serve here in this Congress.

I can remember when Frank first arrived. We were both babies of the 1980s here. The economy was not so good. He being from the Hoosier State, and I from the neighboring Buckeye State, were fighting to try to restore some economic sanity to the country so people could have decent jobs at good wages and we could manage our accounts in a way that would be responsible for future generations. He was a part of that great struggle of the 1980s. I remember how in the 1990s after his trip to the Balkans, he would come up to us on the floor and say we cannot tolerate this genocide. I remember his very straight, erect figure becoming a bit bent as the weight of that affected him. I could see it in his face. The young Congressman who had come here was taking on a cause that was global in proportion. He truly made a difference. Millions and millions of children will grow up in a different and better world because of the life that he lived.

He was beyond reproach in terms of his honor and his devotion to public service. He always had a good word for us. He was such a pleasant gentleman here. He added to the comity. Partisanship was not the main aspect that drove Frank.

When we look up on the wall of Congress, there is a saying by Daniel Webster which talks about performing something in your time and generation worthy to be remembered. Surely, Congressman Frank McCloskey of Indiana fits that level of achievement as a Member of this precious body of the Congress of the United States, and we send deepest condolences to his family. He made a difference.

□ 1430

Mr. SHAYS. Mr. Speaker, I yield such time as he may consume to the gentleman from Indiana (Mr. PENCE).

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

Mr. PENCE. Mr. Speaker, I rise to mourn with those who mourn, and grieve with those who grieve, with gratitude for my colleague the gentleman from Indiana (Mr. HILL) for his swift and decisive leadership in moving this important legislation honoring a great public servant, Frank McCloskey, to the floor of the Congress of the United States.

When Frank McCloskey breathed his last this Sunday, Indiana lost a leader, but as we have heard again and again from colleagues who served with him and those who simply admired his work from afar, the world community most certainly lost a champion of justice. Congressman Frank McCloskey was a man of courage, courage he demonstrated very recently in his struggle with cancer, staying positive and optimistic even to the very end in all of his public statements to family and friends and neighbors.

But he was also, as we have heard today, a man of genuine courage in public service. In addition to his tenacity in representing the people of southwestern Indiana during six terms in the U.S. House of Representatives, Frank McCloskey will long be remembered for his courage in challenging the United States to confront the genocidal aims of President Slobodan Milosevic in the Balkans.

As a member of the House Committee on International Relations, I had the occasion to speak to former Congressman Frank McCloskey on several occasions about his efforts to confront the evils of ethnic cleansing and what was without exaggeration, Mr. Speaker, his foresight and his vision. Long before the world community and long before the United States, certainly, came to recognize the threat to peace and the deep injustice that was taking place in the Balkans, Indiana's Frank McCloskey came to this floor and spoke with passion.

It is accurate to say as we remember him here and we commemorate him in a building in his beloved home State, that also the name of Frank McCloskey will be remembered by generations of Bosnians. In fact, there are thoroughfares in that nascent nation this day that bear his name. Generations of Bosnians will remember the name of Frank McCloskey of Indiana on a short list of leaders who, across the globe, had the vision to confront the evil aims of the Serbian dictator who beset them.

It has been said long ago that a man who has done nothing for mankind should fear to die. I speak with confidence and humility when I say I am sure Frank McCloskey did not fear to die given his extraordinary contributions to life and liberty in the Balkans. We mourn his loss with his friends, his colleagues, most especially his wife, his family and his children. We strongly support this resolution and this measure to recognize this true Indiana leader.

Mr. DAVIS of Illinois. Mr. Speaker, I yield myself such time as I may consume.

In closing for our side, I did not have the opportunity to serve with Representative McCloskey, but from listening to the accolades that have been given to him by his colleagues who did serve with him and know him, it is clear that he was not only honorable, but that he was also seriously committed to what he believed in even if, at the time, there was not the full level of support that one often looks for. I commend the gentleman from Indiana (Mr. HILL) for introducing this resolution. I commend all of the members of the Indiana delegation, all of those who are supportive of this measure. I urge its swift passage.

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

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

I join with the gentleman from Illinois (Mr. DAVIS) in thanking the gentleman from Indiana (Mr. HILL) for introducing this resolution and thanking our colleagues for coming to the floor of the House and reminding us of what Mr. McCloskey has done, just some of what he has done, and to again urge passage of this resolution.

Mr. BURTON. Mr. Speaker, I rise today in honor and recognition of my former colleague and fellow Hoosier, Congressman Frank X. McCloskey, upon his untimely death after a year-long battle with bladder cancer. I strongly support the ''Francis X. McCloskey Post Office Building Designation Act'' (H.R. 3379), renaming the United states Post Office located in downtown Bloomington, Indiana, after former Congressman McCloskey.

Born in Philadelphia, Pennsylvania, in 1939, McCloskey attended high school in Norristown, PA, and entered the Air Force immediately after graduation. After honorably serving his country, McCloskey attended Indiana University, where he received both his undergraduate degree and a Doctorate of Jurisprudence. He then settled down in Bloomington and began his service to both the state of Indiana and our Nation in a most distinguished manner, beginning with his ten-year term as mayor of the city of Bloomington. McCloskey had the highest of aspirations, and was eventually elected to the U.S.House of Representatives in 1982, serving a 6-term career as U.S. Representative from the 8th Congressional District of Indiana.

During his tenure in the House of Representatives, Frank McCloskey became highly involved in the Balkan crisis, introducing several pieces of legislation seeking to avert a humanitarian disaster in the former Yugoslav republics. In the years following his Congressional service, Frank drew upon those experiences in foreign relations and human rights by pursuing formal training in Balkan studies and serving as a mediator in negotiations over territorial disputes in Bosnia. As a result of his dedication and tireless efforts, McCloskey was awarded by being named Director of Kosovo Programs for the National Democratic Institute for International Affairs.

Mr. Speaker and my esteemed colleagues, please join me in honoring and recognizing the service and commitment that Congressman Frank McCloskey gave to his fellow Hoosiers, the American people, and the international community. It is only fitting that we dedicate a last memorial by renaming the Post Office in downtown Bloomington, Indiana, after a man who helped change the course of history and served the public with distinction.

Please join me in supporting the ''Francis X. McCloskey Post Office Building Designation Act.''

Mr. BUYER. Mr. Speaker, today I rise in support of H.R. 3379, a bill to designate the Bloomington, Indiana Post Office in honor of the late Congressman Frank McCloskey. Indiana has lost one of its most dedicated and valued public servants. Frank McCloskey's sincerity and compassion for people, not only here in America, but around the world, was profound. My thoughts and prayers are with his family during this time. I urge my colleagues to join me in support of this bill.

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

The SPEAKER pro tempore (Mr. TERRY). The question is on the motion offered by the gentleman from Connecticut (Mr. SHAYS) that the House suspend the rules and pass the bill, H.R. 3379.

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

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. KNOLLENBERG. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report to accompany H.R. 2559, and that I may include tabular and extraneous material.

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

There was no objection.

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

Mr. KNOLLENBERG. Mr. Speaker, pursuant to House Resolution 429, I call up the conference report on the bill (H.R. 2559) making appropriations for military construction, family housing, and base realignment and closure for the Department of Defense for the fiscal year ending September 30, 2004, and for other purposes.

The Clerk read the title of the bill.

The SPEAKER pro tempore (Mr. SHAYS). Pursuant to House Resolution 429, the conference report is considered as having been read.

(For conference report and statement, see proceedings of the House of November 4, 2003, at page H10253.)

The SPEAKER pro tempore. The gentleman from Michigan (Mr. KNOLLENBERG) and the gentleman from Texas (Mr. EDWARDS) each will control 30 minutes.

The Chair recognizes the gentleman from Michigan (Mr. KNOLLENBERG).

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

Mr. Speaker, it is my pleasure to present to the House the conference report on H.R. 2559, the fiscal year 2004 military construction appropriations conference report. This legislation provides funds for all types of construction projects on military installations here in the United States and abroad. These projects include family housing, barracks, training ranges, runways, aircraft hangars and fitness facilities.

I would in particular like to thank my ranking member, the gentleman from Texas (Mr. EDWARDS), for all the great work that he has worked with me on, all the great activity. I also wanted to thank all members of the committee. Let me thank, in addition, the committee staff, including, and I am going to run down the list, Valerie Baldwin, Brian Potts, Kim Reath, Mary Arnold, Tom Forhan, John Conger, Jeff Onizuk and Lieutenant Commander Scott Gray for their support in producing this report. I would also like to sincerely thank Chairman YOUNG and the chief clerk Jim Dyer for their assistance in bringing this negotiation with the other body to a close. Further, I would like to acknowledge the advice and counsel provided by the House Committee on Armed Services. The bill is the culmination of a joint effort with subcommittee chairman HEFLEY and full committee chairman HUNTER.

The conference report today totals some $9.316 billion which complies with the 302(b) allocation for budget authority and outlays. This recommendation is $199 million more than the President's request. These additional funds address critical infrastructure and quality-of-life requirements above and beyond that request. Excluding funds provided for the global war on terrorism and the Iraq/Afghanistan supplementals, the conference report is nearly $1.4 billion, or nearly 13 percent below fiscal year 2003 enacted levels. This year there were significant differences between the House's military construction bill and that of the other body. While we sought to preserve funding for military construction in Europe and Korea and to support the quality of life and operational readiness of our forces abroad, the other body chose to significantly reduce overseas funding to support projects here in the United States.

I am pleased to inform my colleagues that this conference report strikes a balance between both these approaches. We preserve the most critical overseas requirements for the services, but brought the balance of the funding for other overseas projects back to the United States to fund critical infrastructure here. While the House aggressively supported the President's request and the priorities of the combatant commanders in this conference report, we share the concern of the other body about funding overseas projects in light of the ongoing review of our overseas footprint. The review currently being conducted by the Department of Defense will determine our long-term overseas basing strategy and will thus help us set funding requirements to support our forces abroad. It will be absolutely essential for both military construction subcommittees to have the completed plan prior to moving forward with the military construction appropriation for fiscal year 2005. We look forward to receiving this plan in the very near future.

Though this conference report is below the fiscal year 2003 enacted levels, we are fully supporting the military's mission critical infrastructure needs and quality-of-life initiatives. We are able to do so in large part because we are getting far more ''bang for the buck'' through innovative programs such as the Military Housing Privatization Initiative, barracks privatization and utilities privatization. These programs are enabling the services to rapidly replace family housing and infrastructure at a cost that is dramatically lower than what we could ever have afforded through traditional military construction appropriations. Our motto is to let the military do what they do best, which is defending America.

In short, we are doing it smarter, not harder, and the beneficiaries are single soldiers, military families, men and women serving our country around the world and the U.S. taxpayers. We have and will continue to support sweeping quality of life improvements for those in the military.

This conference report was forged through the compromise of both bodies of this Congress. This report directly supports the men and women in uniform, fully funds projects vital to our national security, provides critical infrastructure support to ongoing operations worldwide, and fully funds our efforts to improve the quality of life of our military personnel and their families. It is a fair report. I encourage my colleagues to support it.

MILITARY CONSTRUCTION APPROPRIATIONS BILL - FY 2004 (H.R. 2559)
(Amounts in thousands)

	FY 2003 Enacted	FY 2004 Request	House	Senate	Conference	Conference vs. Enacted
Military construction, Army	1,472,022	1,602,060	1,533,660	1,255,155	1,448,239	-23,783
Defense emergency response fund (DERF)	211,688	---	---	---	---	-211,688
Subtotal	1,683,710	1,602,060	1,533,660	1,255,155	1,448,239	-235,471
Rescissions	-49,376	-66,050	-183,615	-183,615	-183,615	-134,239
Supplemental appropriations (P.L. 108-11)	2,000	---	---	---	---	-2,000
Total	1,636,334	1,536,010	1,350,045	1,071,540	1,264,624	-371,710
Military construction, Navy	1,095,698	1,147,537	1,211,077	1,195,659	1,238,458	+142,760
Defense emergency response fund (DERF)	209,430	---	---	---	---	-209,430
Subtotal	1,305,128	1,147,537	1,211,077	1,195,659	1,238,458	-66,670
Rescissions	-1,340	-14,679	-39,322	-39,322	-45,622	-44,282
Supplemental appropriations (P.L. 108-11)	48,100	---	---	---	---	-48,100
Total	1,351,888	1,132,858	1,171,755	1,156,337	1,192,836	-159,052
Military construction, Air Force	891,650	830,671	896,136	1,056,377	1,067,751	+176,101
Defense emergency response fund (DERF)	188,597	---	---	---	---	-188,597
Subtotal	1,080,247	830,671	896,136	1,056,377	1,067,751	-12,496
Rescission	-13,281	---	---	---	-23,000	-9,719
Rescission (P.L. 108-7)	-18,600	---	---	---	---	+18,600
Supplemental appropriations (P.L. 108-11)	152,900	---	---	---	---	-152,900
Total	1,201,266	830,671	896,136	1,056,377	1,044,751	-156,515
Military construction, Defense-wide	836,345	695,298	813,613	712,567	773,471	-62,874
Defense emergency response fund (DERF)	33,300	---	---	---	---	-33,300
Subtotal	869,645	695,298	813,613	712,567	773,471	-96,174
Rescission	-2,976	-997	-32,680	-32,680	-72,309	-69,333
Total	866,669	694,301	780,933	679,887	701,162	-165,507
Total, Active components	5,056,157	4,193,840	4,198,869	3,964,141	4,203,373	-852,784
Military construction, Army National Guard	241,377	168,298	208,033	304,085	311,592	+70,215
Military construction, Air National Guard	194,880	60,430	77,105	221,013	222,908	+28,028
Defense emergency response fund (DERF)	8,933	---	---	---	---	-8,933
Total	203,813	60,430	77,105	221,013	222,908	+19,095
Military construction, Army Reserve	100,554	68,478	84,569	73,979	88,451	-12,103
Military construction, Naval Reserve	67,804	28,032	38,992	34,742	45,498	-22,306
Defense emergency response fund (DERF)	7,117	---	---	---	---	-7,117
Total	74,921	28,032	38,992	34,742	45,498	-29,423
Military construction, Air Force Reserve	63,650	44,312	56,212	57,426	62,032	-1,618
Defense emergency response fund (DERF)	3,576	---	---	---	---	-3,576
Subtotal	67,226	44,312	56,212	57,426	62,032	-5,194
Miscellaneous appropriations (P.L. 108-7)	18,600	---	---	---	---	-18,600
Total	85,826	44,312	56,212	57,426	62,032	-23,794
Total, Reserve components	706,491	369,550	464,911	691,245	730,481	+23,990
Total, Military construction	5,762,648	4,563,390	4,663,780	4,655,386	4,933,854	-828,794
Appropriations	(5,185,580)	(4,645,116)	(4,919,397)	(4,911,003)	(5,258,400)	(+72,820)
Defense emergency response fund	(662,641)	---	---	---	---	(-662,641)
Rescissions	(-85,573)	(-81,726)	(-255,617)	(-255,617)	(-324,546)	(-238,973)
North Atlantic Treaty Organization Security Investment Program	167,200	169,300	169,300	169,300	169,300	+2,100
Rescission	---	---	---	---	-8,000	-8,000
Total	167,200	169,300	169,300	169,300	161,300	-5,900

MILITARY CONSTRUCTION APPROPRIATIONS BILL - FY 2004 (H.R. 2559)
(Amounts in thousands)

	FY 2003 Enacted	FY 2004 Request	House	Senate	Conference	Conference vs. Enacted
Family housing construction, Army	280,356	409,191	409,191	409,191	383,591	+103,235
Rescission	-4,920	-52,300	-52,300	-52,300	-94,151	-89,231
Total	275,436	356,891	356,891	356,891	289,440	+14,004
Family housing operation and maintenance, Army	1,106,007	1,043,026	1,043,026	1,043,026	1,033,026	-72,981
Family housing construction, Navy and Marine Corps	376,468	184,193	184,193	184,193	184,193	-192,275
Rescission	-2,652	---	-3,585	-3,585	-40,508	-37,856
Total	373,816	184,193	180,608	180,608	143,685	-230,131
Family housing operation and maintenance, Navy and Marine Corps	861,788	852,778	852,778	852,778	835,078	-26,710
Family housing construction, Air Force	684,824	657,065	657,065	657,065	657,065	-27,759
Rescission	-8,782	-19,347	-29,039	-29,039	-19,347	-10,565
Total	676,042	637,718	628,026	628,026	637,718	-38,324
Family housing operation and maintenance, Air Force	833,419	834,468	826,074	834,468	816,074	-17,345
Defense emergency response fund (DERF)	29,631	---	---	---	---	-29,631
Subtotal	863,050	834,468	826,074	834,468	816,074	-46,976
Supplemental appropriations (P.L. 108-11)	1,800	---	---	---	---	-1,800
Total	864,850	834,468	826,074	834,468	816,074	-48,776
Family housing construction, Defense-wide	5,480	350	350	350	350	-5,130
Family housing operation and maintenance, Defense-wide	42,395	49,440	49,440	49,440	49,440	+7,045
Department of Defense Family Housing Improvement Fund	2,000	300	300	300	300	-1,700
Rescission	---	---	---	---	-9,692	-9,692
Total	2,000	300	300	300	-9,392	-11,392
Total, Family housing	4,207,814	3,959,164	3,937,493	3,945,887	3,795,419	-412,395
Base realignment and closure account	561,138	370,427	370,427	370,427	370,427	-190,711
General provision (sec. 118)	---	55,000	55,000	55,000	55,000	+55,000
Grand total:						
New budget (obligational) authority	10,698,800	9,117,281	9,196,000	9,196,000	9,316,000	-1,382,800
Appropriations	(10,108,455)	(9,270,654)	(9,536,541)	(9,536,541)	(9,812,244)	(-296,211)
Defense emergency response fund	(692,272)	---	---	---	---	(-692,272)
Rescissions	(-101,927)	(-153,373)	(-340,541)	(-340,541)	(-496,244)	(-394,317)

Mr. KNOLLENBERG. Mr. Speaker, I yield such time as he may consume to the gentleman from Florida (Mr. YOUNG), chairman of the committee. I just want to say again without Chairman YOUNG's support, we may still be slogging it out, but frankly rising to the occasion as he will and has done numerous times, he helped bring this thing to a closure.

Mr. YOUNG of Florida. Mr. Speaker, I thank the gentleman for yielding me this time. I will be very brief. It is a good bill. There is more we could have done if we would have had more funds available, but we did not. But I wanted to say to the House that this was probably one of the most difficult conferences that we have had in a long, long time. I really rise to say congratulations and compliments to the strong leadership that the gentleman from Michigan provided during this very difficult period of time, and also the gentleman from Texas, the ranking member. They were strong supporters of the effort to preserve the position taken by the House which we thought was a much better position than that of the other body. These two gentlemen and the staff did an outstanding job. I just wanted to take a couple of minutes to compliment them because their leadership was extremely important to get us where we are today, to have this bill on the floor as a conference report.

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

Mr. Speaker, I rise in support of this conference report. It does many good things for our service men and women, providing better housing, health care clinics, day care clinics, training facilities, not only here in the continental United States, in our 50 States, but throughout the world as well, wherever American troops might be training or serving their country. I want to especially compliment the gentleman from Michigan, the chairman, in his first term as the chairman of this important subcommittee, a committee that does work that makes such a difference in the quality of life for our service men and women to whom we know we can never repay our debt of gratitude to them.

□ 1445

At all times the gentleman from Michigan (Chairman KNOLLENBERG) put as his first priority what is best for the service men and women. He was fair. He was thorough. He fought hard for military families, our service men and women, as well as their families, and did a magnificent job in working with the other body and kind of working our way through a maze of very difficult issues; and I really salute the gentleman from Michigan (Chairman KNOLLENBERG) for his leadership along with his very fine staff. I also want to join with the gentleman from Florida (Mr. YOUNG), chairman, in thanking the chairman of the full committee for his involvement and support in this effort to see that we not only fight for quality of health care and training facilities for our troops here at home but that we also should not forget about the sacrifices made by our service men and women serving overseas that are thousands of miles away from their families, oftentimes in harm's way, risking their lives in duty to country; and I thank the gentleman from Florida (Chairman YOUNG) for his many years of leadership in the area of national defense but particularly his deep personal commitment, aside from his title, his deep personal commitment to our service men and women.

Mr. Speaker, I also want to send a message to the administration about this bill today. While the leadership of this committee did a tremendous job in making the most good out of a budget that was underfunded, I would remind the administration for next year that there is an old proverb, I believe it is a Chinese proverb, ''Be careful what you ask for because you just might get it.''

What happened is the administration, probably with a heavy hand from OMB, asked for a $1.5 billion cut in military construction funding compared to last year. I think that is unconscionable to ask for a 14 percent cut in military quality-of-life and training programs at a time when so many American service men and women are at war and, yes, even risking their lives. Because of the good leadership of the gentleman from Michigan (Chairman KNOLLENBERG) and his staff and our staff, we were able to take those inadequate funds and stretch them as far as anybody could stretch them. The RCI housing program, the Residential Community Initiative, is an example of trying to take a limited amount of dollars and stretch them a long way to improve quality of life in terms of housing for our service men and women.

But I hope the administration and the Pentagon and OMB are on notice. Do not play this game of sending to Capitol Hill what they know is an unfair, inadequate budget for military construction with the assumption that somehow magically we are going to find an extra $1.5 billion. We did not find an extra $1.5 billion. Had it totally been up to the gentleman from Michigan (Mr. KNOLLENBERG) and the gentleman from Florida (Mr. YOUNG) and me, I think we would have somehow found that money; but that was above our pay grade, that decision on how much money we had to deal with. And I think as someone who has the privilege of representing 42,000 Army soldiers at Fort Hood in Texas, 17,000 of which are presently serving in Iraq, I think it sends a terrible message to them if next year we were to inadequately fund military construction once again.

So all of that having been said, not a word of it takes in any way anything from the tremendous leadership of the gentleman from Michigan (Chairman KNOLLENBERG) and the bipartisan effort with which he led this effort. If anything, being given such an inadequate funding request from the Pentagon and the administration and OMB, it even adds more respect from me to him for the leadership he showed to get this bill passed, as it will pass in just a few minutes.

Mr. BEREUTER. Mr. Speaker, this Member rises in strong support for the conference report on H.R. 2559, the Military Construction appropriations bill for fiscal year 2004. This Member would like to offer particular thanks to the Chairman of the Subcommittee on Military Construction Appropriations, the distinguished gentleman from Michigan (Mr. KNOLLENBERG), and the Ranking Minority Member on the Subcommittee on Military Construction Appropriations, the distinguished gentleman from Texas (Mr. EDWARDS) for their work on this important bill. Furthermore, this Member would like to thank the Chairman of the Armed Services Subcommittee on Military Readiness, the very distinguished gentleman from Colorado (Mr. HEFLEY), and the Ranking Member of the Armed Services Subcommittee on Military Readiness, the distinguished gentleman from Texas (Mr. ORTIZ), for their critical work in authorizing this appropriation.

Furthermore, this Member is very appreciative that the Committee has approved the appropriations of $3 million for the frontage levee segment protecting the Nebraska National Guard Camp at Ashland, Nebraska.

Mr. Speaker, the Nebraska National Guard Camp Frontage Levee Segment is a central element of the Clear Creek portion of the Western Sarpy Levee project. Completion of the Guard camp segment must coincide with the other elements of the Western Sarpy project to assure mutual protection and support from the beginning of the project to its completion. Indeed, without building this section of the levee along the Platte River, the entire levee system will not work; there would be a gap in the levee that would only accentuate the flooding risks and flood volume that would affect the Nebraska National Guard Camp unless this project moves forward with the rest of the levee construction project.

Previously, the Clear Creek Project was authorized at $15.6 million in the Water Resources Development Act of 2000 (WRDA 2000) to provide protection to the City of Lincoln's water supply, I–80, and U.S. 6, BNSF RR (Amtrak Line), telecommunication lines and other public facilities. In the fiscal year 2003 omnibus appropriations bill, Congress included $500,000 for construction start-up costs.

The Nebraska National Guard Camp at Ashland, Nebraska, provides training for Nebraska and other States' Army guard units to maintain mission readiness. The Guard camp levee is an essential element of the Clear Creek structure on the western side of the Platte River since it also is that part of Clear Creek nearest to the Lincoln wellfield. Planning and design funds for the Guard's segment have been previously provided by the Congress to the Department of Defense through the Military Construction appropriations bill. Planning has resulted in development of a more cost-effective frontage levee to replace a previous ring-levee approach.

In closing, Mr. Speaker, this Member urges his colleagues to vote in support of the conference report for H.R. 2559.

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

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

The SPEAKER pro tempore (Mr. TERRY). Without objection, the previous question is ordered on the conference report.

There was no objection.

The SPEAKER pro tempore. The question is on the conference report.

Pursuant to clause 10 of rule XX, the yeas and nays are ordered.

Pursuant to clause 8 of rule XX, further proceedings on this question will be postponed.

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. 76, 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 430, I call up the joint resolution (H.J. Res. 76) making further continuing appropriations for the fiscal year 2004, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the joint resolution.

The text of H.J. Res. 76 is as follows:

H.J. RES. 76

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That Public Law 108–84 is amended by striking the date specified in section 107(c) and inserting ''November 21, 2003''.

SEC. 2. Section 8144(b) of the Department of Defense Appropriations Act, 2003 (Public Law 107–248), as amended by Public Law 108–84, is further amended by striking ''November 7, 2003'' and inserting ''November 21, 2003''.

The SPEAKER pro tempore. Pursuant to House Resolution 430, the gentleman from Florida (Mr. YOUNG) and the gentleman from Wisconsin (Mr. OBEY) each will control 30 minutes.

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

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

Mr. Speaker, this continuing resolution, H.J. Res. 76, just extends the date of the previous CR until November 21. There are no additional changes. It just continues the anomalies that were included in the previous continuing resolutions. So there is really not much to debate here except the date.

I would take just a minute and say that the House passed all of our bills in the summer, but the other body has not concluded all of its bills yet. But we are making some progress. This morning we concluded the conference meeting and the conference report on the energy and water appropriations bill. In addition, we appointed conferees this morning in the House on the foreign operations appropriations bill. So there are three other bills presently in conference, labor-HHS, transportation-treasury; and as I said, foreign operations for which we appointed conferees this morning. There are still four bills that the Senate has not passed; but, Mr. Speaker, we are hoping that we can conclude those and get to the conferences and get the appropriations business for this year completed.

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

Mr. OBEY. Mr. Speaker, I yield myself 10 minutes.

Mr. Speaker, I think this would be a good time to try to analyze exactly why we are in the situation of having to again ask the House to pass yet another resolution keeping the government open until we finish our appropriations work. I note in the CongressDaily A.M. edition of this morning that there is a headline on page 12 which says: ''Senate Nearing Halfway Point on fiscal 04 Appropriation Bills.'' I thought that when a race was run that it would be over when it was over. But the fiscal year ended on October 1 and what this headline indicates is that the other body had not yet even run half the race. So I concur with the gentleman that a lot of these bills are dragging because the Senate has not yet been able to take them up.

But I think we need a little bit more detailed description of what has happened. As I see it, there is one bill which is hung up, the Labor, Health and Human Services bill, which is hung up because there are deep divisions between the two parties in this Congress about how adequately education is funded in that bill, how adequately research is funded under NIH; and there is also, I think, a deep division between us on how workers ought to be treated with respect to their overtime rights. And because our party believes that the bill is woefully inadequate on all three of those counts, we have not supplied votes for it on this side of the Capitol and are still hoping that the majority will come to its senses in terms of recognizing the need to at least provide the money which was provided in the Republican Party budget resolution for education and for special education.

But once we get beyond the Labor, Health and Human Services bill, I find the story even more interesting. The other bill that was passed with deep divisions between the two parties in this House was the District of Columbia appropriation bill. That bill passed almost exclusively with Republican votes because the Republican majority saw fit to include the controversial issue of vouchers. So they went beyond where they could go and still maintain a bipartisan consensus for that bill and in the process lost the votes of most of the people on this side of the aisle.

In the other body, the other body has not yet even taken up that bill because not only Democrats, but I think moderate Republicans in that body, recognize that that bill was passed by the House in a shape too partisan or at least too ideological in order to be able to pass muster. So that is being held up for that reason.

Then we have the Energy and Water appropriations bill which passed both Houses with over 90 percent of the vote. In fact, the Senate vote was unanimous; and yet because of majority party scheduling decisions in the Senate, that bill was not considered until September 16 even though it passed the House on July 18. And I want to say that I am happy that finally today we have come to an agreement in conference. I think the gentleman from Ohio (Chairman HOBSON) did a good job on that. But, nonetheless, it was the majority party scheduling problems in the Senate which delayed consideration of this conference until this week.

Then we take a look at the Military Construction bill, the bill that was just disposed of. That bill passed unanimously in this House, and it passed by a vote of 91 to 0 in the Senate. It passed the Senate on July 11, and yet the bill was held up until today because of differences within the majority party about how the funds ought to be allocated. Then if we take a look at the Transportation bill, that bill passed the House very late in the cycle, September 9. It took that long to pass it because the subcommittee produced a product which not even the majority party Members in this House could support without substantial repair. Finally, after it was somewhat repaired, the bill passed the House with 85 percent of the votes of both parties; and yet it did not pass the other body until October 23, some 3 weeks after the deadline for the fiscal year.

□ 1500

So, again, majority problem scheduling problems determined the delay for that bill.

Then if you take a look the budget for the Department of Veterans Affairs and Housing, that bill passed with over 75 percent support in both parties when it passed the House. The other body has not yet taken up the bill. So, again, we have scheduling decisions by the majority party which have determined that this bill will be late to the gate.

I think there is an understandable reason for that, because the substance of the bill is unacceptable in large part to the veterans community in this country because it shortchanges needed veterans funding by more than $1.3 billion. So I do not blame the majority party for being discombobulated because it is having a debate with itself about how it can correct that problem.

Then we have the Foreign Operations bill, which passed the House on July 24. It did not pass the Senate until October 30, 1 month after the expiration of

the fiscal year. Again, even though that passed the House with huge bipartisan agreement, it was hung up because of scheduling decisions and scheduling problems in the other body by the majority party because their party was split around the edges on issues such as Mexico City and concern about the fact that HIV funding was not adequately handled in that legislation.

Then we have the Agriculture bill, which passed the House on July 14 with support of more than 75 percent of Members of both parties. It passed this House on July 14, well before the end of the fiscal year. But, again, because of majority party scheduling decisions in the Senate, the Senate has yet to take up that bill. That is being hung up, as I understand it, over questions that relate to changing the authorization for the farm bill.

Then, lastly, we have Commerce-Justice-State, which passed this House with over 90 percent of both parties voting for it, and yet the Senate has yet to take up this bill. So, again, a majority party scheduling problem has led to a long delay in consideration of this bill.

I would simply say, Mr. Speaker, I do not know how long it is going to take before the majority party is able to overcome their differences with themselves, but I do hope that they recognize that we are ready and anxious to help if they will produce bills which meet at least minimal standards for meeting the needs of the country in areas such as veterans' health care, education, special education and aid to our local law enforcement officials, who will see a large squeeze on traditional law enforcement programs such as the Byrne Grants, unless some substantive decisions are made that produce a different bill than we are facing today.

Mr. Speaker, that is my analysis of why we are sitting here with so much of the appropriations work still not done.

Mr. Speaker, I yield 10 minutes to the gentleman from Maryland (Mr. HOYER), the distinguished minority whip.

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

Let me start, as we start almost every one of these discussions, with the expression of respect and affection for the gentleman who chairs our committee, the gentleman from Florida (Mr. YOUNG), one of the best Members of this House. We disagree, obviously, from time to time on issues, but he is a gentleman who runs his committee and leads, to the extent that he can, this institution in a fair manner.

But, Mr. Speaker, I am concerned, because perhaps above his pay grade we have not seen the same kind of fairness extended and the same kind of adherence to good order that ought to happen. My distinguished friend says sometimes below his pay grade perhaps we do not find that either.

Mr. Speaker, this Congress seems destined to end the first session of the 108th Congress in the same hapless and undemocratic way in which we began it. One of our first acts this year was to pass an omnibus appropriations bill on February 13 that wrapped up 11 of the 13 annual spending measures for fiscal year 2003 in one piece of legislation. It was bad enough that we could not finish our work on time and had to pass that omnibus bill 4½ months, a full third of the year, after the start of the fiscal year. But what was even worse was the fact that the Republican leadership dropped that 3,000 page bill on the Members and forced them to vote on it within a few short hours, a 3,000 page-plus bill.

As I said back in February, that was the worst appropriation process that I had seen in 22 years in this body. That was not the desire of the gentleman from Florida (Mr. YOUNG) nor the result of his leadership.

However, we now seem determined to outdo ourselves once again. Here it is, November 5, and only 3 of the 13 annual appropriations bills have been signed into law; Defense, Homeland Security and the Legislative Branch. Another spending bill, Interior, awaits the signature of the President. This body today will consider the conference report on the fifth, Military Construction. At least four other spending bills, however, are likely to be included in a year-end omnibus, Agriculture, Commerce-Justice-State, District of Columbia and VA–HUD, and three others are theoretically, Mr. Speaker, theoretically, in conference; Energy and Water, Transportation-Treasury and Labor-HHS-Education.

I will say, since this was written, it is my understanding there is actually, shockingly, a conference being held on Energy and Water. How do I know? Because the gentleman from Arizona (Mr. PASTOR) told me he was going to one. So I am very pleased to see that. I am convinced if the gentleman from Florida (Mr. YOUNG) were making the decisions, we would have full conferences on every bill that is pending.

But, Mr. Speaker, there is none, as far as I know, except a motion to go to conference on Foreign Operations which was approved this morning, so we cannot really hold them accountable yet.

Mr. Speaker, I am a conferee, duly appointed by Speaker HASTERT, on two of those bills allegedly in conference, Transportation-Treasury and Labor-HHS. But let me say, if there are conference meetings going on today or in the past or in the future, I have not been notified of those hearings. I have not attended any. I do not know where they are occurring. I have not had an opportunity to have any input, nor have the 662,000 people that I represent had a voice in those conferences.

Either no meetings are being held, or duly appointed conferees on our side of the aisle are being purposely, deliberately, undemocratically excluded.

This House passed the Labor-Health bill on July 10. The Senate passed its version nearly a month ago, on September 10. When and where are the meetings, Mr. Speaker? Why are the conferees being deliberately excluded? I have asked the gentleman from Texas (Mr. DELAY) that, and he assures me that we are having ''conferences of the willing.'' I presume that means conferences of those who agree. But the voices of dissent or difference are stifled, ignored and shut out.

This House passed the Transportation-Treasury bill on September 9. The Senate passed its version 2 weeks ago tomorrow, October 23. Are we meeting on that bill? I have no notice of it. If we are, why are conferees on our side of the aisle, appointed by the Speaker, being deliberately excluded from those meetings?

Mr. Speaker, let us face the facts: This leadership is rendering conference committees absolutely meaningless. That is a corruption of the processes of this House. It is a corruption of democracy and the people we represent in this, what we call proudly, the People's House. I do not believe that it is the policy that the gentleman from Florida (Mr. YOUNG) would pursue if he were making the decisions.

I have served, Mr. Speaker, on the Treasury and Labor-Health-Education subcommittees for more than 21 years. I am not a new kid on the block. I am used to being included in conferences. I can never remember a time when Democrats controlled the majority, Mr. Speaker, that we failed to hold real conferences on appropriations bills.

The distinguished gentleman from Florida, my friend for whom I have unlimited respect and affection, he and I have participated in numerous conferences on the Labor-Health bill that went for days, sometimes weeks. I can remember an extraordinary, historic debate between Senator BYRD and Bill Natcher on a very important provision of our bill that went on literally for days. They had a disagreement. They talked about it in conference. Reporters could see it, the public could see it, Members could see it.

There are no conferences that the public can see. There are no conferences the press can report on. Whatever is being done, is being done in secret, undemocratically, unfairly, and it demeans this institution, Mr. Speaker.

There are other conferences other than the Committee on Appropriations. There have been no real conference committees on two of the most important pieces of legislation still facing this Congress, on adding a prescription drug benefit to Medicare and on comprehensive energy reform.

The gentleman from Michigan (Mr. DINGELL), the dean of the House of Representatives, serving on this floor longer than any other Member, has been excluded from the conference to which the Speaker appointed him.

The gentleman from New York (Mr. RANGEL), third or fourth in seniority in

this House of Representatives, excluded from the conference on prescription drugs. He, however, heard there was a meeting. He went to the meeting. He went through the door, and the gentleman from California (Mr. THOMAS) said, ''You are not welcome, Mr. RANGEL. This is only a meeting of the willing. No dissent is allowed in this room,'' except if you happen to be a Republican on the other side of the Capitol, in which case maybe we have to talk to you. But, then again, as we know, Mr. Speaker, Mr. GRASSLEY apparently feels in effect he is shut out.

Mr. Speaker, let me say that it is absolutely outrageous that Congressional Republicans are considering across-the-board cuts to cover a $3 billion gap, we hear, between House and Senate spending bills. We have not been asked, however, to participate in a conference in which you may make the decisions on what to cut.

In the last 7 months, this Congress has passed two emergency supplemental appropriations bills totaling $166 billion. There was zero, none, no debate on how we would pay for those.

There was a bill pending in which the Committee on Ways and Means wants to add $60 billion to the debt confronting this country. No question about how it is going to be paid for, it will just be passed. And yet we worry about how to pay for some $3 billion for election reform, for veterans health care and for money to combat global HIV-AIDS, and how to provide $400 million to the Forest Service so they can fight devastating wildfires in the Interior bill.

Mr. Speaker, if this process were being run by the gentleman from Florida (Mr. YOUNG), you would find the gentleman from Wisconsin (Mr. OBEY) and I standing here and saying we may disagree on this item, that item or the other item, but we have had a fair opportunity, as he gives us in every committee meeting, to state our points, to offer our amendments, to vote. That is not happening. It is not the gentleman from Florida's fault. The leadership of this House demeans the House by not providing for those procedures.

□ 1515

Mr. YOUNG of Florida. Mr. Speaker, I have no further requests for time, so I will reserve the balance of my time.

Mr. OBEY. Mr. Speaker, how much time do I have remaining?

The SPEAKER pro tempore (Mr. OSE). The gentleman from Wisconsin has 10 minutes remaining.

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

Mr. Speaker, I think that what the distinguished minority whip has just told the House is right on the button; and I want to emphasize, I do not believe these decisions, I do not believe that these practices, are being imposed upon the House and the Congress because of the desires of the people who run this committee. This committee has had an honorable tradition of dealing fairly with the majority and minority Members alike ever since I have been here. In my early years, I think junior Democrats were as unhappy with some of the decisions that were made by senior Democrats as some of the Republicans were. The unhappiness was bipartisan. And I think in that sense things have changed because today, many of the decisions that affect the way this committee works are being made, as the gentleman from Maryland said, at a higher pay grade. But I think the result is, unfortunately, that we have many closed-door decisions being reached in a closed-minded atmosphere, and that does the House no good in the long term.

What has happened, I think, is that we have seen almost an unparalleled institutional arrogance on the part of the leadership of the majority party in the way they conduct this House's business.

First of all, they have assured that when each of the appropriation bills has come to the floor, they have come to the floor under conditions which guarantee that no meaningful, comprehensive alternatives can be offered which differ in any significant way with the priorities mandated by the majority party leadership. They bring bills to the floor which have been exempted from the normal rules, processes, and procedures of the House so that the committee product produced by the Republican majority can have the luxury of not having to compete with any other significant approaches. But then, they say that proposals that the minority party seeks to offer will not be granted those same exceptions from the rules and procedures of the House. That creates a very uneven playing field, and it is intended to do that.

And then, when that happens, and when bills pass because we have no way of reaching them and changing them in a significant way, then we run into a situation where, as the gentleman from Maryland (Mr. HOYER) says, in many instances conferences are simply conferences between a few well-connected people on the majority side of the aisle, with no real consultation with the minority. That can occur anytime that the leadership wants to exercise their ability to find 218 votes for their product.

But it is not democracy. It is not the kind of collegial vetting of differences that we have had in this House through the years. It is simply an arrogant assertion of will. It is a power play on the part of the majority party. And the purpose is not just to hold the minority party in check; the purpose is to, by their actions, hold Members of the majority party under control, so that no one does too much thinking for himself, so that no one will dare to say, ''Well, I think there ought to be a different path that is pursued.''

So, Mr. Speaker, having said that, I want to emphasize again, I recognize the effort of the gentleman from Florida to be fair; but I also recognize that sometimes he has to be a loyal soldier, and I think if he were to run these conferences in a way that suited his desires, some of them would be run quite differently.

Having said that, Mr. Speaker, the matter before us, as the gentleman from Florida has indicated, is simply whether or not we should keep the government open for another short period while these differences are resolved. We have no choice but to do so. So I urge a ''yes'' vote on the resolution.

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

Mr. YOUNG of Florida. Mr. Speaker, I yield myself the balance of the time.

I rise in support of this continuing resolution. I wish we did not have to have a CR on the floor today. I wish it would have been possible for the Congress to have concluded all of its appropriations bills. The House did, but the entire Congress did not.

Mr. Speaker, we have a two-House, bicameral legislature. And I think that is a great idea, to have a bicameral legislature, where we have the checks and the balances, not only within the three branches of government, but checks and balances within the Congress itself. I will have to admit that there are times when I am tempted to believe that a different approach would be better, such as a one-House legislature. A one-House Congress would be easier to work with, because some of our conferences that we have had this year and in previous years have been very, very difficult and very trying.

But nevertheless, that is our system. We make the system work. We do a pretty good job at it. I would say, Mr. Speaker, to my colleagues that in most of the conferences for this year, the House has prevailed, I think, far more than the other body. So I do not feel too bad about this. But I know it is very time consuming. It gets very frustrating.

But on the issue that the gentleman from Maryland (Mr. HOYER) raised, and the gentleman from Maryland is one of my very best friends and has been for years. He and I work very closely together. We serve on one of the same subcommittees, and the two subcommittees that the gentleman from Maryland (Mr. HOYER) serves on have not been called to conference yet. So obviously, he has not been called to a conference.

But I think, generally, the gentleman from Wisconsin (Mr. OBEY) would agree, that he and I work very closely in keeping each other informed. He will tell me when he has a proposition or a proposal; and if I can agree with him, I agree with him, and I do not have any problem with that just because he is the minority leadership. But if I disagree with him, then I also tell him that; and he understands that. When I go to him with a proposition and tell him what my plan is, sometimes he will agree and sometimes he will not, and the committee settles that. There

are no hard feelings; it is just the idea that the two parties have different general philosophies.

But it works okay. It works well. As my colleagues know, we concluded all of our House bills in the summer when we were supposed to conclude them, and that was partially because of the strong relationship that the gentleman from Wisconsin (Mr. OBEY) and I have and that our subcommittee chairmen and their ranking members have.

Now, on the issue of excluding any member from conference committee or their staff, we do not do that. The Committee on Appropriations does not do that. A lot of staff work goes into preparing the bills and a lot of staff work goes into preparing for the conferences. When that staff work is being done, we keep the minority staff just as involved as the majority staff, and I think that they would admit to that and agree to that.

I would not stand for any member of my committee being excluded from the considerations of the committee. The majority is going to prevail, but the minority has every right in the world to be part of that process. In fact, I remember a couple of years ago that the gentleman from Wisconsin (Mr. OBEY) came to me with a problem that some of the minority staff were not being involved in one of the subcommittee considerations, and I solved that almost more than overnight. I solved that problem in a matter of hours, and I think to the satisfaction of the minority. While the majority is going to prevail, the minority has every right to be a part of the process.

Except for those single-Member States, all of us are elected by about the same number of people. All of us have the same rights as Members of the House of Representatives. I will tell my colleagues as one who believes in this institution, I am going to do whatever I have to do to guarantee that those rights are protected and preserved for all of the Members; again, pointing out that the majority is going to prevail. I recall being in the minority here for a long time, and I did not like it a lot of times when the majority prevailed, but that is the way it is. But I think on the Committee on Appropriations, there are not very many complaints about the issue of the minority being excluded.

Now, I do know that there was an issue last week when, as the gentleman from Maryland (Mr. HOYER) pointed out, that the gentleman from Michigan (Mr. DINGELL) was uninvited to attend a fairly important conference meeting. I did not know about that until I heard the comments on the floor. But I would say this: my leadership believes very strongly in the rights of each individual Member. I will tell my colleagues that all of the committee chairmen were called to a meeting last night actually, and were told, do not ever let that happen again, that every member of that committee or that subcommittee has the right to be involved, and our leadership made it very clear that any committee chairman who allowed that to happen would not be standing in good favor with the leadership.

So we try. Now, nobody is perfect, and I am sure that there are times when there will be complaints, even from majority members, that maybe they were not told in advance or were not told enough. But sometimes, members have an obligation to either do the proper staff work or prepare themselves when things are happening. This is not a babysitting institution. But for the most part, our members are very good about things that they are interested in, inquiring of the committee, inquiring of the staff, making their contribution to what they think should be the outcome. We do the best we can with 435 Members to reach a consensus. But I would just say again, on that issue of excluding minority members or staff from what is happening on the Committee on Appropriations, as long as I am chairman, that will not happen. And if any of my subcommittee chairmen were to permit that to happen, we would have a serious conversation. But I know that all of my subcommittee chairmen believe the same as I do, that the majority and the minority members all have equal rights as Members of this House; but the majority will make the final decision.

Mr. Speaker, having said that, it did not have too much to do with the CR, but I thought I would just make that response.

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

The SPEAKER pro tempore. All time for debate having been yielded, the joint resolution is considered read for amendment, and pursuant to House Resolution 430, the previous question is ordered.

The question is on engrossment and third reading of the joint resolution.

The joint resolution was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the joint resolution.

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

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

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, further proceedings on this question will be postponed.

COAST GUARD AND MARITIME TRANSPORTATION ACT OF 2003

The SPEAKER pro tempore (Mr. YOUNG of Florida). Pursuant to House Resolution 416 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 2443.

□ 1530

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 2443) to authorize appropriations for the Coast Guard for fiscal year 2004, to amend various laws administered by the Coast Guard, and for other purposes, with Mr. OSE in the chair.

The Clerk read the title of the bill.

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

Under the rule, the gentleman from New Jersey (Mr. LOBIONDO) and the gentleman from Minnesota (Mr. OBERSTAR) each will control 30 minutes.

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

Mr. LOBIONDO. Mr. Chairman, I yield myself such times I may consume.

Mr. Chairman, I rise in strong support of H.R. 2443, the Coast Guard Maritime Transportation Act of 2003. Before I discuss the bill or make comments on it, I would first like to thank the gentleman from Alaska (Mr. YOUNG), the distinguished chairman of the full committee, for all of his efforts on behalf of the Coast Guard and, in particular, for this bill, also thank the gentleman from Minnesota (Mr. OBERSTAR), our ranking member, who certainly has been a champion of the Coast Guard and worked closely with us, and the gentleman from California (Mr. FILNER), the ranking member on the Coast Guard Maritime Transportation Subcommittee, for their help and cooperation with this legislation.

This legislation was developed in a bipartisan manner and deserves the support of all the Members of Congress. The primary purpose of this bill is to authorize expenditures for the United States Coast Guard and the Federal Maritime Commission for the fiscal year 2004.

Title I of the bill authorizes for fiscal year 2004 approximately $7.1 billion for Coast Guard programs and operations. The bill also authorizes the administration's request for 18.5 million for the Federal Maritime Commission.

This legislation will increase funding for Coast Guard programs at a level above the administration's request to ensure that the service can meet its traditional missions and make meaningful progress toward carrying out its homeland security responsibilities under the Maritime Transportation Security Act of 2002.

The bill funds the Coast Guard at levels requested by the President plus an additional $460 million. Of this amount, $70 million is for conducting the mandated U.S. port security plan approvals, $202 million to keep the Deepwater Capital Acquisition Program on track to meet its original 20-year implementation plan, $80 million to install equipment on already delivered C–130J aircraft, $39 million to establish a west coast HITRON squadron, $50 million for

conducting foreign port security assessments and foreign vessel security plan reviews, and, finally, $19 million is for making the Truman-Hobbs bridge alterations.

I am particularly concerned about the funding shortfalls for the critically important Deepwater recapitalization program designed to replace the Coast Guard's aging fleet of vessels and aircraft. From the start, Deepwater has been underfunded, jeopardizing on-time delivery of important assets. The effective accomplishment of the Coast Guard's national and homeland security missions, as well as its ability to sustain the level of performance of its traditional missions, is predicated upon having the required funding to recapitalize its aging assets sooner than the appropriated 20-year plan.

As evidence of this, I attended on Saturday the return of the Coast Guard cutter Dependable from a drug interdiction mission in the Caribbean where it actually had confiscated a record Coast Guard bust. The drug smugglers had dumped about 2,500 pounds overboard and the Dependable and its crew had actually confiscated about the same amount. DEA was there to take control of the substance, to destroy it, but when listening to the discussion and listening to the account of how this took place, it is remarkable that the Coast Guard cutter Dependable, which was commissioned during the 1960s, with a top speed of only 17 knots and an aging frame, was able to counter the drugies with their fast boat with only a rigid-hull inflatable that was like a Corvair chasing a Corvette.

Operation Deepwater is critically needed. I strongly endorse increasing the Coast Guard's overall funding level in order to support a faster Deepwater recapitalization program commensurate with the findings of the Deepwater acceleration plan submitted to the Congress in March of 2003.

In addition to authorizing the Coast Guard's fiscal year 2004 budget and personnel resources, the measure also provides parity between certain Coast Guard and Department of Defense authorities, improves personnel management, and includes provisions to allow the service to better accomplish its traditional regulatory and law enforcement missions.

The recent ferry accident in New York Harbor shows that the maritime transportation will never be perfect. However, the Coast Guard's constant and careful review of vessel and crew minimizes the number of maritime accidents we see in the United States. The service's response efforts also minimize the impact those incidents have in terms of loss of life and damage to property.

I did hold a hearing in New York, on Tuesday of this week, to look for ways in which we can further improve our prevention and response system.

In preparing this bill, the Coast Guard and Maritime Transportation Subcommittee held hearings on the Coast Guard's and the Federal Maritime Commission's budget request and the legislative provisions in the Coast Guard's proposal. The bill contains many of the Coast Guard's legislative requests, as well as items of concern to Members of Congress that were brought to our attention.

Mr. Chairman, I want to take this opportunity to commend the men and women of the Coast Guard. They do an amazing and remarkable job. Their ongoing traditional missions of illegal drug interdiction, of fisheries law enforcement, search and rescue, is always making the news. But what is really remarkable is the job that they are now doing on homeland and port security which is something that is new, that has been added to them since the terrible tragedy of September 11 of 2001.

America benefits from a strong Coast Guard that is equipped to stop terrorists and drug smugglers, support the country's defense, protect our natural resources, rescue mariners in distress, and respond to national emergencies.

We must act now to put the Coast Guard on sound financial footing, to be ready to respond to our increased homeland security demands, and other critical duties that the Coast Guard carries out daily. And the men and women of the Coast Guard are more than prepared to do their mission if we will only give them enough resources, enough assets and enough personnel to do the job. This bill will help ensure that that happens.

Mr. Chairman, I urge all Members to support this piece of legislation.

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

Mr. OBERSTAR. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I appreciate the good words of the chairman of the subcommittee. I note that our full committee chairman has arrived, and I will curtail my remarks so that the chairman, the gentleman from Alaska (Mr. YOUNG) can speak. But I just want to say to what a difference a week makes and how refreshing it is to be on the floor under an open rule where issues that are of concern to Members can be resolved in open fashion and that we can conduct the work of this committee in its traditional fashion, working in a bipartisan manner.

I respect enormously the work of the gentleman from New Jersey (Mr. LOBIONDO), the chairman of the subcommittee, and our ranking member, the gentleman from California (Mr. FILNER), and particularly our riverboat captain chairman, the gentleman from Alaska (Mr. YOUNG), who has not only firsthand experience on the water commanding a vessel, but has enormous respect, as I have, for the United States Coast Guard.

The chairman and I served on the Merchant Marine and Fisheries Committee from our very outset of service in the Congress, and through that work, we both came to have a great respect and admiration for the work of the Coast Guard, which started out, along with the Corps of Engineers, as one of the two oldest agencies of the Federal Government in its infancy in 1789. It was known as the Revenue Cutter Service and provided the first revenue and source of funding for our infant republic.

In the years since then, I have, in my observation and my work on the Coast Guard subcommittee, I have observed that there is probably no entity of the Federal Government from which the citizens of this country get a greater return on their investment than from the United States Coast Guard. As a former Commandant once observed, it takes a special person to wear this color blue. And they are all special people, men and women, of the United States Coast Guard.

What I regret about the Coast Guard is that in my 29 years of service, I have seen some 27 new responsibilities added by the Congress to the list of duties that the Coast Guard must perform. But that list of new duties and responsibilities has not been accompanied by a commensurate increase in personnel and in funding. And that has happened under Democratic and Republican administrations and Democratic and Republican Congresses.

Now, we bring to the floor a $7.1 billion bill to deal with the needs of the Coast Guard, and unfortunately, in past Congresses, this bill has not become law because of issues that the other body has wanted to hang on to it and slow down its progress. This time, the authorization has been done through the appropriation process. And I earnestly hope that we are not engaged in yet another exercise in futility getting a Coast Guard authorization passed and that indeed the other body will act expeditiously and not try to tie in unrelated issues to this very important authorization.

I further believe very strongly that although we have provided, I think, a responsible funding for the Coast Guard, it is still inadequate to the responsibilities that the Congress has saddled the Coast Guard with and visited upon it because we felt they could carry out all those responsibilities of drug interdiction and immigration interdiction, and now the homeland security responsibilities. They simply need more personnel and more funding to continue to carry out the job and not stretch the human resources of the Coast Guard as thin as has been done in the last few years.

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

Mr. LOBIONDO. Mr. Chairman, I yield such time as he may consume to the gentleman from Alaska (Mr. YOUNG), the distinguished chairman of the Committee on Transportation.

Mr. YOUNG of Alaska. Mr. Chairman, I rise in strong support of H.R. 2443, the Coast Guard and Maritime

Transportation Act of 2003. The bill is a result of a bipartisan effort, and it deserves the support of all the Members. I especially again want to thank the subcommittee chairman, the gentleman from New Jersey (Mr. LOBIONDO), and the full and subcommittee ranking members, the gentleman from Minnesota (Mr. OBERSTAR) and the gentleman from California (Mr. FILNER), for their help and cooperation in developing this bill.

I want to stress that, again, as the gentleman from Minnesota (Mr. OBERSTAR) has mentioned, it has been a long time since this bill has become a law, and it is time that the other body acts as we pass it today.

I am pleased we are taking the action today to authorize funding for the most important programs of the United States Coast Guard and Federal Maritime Commission.

In addition to authorizing the fiscal year of 2004 FMC budget at the level requested by the administration, this bill authorizes the fiscal year 2004 Coast Guard budget at the level requested by the President, plus an additional $460 million.

Of this amount, $70 million is authorized for the Coast Guard domestic port security activities, $80 million is to equip four C–130J aircraft for Coast Guard missions, and $202 million is for the Coast Guard's Deepwater capital equipment modernization project.

We have also provided $39 million for an armed Coast Guard helicopter squadron, $50 million for Coast Guard foreign port security activities, and $19 million for the alteration of bridges which obstruct navigation.

H.R. 2443 will result in improved operation of the Coast Guard and the Federal Maritime Commission and safer, more efficient maritime transportation.

However, nearly one-third of our exclusive economic zone lies off the shores of Alaska. These waters include the Nation's largest fishery, and sufficient cruise ship and oil tanker traffic. Therefore, I am concerned about the ability of the Coast Guard to carry out its traditional search and rescue, fisheries law enforcement, and vessel inspection missions. There are concerns that some of these missions may be suffering as a result of the new emphasis on homeland security.

I remain optimistic that this legislation will provide the Coast Guard with the resources and legal authorities necessary to get the service back to an acceptable state of mission balance.

Mr. Chairman, all of us recognize the exceptional work performed by the Coast Guard, often under dangerous circumstances.

I urge all my colleagues to support this bill which authorizes sufficient resources for the Coast Guard to carry out its many missions and make necessary improvements of laws governing maritime transportation.

Mr. Chairman, I again speak about the role of the Coast Guard in the great State of Alaska. We have more coastline than all the United States combined and more Coast Guard activities, not only in the fisheries, but again in the oil tanker business, and in the interception of all types of foreign vessels that occur.

□ 1545

I can only compliment my Coast Guard contingency in Alaska for the work they do in adverse conditions, flying in weather that you cannot believe, rescuing people, fishermen, and, yes, even some tourists, recovering them with helicopters and with ships themselves. They have done yeoman's duty day after day in very adverse conditions.

I will again stress, as one of the authors of Homeland Security, and I expressed at that time the Coast Guard be put at the top of the list in homeland security and they were, not at the bottom, which they were under the original proposal.

But I am still very concerned. There is a possibility that their mission, which is actually navigation, safety, interdiction of drugs, of doing duties which this Congress made them responsible for, now there is sort of an emphasis on security purposes and that alone. We must protect and make sure that does not occur, that they have their mission. In fact, I will at the appropriate time, not in this legislation but during the coming year, make a proposal that we take Coast Guard out of Homeland Security, put it back where it belongs and make sure it can do the missions that we have charged them with.

Mr. Chairman, I urge all of my colleagues to understand the importance of this legislation. We will have some amendments offered. We hope to work most of them out before they are offered. We will debate those, and we will finally pass a very good piece of legislation for the United States Coast Guard.

Mr. OBERSTAR. Mr. Chairman, I yield such time as he may consume to the gentleman from California (Mr. FILNER).

Mr. FILNER. Mr. Chairman, I thank the chairman of our subcommittee, the gentleman from New Jersey (Mr. LOBIONDO); the ranking member of our committee, the gentleman from Minnesota (Mr. OBERSTAR); and the chairman, the gentleman from Alaska (Mr. YOUNG), for bringing us this legislation—and that I was proud to work on it with them. It is a culmination of our work this session examining the Coast Guard mission, with particular emphasis on the funding for the Maritime Transportation Security Act of 2002.

This bill, H.R. 2443, authorizes $7.1 billion, and we hope that this will be sufficient funding for the Coast Guard to carry out the many missions that Congress has given the Coast Guard, including homeland security, search and rescue, marine safety, drug and migrant interdiction and law enforcement.

H.R. 2443 authorizes $39 million for a squadron of what are called HITRON armed helicopters for the west coast. The gentleman from Minnesota (Mr. OBERSTAR) talked about return of investment on this bill. Well, that is true, certainly, of this HITRON helicopter. Since their establishment, the Jacksonville, Florida, HITRON squadron has stopped over $1.5 billion in illegal drugs from entering the United States.

Deployment of the HITRON squadron on the west coast will help stem the flow of illegal narcotics through the eastern Pacific Ocean. If one were to look at this using a cost-benefit analysis, $39 million is spent for the armored HITRON squadron on the west coast, but drugs that are stopped and interdicted are worth more than 20 times that amount.

It is my strong view that the Coast Guard must increase Airborne Use of Forces assets for port security and drug interdiction. The lease option for these aircraft is already in place. The lease provides antiterrorist and antidrug coverage for the next 3 to 5 years while providing flexibility for the Coast Guard to engage in competition to select a permanent multimission cutter helicopter to meet our challenges post-9/11. When these multimission helicopters are deployed, the HITRON helicopters can be returned to their manufacturer at the option of the Coast Guard.

There are a number of changes to existing law which the previous speakers have spoken to. I would again like to thank the members of the committee for their bipartisan effort to put this bill together and look forward to working with them as we work with the Senate to reach an agreement on the authorizing legislation.

Mr. Chairman, I urge my colleagues to support passage of the Coast Guard and Maritime Transportation Act.

Mr. LOBIONDO. Mr. Chairman, I reserve the balance of my time.

Mr. OBERSTAR. Mr. Chairman, I yield 2 minutes to the gentlewoman from Florida (Ms. CORRINE BROWN), former ranking member on the Subcommittee on the Coast Guard and Maritime Transportation of the Committee on Transportation and Infrastructure.

Ms. CORRINE BROWN of Florida. Mr. Chairman, I want to thank all of the members on the Committee on Transportation and Infrastructure who have worked to bring this bill to the floor.

The Coast Guard has been protecting our shores for more than 200 years, and they have done an outstanding job. The Coast Guard was the first agency to react to the terrorist attack on September 11 and within minutes was guarding our ports and bridges and directing maritime traffic out of New York. This Nation's ports and waterways are still very vulnerable to terrorist attacks, and the Coast Guard is the first line of defense against those wishing to harm us.

This $7.1 billion authorization will go a long way in allowing the Coast Guard to continue its mission while expanding its authority to fight terrorists. This bill will increase the size of the Coast Guard, improve benefits for those serving, increase the authority to inspect foreign vessels, allow additional force against fleeing vessels, and give them the authority to revoke the credentials of individuals that pose a safety or security threat.

I have major concerns when they moved the Coast Guard to the Department of Homeland Security because I fear that it would prevent them from doing their core mission of drug interdiction, search and rescue, enforcing maritime and fisheries laws, and protecting our marine environment. This bill will allow them to accomplish everything we ask of them, but we need to keep the Department's feet to the fire so they can follow the law and not reduce the Coast Guard's traditional mission.

I hope that Members of this body will do the right thing and fund the Coast Guard at $7.1 billion. It is the right thing to do for America.

Mr. LOBIONDO. Mr. Chairman, I reserve the balance of my time.

Mr. OBERSTAR. Mr. Chairman, how much time remains on each side?

The CHAIRMAN. The gentleman from Minnesota (Mr. OBERSTAR) has 20 minutes remaining. The gentleman from New Jersey (Mr. LOBIONDO) has 19 minutes remaining.

Mr. LOBIONDO. Mr. Chairman, we have no further speakers on general debate. I reserve the balance of my time.

Mr. OBERSTAR. Mr. Chairman, I yield 6 minutes to the gentleman from Michigan (Mr. STUPAK).

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

Mr. STUPAK. Mr. Chairman, I thank the gentleman for yielding me time.

I would like to enter into a colloquy with the ranking member from Minnesota (Mr. OBERSTAR).

I thank the gentleman from Minnesota (Mr. OBERSTAR) for recognizing the importance of implementing national maritime safety initiatives on our Nation's waters. In a little over a year, carriage of electronic technology for nonvoice chip communication that would exchange navigation and ship data between ships or ship and coastal stations, called the Automatic Identification System, will be required in certain vessels that operate in vessel traffic service zones.

While I certainly understand the need to implement further navigation safety and maritime security on our waters, the fact is that the Coast Guard estimates that the cost of the AIS is over $9,300 per vessel. This is a considerable amount of money for small passenger vessel operators.

In Michigan's first district, small island ferries and the Soo Locks Boat Tours operate small passenger vessels seasonally from May through October that have a maximum capacity of under 300 passengers per vessel. Although most tours and passenger services carry less than 100 passengers per trip, my concern is how are these small governmental transit authorities and small mom and pop businesses in rural America going to be able to bear the extraordinarily high cost of AIS.

Mr. OBERSTAR. Mr. Chairman, will the gentleman yield?

Mr. STUPAK. I yield to the gentleman from Minnesota.

Mr. OBERSTAR. Mr. Chairman, I thank the gentleman for raising this issue. It is a matter of concern to just that very class of vessel operator that the gentleman has described. The technology known as AIS, automatic identification system, is very sophisticated. It probably has too many bells and whistles for small operators, ones they do not need.

The Coast Guard has come back to reconsider this issue and is working with the International Maritime Organization to adopt what is an international standard that will be far less technologically sophisticated, if you will, than the system they have required, which will give the operator e-mail and other technology downloaded from the signal. They do not need all of that stuff.

What they really need for the small vessels is name, GPS position and bearing, where they are headed; and that is what the Coast Guard will do. That will draw the cost from nearly $10,000 down to $2,000 or less for the small vessels operators, and give them and the Coast Guard the information that they really need without the bells and whistles. So I think that this ruling will be completed by next spring, hopefully in time for the boating season in the gentleman's district and in mine.

Mr. STUPAK. Mr. Chairman, I thank the gentleman for working with us to ensure that the costs of this technology is more conducive to small business. I look forward to working with him and the majority on this.

While I have the ranking member here, I would like to ask him, and thank both him and the gentleman from Alaska (Mr. YOUNG) for their support, including my provision in the manager's amendment calling for the timely review and adjustment of pilotage rates by the United States Coast Guard.

I would ask the gentleman if he knows anything further on this issue that we have raised.

Mr. OBERSTAR. Mr. Chairman, the issue of pilotage rates on the Great Lakes is one of the most vexing matters that I have had to deal with going back to my service with my predecessor as the administrative assistant when we had so many problems with the Great Lakes Pilotage Administration. We once had an administrator of that agency who would go off to his farm in Northern Virginia over the weekends when he was needed most. We could not find him. They needed regulations changed or approvals to undertake certain activities; we could not find this guy. It has just been a big headache over the years. We have shifted back and forth between the Coast Guard and the pilotage administration and who is going to administer it. I think it has now been on track.

Again, pilotage has sort of been a football kicked back and forth between Coast Guard and DOT by the Office of Management and Budget; and in the process, pilots have been stiffed, to be very honest with the gentleman. Coast Guard first developed a rule for pilotage rates, sent it to the Office of Management and Budget. They reviewed it. They sent it back to the Coast Guard. The Coast Guard then sent it to the Department of Transportation because that is where they used to live. Now they live over in the Homeland Security Department.

So Secretary Mineta's staff got right on it, and they worked it over and they said, well, we have these questions. And they asked the Coast Guard to answer certain questions. The Coast Guard questions were then sent to OMB. The OMB sent the questions back and now DOT has asked the Coast Guard to respond.

Secretary Mineta has assured me that his office, his staff will clear the way, hopefully get it done by the end of this week so that the interim rate can be approved, at least on an interim basis, pending a final rule.

It should not have to take this long, I assure the gentleman. I appreciate his advocacy on this issue. Hopefully, this will all get done within a week and pilots can apply their trade.

Mr. STUPAK. Mr. Chairman, I urge the Members to support the legislation, and I urge this committee and this Congress to continue to urge the Coast Guard to follow its own rules and regulation and adjust those pilot rates as soon as possible on the Great Lakes. The season is just about over. I appreciate the gentleman's concern.

Mr. OBERSTAR. Mr. Chairman, I yield 3 minutes to the gentleman from Oregon (Mr. DEFAZIO), the former ranking member of the subcommittee.

Mr. DEFAZIO. Mr. Chairman, I thank the gentleman for yielding me time. I am pleased we are taking up this bill today. For too many years the needs of the Coast Guard were neglected as we failed year after year to pass authorizing bills, and the amount of funds to the Coast Guard for their mission were inadequate.

Their mission, of course, today, is even more difficult than it was then; but I think that this bill is beginning to recognize the need for more funds, the need for better housing allowances, the need of fulfilling that expanded mission. So I am pleased to stand in general support of the bill before the House.

□ 1600

I mean, the Coast Guard is crucial to my District. I represent more than half

the Oregon coast, difficult port entrances, still an active fishing fleet and pleasure boats, and the Coast Guard is called upon many times to conduct rescues at the risk of their own life and also to do fisheries enforcement, drug interdiction and now, of course, the whole new emphasis on homeland security and all the problems in that.

There are two issues where I would raise concerns. The first, I will have an amendment on later, and that is the potential that the Coast Guard museum, which I support the idea of a Coast Guard museum, could be sited on property taken by eminent domain, and I think Congress should speak clearly on that issue, and I will have an amendment on that later.

The other is something I have raised with the Commandant in hearings, and it is just a general note of concern to other Members of Congress. I feel that the Coast Guard is doing an excellent job in its mission of homeland security, but the one place where I would fault them is as our lead negotiator with the International Maritime Organization.

The International Maritime Organization works by consensus, and often I feel rather than us setting down a hard marker and saying, this is where the rest of the world has to go on shipping, crew certification and safety issues, the Coast Guard gets much too involved in bargaining. We should lead by example with world standards. It is not enough to say, well, we always have port/State control issues where we can board these ships once they get here. No, we do not want those ships on the ocean at all. We do not want ships out there where we do not know who the owners are. We do not want ships out there where we do not know who the crews are, and we do not want ships out there when we do not know what the cargoes are.

Those are extraordinary threats both to the safety, the environment as with the *New Carissa* incident in my district. We had a totally incompetent foreign skipper, who did everything in defiance of good practice and managed to put his ship on the beach, spilling a tremendous amount of bunker fuel, causing an environmental disaster, and the ship is still there. He skipped out of the country before we could put him in jail unfortunately, but I do not think he will be coming back, but there are other skippers like that out there, not to say there are not many good ones.

But we need better crew certification requirements. We cannot have these paper schools that issue certificates. That is what we have got today. We are allowing to say, well, these schools exist in the Philippines. There is no one that goes around to certify that the schools exist, certify the curriculum, certify people have gone through the curriculum. We do not know who the crew members are. We do not have noncounterfeitable ID cards. We do not have a way of knowing better what the cargo is.

The Coast Guard is just starting to work on these things, and they are not taking the toughest position they could in the International Maritime Organization to secure our borders, our security and our safety, and I just want to urge them to redouble their efforts and set a higher standard to protect the homeland of the United States of America.

Mr. OBERSTAR. Madam Chairman, how much time, may I inquire, do we have left?

The CHAIRMAN pro tempore (Mrs. BIGGERT). The gentleman from Minnesota (Mr. OBERSTAR) has 11 minutes remaining.

Mr. OBERSTAR. Madam Chairman, I yield 5 minutes to the distinguished gentleman from Mississippi (Mr. TAYLOR) guardian of the Jones Act.

Mr. TAYLOR of Mississippi. Madam Chairman, if I could, I would like to engage in a colloquy with either the subcommittee or full committee chairman.

Mr. YOUNG of Alaska. Madam Chairman, will the gentleman yield?

Mr. TAYLOR of Mississippi. I yield to the gentleman from Alaska.

Mr. YOUNG of Alaska. Madam Chairman, I gladly will accept a colloquy with the good gentleman.

Mr. TAYLOR of Mississippi. Mr. Speaker, for the sake of the folks who do not know it, I am pleased to mention that the full committee chairman owns his own commercial license as a tugboat captain, so I think he will appreciate this question.

In reading the synopsis, it says the measure requires foreign flagged vessels that depart and return to the same U.S. port without stopping at any other port in between to comply with the safety requirements of the International Safety Management Code whenever any part of the voyage occurs in international waters.

For the folks around here, that would be called a cruise to nowhere. As the chairman knows better than most, there really is not a law that allows cruises to nowhere. It is a Customs ruling going back to about the 1950s, and it has been used by foreign-owned, foreign-manned and foreign-built ships to operate in the U.S. trade. They merely go 12 miles out to sea, turn around and come back.

One of the few things that I thought we had protecting Americans from this glaring loophole in the law was that the Coast Guard at least had to inspect these vessels. If I understand this properly, and this is a colloquy, and I am asking for an answer and, hopefully, something that will stick up in law, I hope by doing this we are not taking a bad Customs ruling and making it the law of the land. A bad Customs ruling we can fix with good administration. I have not had one to do so in the three that I have dealt with, but we could still fix with a good administration.

If this becomes the law of the land, and that is why I am asking for my colleague's opinion, then we have, in effect, taken a bad practice and made it the law of the land.

Mr. YOUNG of Alaska. Madam Chairman, if the gentleman would yield, my concern is that we were going to have another colloquy on something else that is very dear to your heart.

Mr. TAYLOR of Mississippi. I am going to get to that one next.

Mr. YOUNG of Alaska. Madam Chairman, I cannot specifically answer the gentleman's question at this time. It is my intent to make sure the vessels, whatever vessels operate in these waters, will be under Coast Guard jurisdiction, and I think that is what the intent of this is. It is my intent, personally, as chairman.

The gentleman brings up a point about a Customs ruling that can be changed. I do not intend to do anything. As my colleague knows, I support the Jones Act equally as he does, and we will be reviewing this, and I am willing to work with the gentleman as this legislation goes forward to see if we cannot make sure that his and my ideas are implemented because I am not going to get involved right now with the trips to nowhere because I do not know the effect of this legislation on those activities at this time.

Mr. TAYLOR of Mississippi. Madam Chairman, if I may ask this question, is it the intent of this legislation to legalize cruises to nowhere?

Mr. YOUNG of Alaska. To my knowledge, no, and if that is the case, we will be taking care of that as time goes by. I was unaware of it. If that does this, we will be looking at it very closely.

Mr. TAYLOR of Mississippi. Second question, again coming from the synopsis, and I know it is not perfect, but it says the bill would authorize two U.S.-built, -owned and -flagged vessels to enter into the U.S. coastwise trades.

My question is, it has been highly publicized in the New York Times and other publications that through the unintended consequences, and I do mean unintended consequences, of the foreign lease provisions in the 1996 Coast Guard authorization bill that some of these U.S.-owned corporations are actually chartering out of the Bahamas and, therefore, totally avoiding their U.S. tax obligations for vessels that are protected by the Coast Guard, for vessels that use channels that are dredged by the Army Corps of Engineers and God forbid if the vessel is seized by terrorists. That owner would never hesitate to call upon the U.S. Navy Seals to go rescue his vessel.

My question is, do these two vessels fall into that category of being owned by a corporation that has already inverted overseas in order to avoid U.S. taxes?

Mr. YOUNG of Alaska. No, and I believe if the gentleman is talking about the M/V *Coastal*, which vessels is the gentleman talking about?

Mr. TAYLOR of Mississippi. Again, the synopsis says two, does not have the names, just says two U.S.-built, -owned and -flagged vessels.

Mr. YOUNG of Alaska. Madam Chairman, if the gentleman is referring to

page 35, the Bluefin and the M/V Coastal Merchant, I do believe this applies as long as it is retroactive. We do not go back and disown them. We have to probably allow them to continue to operate as American-flagged vessels, these two vessels. There are only two vessels mentioned in the bill.

Mr. TAYLOR of Mississippi. Again, my fear is this is an interpretation that we might actually be putting into law, and I hate to be doing that, and I do not think that is my colleague's intention as well.

Mr. YOUNG of Alaska. Madam Chairman, I can assure the gentleman that it is not my intent to do so at this time. That is why we will have the committee to review it, but if these vessels were actually authorized and they were done under a law of 1976 I believe it is, then we cannot make it say, no, they are no longer eligible.

Mr. OBERSTAR. Madam Chairman, does the gentleman have further speakers?

Mr. LOBIONDO. We are reserving the balance of our time.

Mr. OBERSTAR. Madam Chairman, I yield 2½ minutes to the gentleman from New York (Mr. ENGEL).

Mr. ENGEL. Madam Chairman, I thank the gentleman, my friend from Minnesota, for recognizing me, and I rise in support of the manager's amendment that will be offered later, and I want to thank the gentleman from Alaska (Chairman YOUNG), the gentleman from Minnesota (Ranking Member OBERSTAR), the gentleman from New Jersey (Subcommittee Chairman LOBIONDO) and the gentleman from California (Ranking Member FILNER) for their support of my amendment which they have included as part of the manager's amendment.

I also rise in support of the overall bill. The Coast Guard is a vital part of our national security. We must provide them with the tools they need and the funding to successfully execute their mission. I am especially pleased with the funding for the Integrated Deepwater Systems program.

Madam Chairman, I offer my amendment because I continue to have grave concerns about the safety of my constituents should the Indian Point nuclear power plant be attacked. I am concerned about the safety and security of the plant. I have even more concerns about the ability to evacuate people safely, but that is for another debate.

This amendment is simple. It requires that the Coast Guard conduct a vulnerability assessment of the facility. As of January 1, 2003, the Coast Guard had established a permanent safety and security zone around Indian Point. However, the Coast Guard's Hudson River cutter passes Indian Point about twice a week, and its copter only about three times a week.

Indian Point is located in Buchanan, New York, 35 miles north of midtown Manhattan and just a few miles northeast of my district. Almost all of my district is located within the 10-mile radius of the plant, and approximately 20 million people live within the 50-mile emergency planning zone or EPZ.

In addition, as we know, blueprints for American nuclear power plants were found in al Qaeda caves in Afghanistan, and that point bears repeating. Al Qaeda has the plans to some U.S. nuclear power plants.

A study conducted by the Marist Institute found that 82 percent of people living within a 50-mile radius of the plant are concerned about a potential terrorist attack on the facility, moreover, a majority of residents in the 50-mile radius do not feel that the plant is secure and protected against a terrorist attack.

I support closing Indian Point completely. Absent that solution, I am working with my colleagues to ensure that it is the most safe and secure nuclear power plant possible.

Therefore, I urge all my colleagues to support the manager's amendment and the bill.

Mr. OBERSTAR. Madam Chairman, how much time do we have remaining?

The SPEAKER pro tempore. The gentleman from Minnesota (Mr. OBERSTAR) has 3½ minutes remaining.

Mr. OBERSTAR. Madam Chairman, I yield myself 3 minutes.

Yesterday, the Subcommittee on Coast Guard and Maritime Transportation conducted a hearing on the Staten Island ferry accident in which 10 passengers were killed. Even at this date, the captain and the pilot of the ferry claim to be too ill to testify before the National Transportation Safety Board. The Coast Guard can take no action against them because they are incompetent or a danger to the safety of a vessel because of their statements and because of a loophole in existing law.

The bill that the committee has reported includes a provision recommended wisely and appropriately by the administration to close that loophole. It does not give the Coast Guard authority to go on fishing expeditions to look at the health records of a mariner, but it does what I have long advocated, provide the Coast Guard authority that the FAA has, to require all mariners that are on medication or have illnesses that could affect their ability to operate a vessel safely, to report those circumstances to the Coast Guard so they can determine whether the individual can operate safely.

Enactment of this legislation is going to close a very troublesome loophole in existing law and result in far better safety on the waters as we have an obligation to provide and should undertake, and I thank the chairman for recognizing that circumstance. I know the chairman has been under enormous pressure, to put it mildly, advocacy, to do something differently, but at the hearing yesterday it became apparent why we need to proceed with the language in the bill, which I strongly support.

Let me conclude by saying, we have an outstanding bill. We have an excellent piece of work.

□ 1615

I wish we were doing more in personnel and more in funding for the Coast Guard, but I think we have done all we can under the circumstances; and we will continue to work to improve those two areas, personnel and funding, for the Coast Guard in the future.

Mr. PETRI. Madam Chairman, I applaud the vision of the Chairman of the Subcommittee and the Ranking Minority Member in recommending additional helicopter assets to be deployed on the West Coast for drug interdiction and port security. Currently, there are eight leased, armed helicopters based in Jacksonville, FL, which make up the entire Coast Guard Airborne Use of Force capability. Pre 9–11, this Helicopter Interdiction Tactical Squadron (or HITRON) was used solely for drug interdiction, primarily in the Caribbean. Occasionally, some or all of the fleet was sent to the West Coast since about 50 percent of the drug interdiction has occurred in the eastern Pacific. Post 9–11, insofar as possible, these same eight armed helicopters have also assumed port and inland waterway security duties.

Lakes Michigan and Superior form part of the Wisconsin border. Currently the air stations at Travers City, Michigan, and Detroit monitor the Great Lakes from Niagara Falls through Lake Superior. They are already stretched very thinly. To meet increased terrorist threats wherever they occur, the Coast Guard must rob Peter to pay Paul. The humanitarian aspect of the Coast Guard's mission is a constant, so it is imperative that they obtain more assets—ships, fixed wing and rotary wing aircraft.

Since their introduction into the Coast Guard Inventory many years ago, the role of helicopters has expanded. They had primarily been used for search and rescue missions at sea until the introduction of the lighter, armed Sting Rays. Beginning with the introduction of the Sting Rays in 2000, they have deployed as a cutter-based aircraft to pursue, intercept and disable ''go-fast'' boats engaged in drug running. To date, they have intercepted over 30 Tons of illegal drugs valued at more than $2.1 billion. There are just not enough of them to go around!

The Coast Guard motto is Semper Paratus—Always Prepared. As stated on their web site, they are The Shield of Freedom; The Defender of the Homeland; The Port in the Storm and The Enforcer of the Sea. They are indeed all those things and always have been. However, since 9–11, all those things have taken on added significance. To accomplish these missions, they need more assets to meet the increased burden.

Mr. STUPAK. Madam Chairman, I would like to thank Committee Chairman YOUNG and Ranking Member OBERSTAR for their support in including my provision in the Managers amendment calling for the timely review and adjustment of pilotage rates by the United States Coast Guard.

Every foreign vessel that enters the Great Lakes must secure the services of a ship pilot, whose primary responsibility is the safe navigation of the vessel. The rates that American

pilots charge shipping companies for pilotage services are set by the Coast Guard.

The Great Lakes pilotage system performs a critical safety and environmental protection function for the Great Lakes. It doesn't make sense to underfund a pilotage system that is crucial to the largest freshwater body in the world. Yet the Coast Guard failed to complete a rate adjustment of any kind last year. At the beginning of this year it announced that it intended to establish a new rate in time for the beginning of the 2003 shipping season yet with the shipping season now over, that still has not occurred.

The Coast Guard continues to set funding levels for key elements of the pilotage system at 1997 and even 1995 levels. This is particularly disturbing because the Coast Guard regulations require rates to be reviewed and adjusted on an annual basis. Setting rates to 1997 or 1995 levels will inevitably result in the fraying of the Great Lakes piloting system.

It has been reported that the delay of any rate adjustment is a result of objections from foreign shipping companies, which pay for pilot services. I have made the protection of the Great Lakes a crusade throughout my years in Congress. My Congressional District is surrounded by three Great Lakes. I would object in the strongest possible terms if the Coast Guard is placing the bottom lines of foreign shipping companies ahead of adequate funding for a pilotage system that is designated to protect the Great Lakes. The Coast Guard should not put the economic interests of a few foreign shipping companies ahead of the safety of the Great Lakes.

I urge the Coast Guard to follow its own regulations and adjust pilotage rates on the Great Lakes as soon as possible. Until they do so it places the entire Great Lakes in jeopardy.

I urge all members to support.

Ms. MILLENDER-MCDONALD. Madam Chairman, I rise to express my strong support for the Coast Guard and Maritime Transportation Act (H.R. 2443).

Specifically, I want to thank the chairman and Ranking Member FILNER for including my amendment in the manager's amendment.

My amendment will provide the Department of Homeland Security the authority to issue port security grants, by amending the Maritime Transportation Security Act.

This is a simple act, but I believe it will go a long way in clarifying the responsibility of issuing port security grants in a timely, predictable and efficient manner.

In November 2002, when the Maritime Transportation Security Act passed this House, the Department of Homeland Security had not yet been created.

Since the beginning of the 108th Congress we have worked to iron out the kinks that go with creating a new federal agency such as the Department of Homeland Security. This is, yet, another wrinkle that I hope has been ironed out.

As a representative from Long Beach, the home of the largest port complex in the country and third largest port complex in the world, we in southern California, as well as other port cities around the country, want to know where the responsibility for issuing port security grants lies.

By clarifying the authority of issuing port security grants it is my hope that we can begin to define the federal role in port security.

Specifically, from this point on, we need to provide more funding for port security and we need to establish a dedicated stream of funding for port security.

Finally, I believe, for the large port security projects, we need to provide the authority for multi-year grants so that our ports and local governments can adequately plan to build their new projects.

In closing I want to reiterate my support for this bill and look forward to continuing to work with my colleagues on the committee on these very important issues.

Ms. HARMAN. Madam Chairman, I rise in support of the Coast Guard and Maritime Transportation Act of 2004.

As the former representative of the Port of Los Angeles, and currently the representative of the communities neighboring the Port, I know the critical role the Coast Guard plays in protecting the nation's ports and sea-borne commerce.

Indeed, even before the events of September 11, the women and men of the Coast Guard worked tirelessly to ensure safe and secure operations in and around the Port of Los Angeles and Santa Monica Bay. Since that date, the role of the Coast Guard has increased in pace and intensity.

The bill before us recognizes the operational tempo of the Coast Guard and helps ensure that it has the assets and personnel to do its critical job.

I also want to point out the bill's endorsement of the Marine Exchange of Los Angeles and Long Beach. Since 1923, the Marine Exchange has maintained a continuous 24-hour operation providing detailed records of all vessel arrivals and departures of the busiest habor complex in America. Jointly with Coast Guard, the Marine Exchange operates a Vessel Traffic Information Service. This program uses state of the art electronic tracking equipment and radar and radio systems to manage all commercial vessels that travel through San Pedro Bay. The Marine Exchange VTS is the first public-private VTS partnership operation in the country that is funded by industry.

This bill notes that it is a national model for other ports to study, evaluate, and emulate and authorizes the Coast Guard to enter into similar cooperative agreements elsewhere in the nation. The VTS keeps the Ports of Los Angeles and Long Beach safe, more efficient, and environmentally protected by assisting with the movement of over 35,000 vessel transits annually and I commend its executive director, Capt. M.H.K. ''Manny'' Aschemeyer, and all those associated with the Marine Exchange for a job well done.

Lastly, I want to express my gratitude to the Chairman and Ranking Member for including in the manager's amendment a proposal first suggested to me by the City Council of Torrance, California. That proposal recognizes the linkage between the critically important roles of both the Coast Guard and the nation's cities in the fight against terrorism and recommends the Coast Guard name a class of vessels in its Deepwater program in honor of specific U.S. cities.

It is my hope that the Coast Guard will respond favorably to the sense of Congress language included in the bill and, in fact, name one of its new ships in honor of the city of Torrance, which has been on the forefront of honoring our Armed Forces and is strategically located on the shore of the Pacific Ocean.

Madam Chairman, I urge passage of the Coast Guard and Maritime Transportation Act.

Mr. HOEFFEL. Madam Chairman, I rise in support of H.R. 2443, the Coast Guard and Marine Transportation Act of 2003.

This legislation highlights the need to expand our Coast Guard aviation assets to fight the war against drugs. I strongly support the provision in this measure which permits the Coast Guard to establish a West Coast fleet of HITRON drug interdiction helicopters. This provision will afford the Coast Guard the opportunity to select a new state-of-the-art, multimission helicopter to assist in its drug interdiction efforts.

The HITRON MH–68A Sting Ray was designed, built, and maintained by the Agusta Aerospace facility in Philadelphia. Constructed on the frame of an A109E Power civilian helicopter, the Sting Ray employs state-of-the-art navigation, communication, and avionics equipment.

In 2000, eight Sting Rays were leased to the Coast Guard for the purpose of establishing an armed HITRON Squadron in Jacksonville, specifically for drug interdiction efforts. This Fleet has enjoyed a fabulous success rate in its missions.

HITRON aircrews have interdicted 30 tons of illegal drugs on the high seas valued at more than $2.1 billion. In addition, the Sting Ray is the only Homeland Security helicopter authorized for airborne use of force over civilian populations. Since September 11, the Sting Rays have also been pressed into port security service for all U.S. ports and associated waterways.

Therefore, I am pleased to support H.R. 2443 which accommodates the leasing and stationing of six HITRON helicopters in Southern California. The failure to establish a permanent West Coast Fleet will result in a serious shortage of armed assets for drug interdiction and homeland defense.

Thank you for your consideration of this important piece of legislation.

Mr. OBERSTAR. Madam Chairman, I yield back the balance of my time.

Mr. LOBIONDO. Madam Chairman, I yield back the balance of my time.

The CHAIRMAN pro tempore (Mrs. BIGGERT). All time for general debate has expired.

Pursuant to the rule, the committee amendment in the nature of a substitute printed in the bill is considered as an original bill for the purpose of amendment, and is considered read.

The text of the committee amendment in the nature of a substitute is as follows:

H.R. 2443

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

SECTION 1. SHORT TITLE.

This Act may be referred to as the ''Coast Guard and Maritime Transportation Act of 2003''.

SEC. 2. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

Sec. 1. Short title.
Sec. 2. Table of contents.
TITLE I—AUTHORIZATION
Sec. 101. Authorization of appropriations.
Sec. 102. Authorized levels of military strength and training.
TITLE II—COAST GUARD MANAGEMENT
Sec. 201. Long-term leases.

Sec. 202. Nonappropriated fund instrumentalities.
Sec. 203. Term of enlistments.
Sec. 204. Enlisted member critical skill training bonus.
Sec. 205. Enhancement of Coast Guard authority to stop vessels liable to seizure or examination.
Sec. 206. Administrative, collection, and enforcement costs for certain fees and charges.
Sec. 207. Expansion of Coast Guard housing authorities.
Sec. 208. Requirement for constructive credit.
Sec. 209. Maximum age for retention in an active status.
Sec. 210. Payments.
Sec. 211. Coast Guard fellowship program.
Sec. 212. Air search and rescue facility in Muskegon County, Michigan.
Sec. 213. National Coast Guard Museum.
Sec. 214. Limitation on number of commissioned officers.
Sec. 215. Redistricting notification requirement.

TITLE III—NAVIGATION

Sec. 301. Marking of underwater wrecks.
Sec. 302. Use of electronic devices; cooperative agreements.
Sec. 303. Inland navigation rules promulgation authority.

TITLE IV—SHIPPING

Sec. 401. Reports from charterers.
Sec. 402. Suspension of documents in lieu of mandatory revocation for proved drug convictions.
Sec. 403. Inspection of records of merchant mariners' documents.
Sec. 404. Exemption of unmanned barges from citizenship requirements regarding command of vessel.
Sec. 405. Administrative, collection, and enforcement costs for certain fees and charges.
Sec. 406. Compliance with International Safety Management Code.
Sec. 407. Civil penalties for failure to comply with recreational vessel and associated equipment safety standards.
Sec. 408. Revision of temporary suspension criteria in document suspension and revocation cases.
Sec. 409. Revision of bases for document suspension and revocation cases.
Sec. 410. Hours of service on towing vessels.
Sec. 411. Automatic identification system electronic charts.
Sec. 412. Prevention of departure.

TITLE V—FEDERAL MARITIME COMMISSION

Sec. 501. Authorization of appropriations for Federal Maritime Commission.

TITLE VI—MISCELLANEOUS

Sec. 601. Increase in civil penalties for violations of certain bridge statutes.
Sec. 602. Conveyance of decommissioned Coast Guard Cutter SUNDEW.
Sec. 603. Tonnage measurement.
Sec. 604. Operation of vessel STAD AMSTERDAM.
Sec. 605. Great Lakes National Maritime Enhancement Institute.
Sec. 606. Agile Port and Intelligent Border Security National Demonstration Project.
Sec. 607. Koss Cove.
Sec. 608. Miscellaneous certificates of documentation.
Sec. 609. Dredging study.
Sec. 610. Report regarding security inspection of vessels and vessel-borne cargo containers entering the United States.

TITLE VII—AMENDMENTS RELATING TO OIL POLLUTION ACT OF 1990

Sec. 701. Vessel response plans for nontank vessels over 400 gross tons.
Sec. 702. Requirements for tank level and pressure monitoring devices.
Sec. 703. Liability and cost recovery.

TITLE I—AUTHORIZATION

SEC. 101. AUTHORIZATION OF APPROPRIATIONS.

(a) OPERATIONS AND CAPITAL ACQUISITIONS.—

(1) IN GENERAL.—Funds are authorized to be appropriated for fiscal year 2004 for necessary expenses of the Coast Guard as follows:

(A) OPERATING EXPENSES.—For the operating expenses of the Coast Guard, $4,996,000,000, of which—

(i) $4,979,000,000 is for operation and maintenance of the Coast Guard; and

(ii) $17,000,000 is for environmental compliance and restoration at Coast Guard facilities (other than parts and equipment associated with operations and maintenance).

(B) CAPITAL ACQUISITIONS.—For the capital acquisitions of the Coast Guard, $1,097,000,000, of which—

(i) $355,000,000 is for acquisition, construction, rebuilding, and improvement of aids to navigation, shore and offshore facilities, vessels, and aircraft, including equipment related thereto;

(ii) $702,000,000 is for acquisition and construction of shore and offshore facilities, vessels, and aircraft, including equipment related thereto, and other activities that constitute the Integrated Deepwater Systems program;

(iii) $22,000,000 is for research, development, test, and evaluation of technologies, materials, and human factors directly relating to improving the performance of the Coast Guard's mission in support of search and rescue, aids to navigation, marine safety, marine environmental protection, enforcement of laws and treaties, ice operations, oceanographic research, and defense readiness; and

(iv) $18,000,000 is for the alteration or removal of bridges over navigable waters of the United States constituting obstructions to navigation, and for personnel and administrative costs associated with the Bridge Alteration Program.

(2) SOURCE OF FUNDS.—

(A) OPERATING EXPENSES.—Of the amount authorized in paragraph (1)(A), $25,000,000 is authorized to be derived from the Oil Spill Liability Trust Fund to carry out the purposes of section 1012(a)(5) of the Oil Pollution Act of 1990.

(B) CAPITAL ACQUISITIONS.—Of the amounts authorized by paragraph (1)(B)—

(i) $20,000,000 is authorized to be derived from the Oil Spill Liability Trust Fund to carry out the purposes of section 1012(a)(5) of the Oil Pollution Act of 1990; and

(ii) $3,500,000 is authorized to be derived each fiscal year from the Oil Spill Liability Trust Fund to carry out the purposes of section 1012(a)(5) of the Oil Pollution Act of 1990.

(b) RETIRED PAY.—There is authorized to be appropriated for Coast Guard retired pay (including the payment of obligations otherwise chargeable to lapsed appropriations for this purpose), payments with respect to the Coast Guard under the Retired Serviceman's Family Protection and Survivor Benefit Plans, and payments for medical care of retired Coast Guard personnel and their dependents under chapter 55 of title 10, United States Code, $1,020,000,000.

SEC. 102. AUTHORIZED LEVELS OF MILITARY STRENGTH AND TRAINING.

(a) ACTIVE DUTY STRENGTH.—The Coast Guard is authorized an end-of-year strength for active duty personnel of 45,500 as of September 30, 2004.

(b) MILITARY TRAINING STUDENT LOADS.—The Coast Guard is authorized average military training student loads as follows:

(1) For recruit and special training for fiscal year 2004, 2,500 student years.

(2) For flight training for fiscal year 2004, 125 student years.

(3) For professional training in military and civilian institutions for fiscal year 2004, 350 student years.

(4) For officer acquisition for fiscal year 2004, 1,200 student years.

TITLE II—COAST GUARD MANAGEMENT

SEC. 201. LONG-TERM LEASES.

Section 93 of title 14, United States Code, is amended—

(1) by redesignating paragraphs (a) through (x) in order as paragraphs (1) through (23);

(2) in paragraph (18) (as so redesignated) by striking the comma at the end and inserting a semicolon;

(3) by inserting ''(a)'' before ''For the purpose''; and

(4) by adding at the end the following:

''(b)(1) Notwithstanding subsection (a)(14), a lease described in paragraph (2) of this subsection may be for a term of up to 20 years.

''(2) A lease referred to in paragraph (1) is a lease—

''(A) to the United States Coast Guard Academy Alumni Association for the construction of an Alumni Center on the grounds of the United States Coast Guard Academy; or

''(B) to an entity with which the Commandant has a cooperative agreement under section 4(e) of the Ports and Waterways Safety Act, and for which a term longer than 5 years is necessary to carry out the agreement.''.

SEC. 202. NONAPPROPRIATED FUND INSTRUMENTALITIES.

(a) IN GENERAL.—Chapter 7 of title 14, United States Code, is amended by adding at the end the following:

''§ 152. Nonappropriated fund instrumentalities: contracts with other agencies and instrumentalities to provide or obtain goods and services

''The Coast Guard Exchange System, or a morale, welfare, and recreation system of the Coast Guard, may enter into a contract or other agreement with any element or instrumentality of the Coast Guard or with another Federal department, agency, or instrumentality to provide or obtain goods and services beneficial to the efficient management and operation of the Coast Guard Exchange System or that morale, welfare, and recreation system.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 7 of title 14, United States Code, is amended by adding at the end the following:

''152. Nonappropriated fund instrumentalities: contracts with other agencies and instrumentalities to provide or obtain goods and services.''.

SEC. 203. TERM OF ENLISTMENTS.

Section 351(a) of title 14, United States Code, is amended by striking ''terms of full years not exceeding six years.'' and inserting ''a period of at least two years but not more than six years.''.

SEC. 204. ENLISTED MEMBER CRITICAL SKILL TRAINING BONUS.

(a) IN GENERAL.—Chapter 11 of title 14, United States Code, is amended by inserting after section 373 the following:

''§ 374. Critical skill training bonus

''(a) The Secretary may provide a bonus, not to exceed $20,000, to an enlisted member who completes training in a skill designated as critical, if at least four years of obligated active service remain on the member's enlistment at the time the training is completed. A bonus under this section may be paid in a single lump sum or in periodic installments.

''(b) If an enlisted member voluntarily or because of misconduct does not complete the member's term of obligated active service, the Secretary may require the member to repay the United States, on a pro rata basis, all sums paid under this section. The Secretary may charge interest on the amount repaid at a rate, to be determined quarterly, equal to 150 percent of the average of the yields on the 91-day Treasury bills auctioned during the calendar quarter preceding the date on which the amount to be repaid is determined.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 11 of title 14,

United States Code, is amended by inserting the following after the item relating to section 373:

''374. Critical skill training bonus.''.

SEC. 205. ENHANCEMENT OF COAST GUARD AUTHORITY TO STOP VESSELS LIABLE TO SEIZURE OR EXAMINATION.

(a) REPEAL OF REQUIREMENT TO FIRE WARNING SHOT.—Subsection (a) of section 637 of title 14, United States Code, is amended—

(1) by inserting ''(1)'' after ''(a)'';

(2) by striking ''after a'' and all that follows through ''signal,'' and inserting ''subject to paragraph (2),''; and

(3) by adding at the end the following:

''(2) Before firing at or into a vessel as authorized in paragraph (1), the person in command or in charge of the authorized vessel or authorized aircraft shall fire a gun as a warning signal, except that the prior firing of a gun as a warning signal is not required if that person determines that the firing of a warning signal would unreasonably endanger persons or property in the vicinity of the vessel to be stopped.''.

(b) EXTENSION TO MILITARY AIRCRAFT OF COAST GUARD INTERDICTION AUTHORITY.—Subsection (c) of such section is amended—

(1) in paragraph (1) by inserting ''or'' after the semicolon; and

(2) in paragraph (2) by striking ''; or'' and all that follows through paragraph (3) and inserting a period.

(c) REPEAL OF TERMINATION OF APPLICABILITY TO NAVAL AIRCRAFT.—Subsection (d) of such section is repealed.

SEC. 206. ADMINISTRATIVE, COLLECTION, AND ENFORCEMENT COSTS FOR CERTAIN FEES AND CHARGES.

Section 664 of title 14, United States Code, is amended—

(1) by redesignating subsection (c) as subsection (f);

(2) by inserting after subsection (b) the following:

''(c) In addition to the collection of fees and charges established under this section, the Secretary may recover from the person liable for the fee or charge the costs of collecting delinquent payments of the fee or charge, and enforcement costs associated with delinquent payments of the fees and charges.

''(d)(1) The Secretary may employ any Federal, State, or local agency or instrumentality, or any private enterprise or business, to collect a fee or charge established under this section.

''(2) A private enterprise or business employed by the Secretary to collect fees or charges—

''(A) shall be subject to reasonable terms and conditions agreed to by the Secretary and the enterprise or business;

''(B) shall provide appropriate accounting to the Secretary; and

''(C) may not institute litigation as part of that collection.

''(e) The Secretary shall account for the agency's costs of collecting a fee or charge as a reimbursable expense, and the costs shall be credited to the account from which expended.''; and

(3) by adding at the end the following:

''(g) In this section the term 'costs of collecting a fee or charge' includes the reasonable administrative, accounting, personnel, contract, equipment, supply, training, and travel expenses of calculating, assessing, collecting, enforcing, reviewing, adjusting, and reporting on a fee or charge.''.

SEC. 207. EXPANSION OF COAST GUARD HOUSING AUTHORITIES.

(a) ELIGIBLE ENTITY DEFINED.—Section 680 of title 14, United States Code, is amended—

(1) by redesignating paragraphs (3) and (4) in order as paragraphs (4) and (5); and

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

''(3) The term 'eligible entity' means any private person, corporation, firm, partnership, or company and any State or local government or housing authority of a State or local government.''.

(b) DIRECT LOANS FOR PROVIDING HOUSING.—Section 682 of title 14, United States Code, is amended—

(1) in the section heading by striking ''LOAN GUARANTEES'' and inserting ''DIRECT LOANS AND LOAN GUARANTEES'';

(2) by redesignating subsections (a) and (b) as (b) and (c) respectively;

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

''(a) DIRECT LOANS.—(1) Subject to subsection (c), the Secretary may make direct loans to an eligible entity in order to provide funds to the eligible entity for the acquisition or construction of housing units that the Secretary determines are suitable for use as military family housing or as military unaccompanied housing.

''(2) The Secretary shall establish such terms and conditions with respect to loans made under this subsection as the Secretary considers appropriate to protect the interests of the United States, including the period and frequency for repayment of such loans and the obligations of the obligors on such loans upon default.'';

(4) in subsection (b) (as so redesignated) by striking ''subsection (b),'' and inserting ''subsection (c),''; and

(5) in subsection (c) (as so redesignated)—

(A) in the heading by striking ''GUARANTEE''; and

(B) by striking ''Loan guarantees'' and inserting ''Direct loans and loan guarantees''.

(c) LIMITED PARTNERSHIPS WITH ELIGIBLE ENTITIES.—Section 684 of title 14, United States Code, is amended—

(1) in the section heading by striking ''***NONGOVERNMENTAL***'' and inserting ''***ELIGIBLE***'';

(2) in subsection (a) by striking ''nongovernmental'' and inserting ''eligible'';

(3) in subsection (b)(1) by striking ''a nongovernmental'' and inserting ''an eligible'';

(4) in subsection (b)(2) by striking ''a nongovernmental'' and inserting ''an eligible''; and

(5) in subsection (c) by striking ''nongovernmental'' and inserting ''eligible''.

(d) HOUSING DEMONSTRATION PROJECTS IN ALASKA.—Section 687(g) of title 14, United Sates Code, is amended—

(1) in the heading by striking ''PROJECT'' and inserting ''PROJECTS'';

(2) in paragraph (1) by striking ''a demonstration project'' and inserting ''demonstration projects'';

(3) in paragraph (1) by striking ''Kodiak, Alaska;'' and inserting ''Kodiak, Alaska, or any other Coast Guard installation in Alaska;'';

(4) in paragraph (2) by striking ''the demonstration project'' and inserting ''such a demonstration project''; and

(5) in paragraph (4) by striking ''the demonstration project'' and inserting ''such demonstration projects''.

(e) DIFFERENTIAL LEASE PAYMENTS.—Chapter 18 of title 14, United States Code, is amended by inserting after section 687 the following:

''§ 687a. Differential lease payments

''Pursuant to an agreement entered into by the Secretary and a lessor of military family housing or military unaccompanied housing to members of the armed forces, the Secretary may pay the lessor an amount, in addition to the rental payments for the housing made by the members, as the Secretary determines appropriate to encourage the lessor to make the housing available to members of the armed forces as military family housing or as military unaccompanied housing.''.

(f) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 18 of title 14, United States Code, is amended—

(1) by striking the item related to section 682 and inserting the following:

''682. Direct loans and loan guarantees.'';

(2) in the item related to section 684 by striking ''nongovernmental'' and inserting ''eligible''; and

(3) by inserting after the item related to section 687 the following:

''687a. Differential lease payments.''.

SEC. 208. REQUIREMENT FOR CONSTRUCTIVE CREDIT.

Section 727 of title 14, United States Code, is amended in the second sentence by striking ''three years'' and inserting ''one year''.

SEC. 209. MAXIMUM AGE FOR RETENTION IN AN ACTIVE STATUS.

Section 742 of title 14, United States Code, is amended—

(1) in subsection (a), by striking ''sixty-two'' and inserting ''60''; and

(2) in subsection (c), by striking ''sixty-two'' and inserting ''60''.

SEC. 210. PAYMENTS.

(a) IN GENERAL.—Chapter 13 of title 14, United States Code, is amended by adding at the end the following:

''§ 517. Payments

''(a) The Secretary may require that travel or transportation allowances due a civilian employee or military member of the Coast Guard be disbursed directly to the issuer of a Federal contractor-issued travel charge card, but only in an amount not to exceed the authorized travel expenses charged by that Coast Guard member to that travel charge card issued to that employee or member.

''(b) The Secretary may also establish requirements similar to those established by the Secretary of Defense pursuant to section 2784a of title 10 for deduction or withholding of pay or retired pay from a Coast Guard employee, member, or retired member who is delinquent in payment under the terms of the contract under which the card was issued and does not dispute the amount of the delinquency.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 13 of title 14, United States Code, is amended by adding at the end the following:

''517. Payments.''.

SEC. 211. COAST GUARD FELLOWSHIP PROGRAM.

(a) ESTABLISHMENT.—Title 14, United States Code, is amended by adding at the end of chapter 11 the following:

''§ 337. Coast Guard Congressional Fellowship Program

''(a) There is established in the Coast Guard a Coast Guard Congressional Fellowship Program to broaden Coast Guard officers' knowledge of the Congress.

''(b) The Commandant may appoint 4 midgrade officers as fellows under the program, subject to the following limitations:

''(1) The maximum length of a fellowship is one year.

''(2) A fellow may be assigned to an office of the House of Representatives or the Senate, including a committee, during the period of the fellowship, or may rotate between such offices.

''(3) To protect against abuses of separation of powers principles and conflicts of interest, a fellow may not engage in duties that will result in any direct or indirect benefit to the Coast Guard, other than broadening the fellow's knowledge.

''(c) An individual violating this section is subject to appropriate discipline by the Commandant.''.

(b) LIMITATION ON APPLICATION.—Section 337(b)(1) of title 14, United States Code, as amended by this section, does not apply to an individual serving on June 10, 2003, as a Coast Guard congressional fellow.

(c) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 11 of title 14, United States Code, is amended by inserting after the item relating to section 336 the following:

''337. Coast Guard Congressional Fellowship Program.''.

SEC. 212. AIR SEARCH AND RESCUE FACILITY IN MUSKEGON COUNTY, MICHIGAN.

(a) LEASE AUTHORITY.—The Commandant may enter into a long-term lease for a period of

up to 20 years with Muskegon County, Michigan, for use of a facility constructed by the County at Muskegon County Airport as an air search and rescue station, if such a facility that meets criteria established under subsection (b) is available.

(b) CRITERIA.—Any facility leased under subsection (a) must meet criteria established by the Commandant.

SEC. 213. NATIONAL COAST GUARD MUSEUM.

(a) IN GENERAL.—Chapter 5 of title 14, United States Code, is amended by adding at the end the following:

''§ 98. National Coast Guard Museum

''(a) ESTABLISHMENT.—The Commandant of the Coast Guard may, subject to subsections (b) and (c), establish a National Coast Guard Museum on Federal lands that are administered by the Coast Guard and specified by the Commandant.

''(b) LOCATION.—The National Coast Guard Museum may be located at, or in close proximity to, the Coast Guard Academy in New London, Connecticut.

''(c) LIMITATION ON EXPENDITURES.—The Secretary of the Department in which the Coast Guard is operating shall not expend any Federal funds for the planning, engineering, design, construction, operation, or maintenance of any museum established under subsection (a).

''(d) OPERATION AND MAINTENANCE PLAN.—Before the date on which the Commandant establishes a museum under subsection (a), the Commandant shall provide to the Committee on Transportation and Infrastructure of the House of Representatives a plan for operating and maintaining such a museum, including—

''(1) estimated operation and maintenance costs;

''(2) proposed sources of operation and maintenance funds; and

''(3) a certification by the Inspector General of the Department in which the Coast Guard is operating that items included in the plan pursuant to paragraph (1) and (2) are reasonable and realistic.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 5 of title 14, United States Code, is amended by adding at the end the following:

''98. National Coast Guard Museum.''.

SEC. 214. LIMITATION ON NUMBER OF COMMISSIONED OFFICERS.

Notwithstanding section 42(a) of title 14, United States Code, the total number of commissioned officers, excluding commissioned warrant officers, on active duty in the Coast Guard shall not exceed 6,700 in fiscal year 2004.

SEC. 215. REDISTRICTING NOTIFICATION REQUIREMENT.

The Commandant shall notify the Committee on Transportation and Infrastructure of the House of Representatives at least 180 days before—

(1) implementing any plan to reduce the number of, change the location of, or change the geographic area covered by any existing Coast Guard Districts; or

(2) shifting of more than 10 per cent of the personnel or equipment from the station where such personnel or equipment is based.

TITLE III—NAVIGATION

SEC. 301. MARKING OF UNDERWATER WRECKS.

Section 15 of the Act of March 3, 1899 (33 U.S.C. 409), is amended—

(1) by striking ''day and'' and inserting ''day and, unless otherwise authorized by the Commandant of the Coast Guard,''; and

(2) by striking ''lighted lantern'' and inserting ''light''.

SEC. 302. USE OF ELECTRONIC DEVICES; COOPERATIVE AGREEMENTS.

Section 4(a) of the Ports and Waterways Safety Act of 1972 (33 U.S.C. 1223(a)) is amended by—

(1)(A) striking ''and'' after the semicolon at the end of paragraph (4);

(B) striking the period at the end of paragraph (5) and inserting ''; and''; and

(C) adding at the end the following:

''(6) may prohibit the use on the bridge of a vessel of electronic or other devices that interfere with communications and navigation equipment.''; and

(2) adding at the end the following:

''(e) COOPERATIVE AGREEMENTS.—(1) The Secretary may enter into cooperative agreements with public or private agencies, authorities, associations, institutions, corporations, organizations, or other persons to carry out the functions under subsection (a)(1).

''(2) A nongovernmental entity may not under this subsection carry out an inherently governmental function.

''(3) As used in this paragraph, the term 'inherently governmental function' means any activity that is so intimately related to the public interest as to mandate performance by an officer or employee of the Federal Government, including an activity that requires either the exercise of discretion in applying the authority of the Government or the use of judgment in making a decision for the Government.''.

SEC. 303. INLAND NAVIGATION RULES PROMULGATION AUTHORITY.

(a) REPEAL OF INLAND RULES.—Section 2 of the Inland Navigational Rules Act of 1980 (33 U.S.C. 2001–38) is repealed.

(b) AUTHORITY TO ISSUE REGULATIONS.—Section 3 of the Inland Navigational Rules Act of 1980 (33 U.S.C. 2001) is amended to read as follows:

''SEC. 3. INLAND NAVIGATION RULES.

''The Secretary of the Department in which the Coast Guard is operating may issue inland navigation regulations applicable to all vessels upon the inland waters of the United States and technical annexes that are as consistent as possible with the respective annexes to the International Regulations.''.

(c) EFFECTIVE DATE.—Subsection (a) is effective on the effective date of final regulations prescribed by the Secretary of the Department in which the Coast Guard is operating under section 3 of the Inland Navigation Rules Act of 1980 (33 U.S.C. 2001), as amended by this Act.

TITLE IV—SHIPPING

SEC. 401. REPORTS FROM CHARTERERS.

Section 12120 of title 46, United States Code, is amended by striking ''owners and masters'' and inserting ''owners, masters, and charterers''.

SEC. 402. SUSPENSION OF DOCUMENTS IN LIEU OF MANDATORY REVOCATION FOR PROVED DRUG CONVICTIONS.

Section 7704(b) of title 46, United States Code, is amended by inserting ''suspended or'' after ''shall be''.

SEC. 403. INSPECTION OF RECORDS OF MERCHANT MARINERS' DOCUMENTS.

Section 7319 of title 46, United States Code, is amended by striking ''The records are not open to general or public inspection.''.

SEC. 404. EXEMPTION OF UNMANNED BARGES FROM CITIZENSHIP REQUIREMENTS REGARDING COMMAND OF VESSEL.

(a) EXEMPTION FROM LIMITATION ON COMMAND.—Section 12110(d) of title 46, United States Code, is amended by inserting ''or an unmanned barge not engaged on a coastwise voyage'' after ''recreational endorsement''.

(b) EXEMPTION FROM SEIZURE AND FORFEITURE.—Section 12122(b)(6) of title 46, United States Code, is amended by inserting ''or an unmanned barge not engaged on a coastwise voyage'' after ''recreational endorsement''.

SEC. 405. ADMINISTRATIVE, COLLECTION, AND ENFORCEMENT COSTS FOR CERTAIN FEES AND CHARGES.

Section 2110(d) of title 46, United States Code, is amended—

(1) by inserting ''(A)'' after ''(2)''; and

(2) by adding at the end the following:

''(B) For purposes of subparagraph (A), costs of collecting the fee or charge include the reasonable administrative, accounting, personnel, contract, equipment, supply, training, and travel expenses of calculating, assessing, collecting, enforcing, reviewing, adjusting, and reporting on the fees and charges.''.

SEC. 406. COMPLIANCE WITH INTERNATIONAL SAFETY MANAGEMENT CODE.

(a) APPLICATION OF EXISTING LAW.—Section 3202(a) of title 46, United States Code, is amended to read as follows:

''(a) MANDATORY APPLICATION.—This chapter applies to a vessel that—

''(1)(A) is transporting more than 12 passengers described in section 2101(21)(A) of this title; or

''(B) is of at least 500 gross tons as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title, that is a tanker, freight vessel, bulk freight vessel, high speed freight vessel, or self-propelled mobile offshore drilling unit; and

''(2)(A) is engaged on a foreign voyage; or

''(B) is a foreign vessel departing from a place under the jurisdiction of the United States on a voyage, any part of which is on the high seas.''.

(b) COMPLIANCE OF REGULATIONS WITH INTERNATIONAL SAFETY MANAGEMENT CODE.—Section 3203(b) of title 46, United States Code, is amended by striking ''vessels engaged on a foreign voyage.'' and inserting ''vessels to which this chapter applies under section 3202(a) of this title.''.

SEC. 407. CIVIL PENALTIES FOR FAILURE TO COMPLY WITH RECREATIONAL VESSEL AND ASSOCIATED EQUIPMENT SAFETY STANDARDS.

Section 4311(b) of title 46, United States Code, is amended—

(1) by striking the first sentence and inserting ''A person violating section 4307(a) of this title is liable to the United States Government for a civil penalty of not more than $5,000, except that the maximum civil penalty may be not more than $250,000 for a related series of violations.''; and

(2) in the second sentence, by striking ''4307(a)(1)'' and inserting ''4307(a)''.

SEC. 408. REVISION OF TEMPORARY SUSPENSION CRITERIA IN DOCUMENT SUSPENSION AND REVOCATION CASES.

Section 7702(d) of title 46, United States Code, is amended—

(1) in paragraph (1) by striking ''if, when acting under the authority of that license, certificate, or document—'' and inserting ''if—'';

(2) in paragraph (1)(B)(i), by inserting '', while acting under the authority of that license, certificate, or document,'' after ''has'';

(3) by striking ''or'' after the semicolon at the end of paragraph (1)(B)(ii);

(4) by striking the period at the end of paragraph (1)(B)(iii) and inserting ''; or''; and

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

''(iv) is a threat to the safety or security of a vessel or a public or commercial structure located within or adjacent to the marine environment.''.

SEC. 409. REVISION OF BASES FOR DOCUMENT SUSPENSION AND REVOCATION CASES.

Section 7703 of title 46, United States Code, is amended—

(1) in paragraph (1)(B)—

(A) by striking ''incompetence,''; and

(B) by striking the comma after ''misconduct'';

(2) by striking ''or'' after the semicolon at the end of paragraph (2);

(3) by striking the period at the end of paragraph (3) and inserting a semicolon; and

(4) by adding at the end the following:

''(4) has committed an act of incompetence; or

''(5) is a threat to the safety or security of a vessel or a structure located within or adjacent to the marine environment.''.

SEC. 410. HOURS OF SERVICE ON TOWING VESSELS.

(a) REGULATIONS.—Section 8904 of title 46, United States Code, is amended by adding at the end of the following:

''(c) The Secretary may prescribe by regulation requirements for maximum hours of service (including recording and record-keeping of that service) of individuals engaged on a towing vessel that is at least 26 feet in length measured from end to end over the deck (excluding the sheer).''.

(b) DEMONSTRATION PROJECT.—Prior to prescribing regulations under this section the Secretary shall conduct and report to the Congress on the results of a demonstration project involving the implementation of Crew Endurance Management Systems on towing vessels. The report shall include a description of the public and private sector resources needed to enable implementation of Crew Endurance Management Systems on all United States-flag towing vessels.

SEC. 411. AUTOMATIC IDENTIFICATION SYSTEM ELECTRONIC CHARTS.

Section 70114(a)(1) of title 46, United States Code, is amended by inserting '', including an electronic chart and related display,'' after ''automatic identification system'' the first place it appears.

SEC. 412. PREVENTION OF DEPARTURE.

(a) IN GENERAL.—Section 3505 of title 46, United States Code, is amended to read as follows:

''§ 3505. Prevention of departure

''Notwithstanding section 3303 of this title, a foreign vessel carrying a citizen of the United States as a passenger or that embarks passengers from a United States port may not depart from a United States port if the Secretary finds that the vessel does not comply with the standards stated in the International Convention for the Safety of Life at Sea to which the United States Government is currently a party.''.

(b) CONFORMING AMENDMENT.—Section 3303 of title 46, United States Code, is amended by inserting ''and section 3505'' after ''chapter 37''.

TITLE V—FEDERAL MARITIME COMMISSION

SEC. 501. AUTHORIZATION OF APPROPRIATIONS FOR FEDERAL MARITIME COMMISSION.

There is authorized to be appropriated to the Federal Maritime Commission $18,471,000 for Fiscal Year 2004.

TITLE VI—MISCELLANEOUS

SEC. 601. INCREASE IN CIVIL PENALTIES FOR VIOLATIONS OF CERTAIN BRIDGE STATUTES.

(a) GENERAL BRIDGE ACT OF 1906.—Section 5(b) of Act of March 23, 1906 (chapter 1130; 33 U.S.C. 495), popularly known as the General Bridge Act, is amended by striking ''$1,000'' and inserting ''$5,000 for a violation occurring in 2004; $10,000 for a violation occurring in 2005; $15,000 for a violation occurring in 2006; $20,000 for a violation occurring in 2007; and $25,000 for a violation occurring in 2008 and any year thereafter''.

(b) DRAWBRIDGES.—Section 5(c) of the Act entitled ''An Act making appropriations for the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes'', approved August 18, 1894 (33 U.S.C. 499(c)), is amended by striking ''$1,000'' and inserting ''$5,000 for a violation occurring in 2004; $10,000 for a violation occurring in 2005; $15,000 for a violation occurring in 2006; $20,000 for a violation occurring in 2007; and $25,000 for a violation occurring in 2008 and any year thereafter''.

(c) ALTERATION, REMOVAL, OR REPAIR OF BRIDGES.—Section 18(c) of the Act entitled ''An Act making appropriations for the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes'', approved March 3, 1899 (33 U.S.C. 502(c)) is amended by striking ''$1,000'' and inserting ''$5,000 for a violation occurring in 2004; $10,000 for a violation occurring in 2005; $15,000 for a violation occurring in 2006; $20,000 for a violation occurring in 2007; and $25,000 for a violation occurring in 2008 and any year thereafter''.

(d) GENERAL BRIDGE ACT OF 1946.—Section 510(b) of the General Bridge Act of 1946 (33 U.S.C. 533(b)) is amended by striking ''$1,000'' and inserting ''$5,000 for a violation occurring in 2004; $10,000 for a violation occurring in 2005; $15,000 for a violation occurring in 2006; $20,000 for a violation occurring in 2007; and $25,000 for a violation occurring in 2008 and any year thereafter''.

SEC. 602. CONVEYANCE OF DECOMMISSIONED COAST GUARD CUTTER SUNDEW.

(a) IN GENERAL.—Upon the scheduled decommissioning of the Coast Guard Cutter SUNDEW, the Commandant of the Coast Guard shall convey all right, title, and interest of the United States in and to that vessel to Duluth Entertainment and Convention Center Authority (a nonprofit corporation under the laws of the State of Minnesota; in this section referred to as the ''recipient''), located in Duluth, Minnesota, without consideration, if—

(1) the recipient agrees—

(A) to use the vessel for purposes of education and historical display;

(B) not to use the vessel for commercial transportation purposes;

(C) to make the vessel available to the United States Government if needed for use by the Commandant in time of war or a national emergency; and

(D) to hold the Government harmless for any claims arising from exposure to hazardous materials, including asbestos and polychlorinated biphenyls (PCBs), after conveyance of the vessel, except for claims arising from the use by the Government under subparagraph (C);

(2) the recipient has funds available that will be committed to operate and maintain the vessel conveyed in good working condition, in the form of cash, liquid assets, or a written loan commitment, and in an amount of at least $700,000; and

(3) the recipient agrees to any other conditions the Commandant considers appropriate.

(b) MAINTENANCE AND DELIVERY OF VESSEL.—Prior to conveyance of the vessel under this section, the Commandant shall, to the extent practical, and subject to other Coast Guard mission requirements, make every effort to maintain the integrity of the vessel and its equipment until the time of delivery. If a conveyance is made under this section, the Commandant shall deliver the vessel at the place where the vessel is located, in its present condition, and without cost to the Government. The conveyance of the vessel under this section shall not be considered a distribution in commerce for purposes of section 6(e) of Public Law 94–469 (15 U.S.C. 2605(e)).

(c) OTHER EXCESS EQUIPMENT.—The Commandant may convey to the recipient any excess equipment or parts from other decommissioned Coast Guard vessels for use to enhance the vessel's operability and function as an historical display.

SEC. 603. TONNAGE MEASUREMENT.

(a) M/V BLUEFIN.—The gross tonnage of the M/V BLUEFIN (United States official number 620431) as measured under regulations prescribed under section 14502 of title 46, United States Code, is deemed to be 488 tons.

(b) M/V COASTAL MERCHANT.—The gross tonnage of the M/V COASTAL MERCHANT (United States official number 1038382) as measured under regulations prescribed under section 14502 of title 46, United States Code, is deemed to be 493 tons.

(c) TERMINATION OF APPLICATION.—Subsection (a) or (b) shall not apply on and after any date on which the Secretary of the Department in which the Coast Guard is operating determines, respectively, that the vessel M/V BLUEFIN or the vessel M/V COASTAL MERCHANT has undergone any major modification.

SEC. 604. OPERATION OF VESSEL STAD AMSTERDAM.

(a) IN GENERAL.—Notwithstanding section 8 of the Act of June 19, 1886 (46 App. U.S.C. 289), and the ruling by the Acting Director of the International Trade Compliance Division of the Customs Service on May 17, 2002 (Customs Bulletins and Decisions, Vol. 36, No. 23, June 5, 2002), the vessel STAD AMSTERDAM (International Maritime Organization number 9185554) shall be authorized to carry within United States waters and between ports or places in the United States individuals who are not directly and substantially connected with the operation, navigation, ownership, or business of the vessel, who are friends, guests, or employees of the owner of the vessel, and who are not actual or prospective customers for hire of the vessel.

(b) LIMITATION.—This section does not authorize the vessel STAD AMSTERDAM to be used to carry individuals for a fare or to be chartered on a for-hire basis in the coastwise trade.

SEC. 605. GREAT LAKES NATIONAL MARITIME ENHANCEMENT INSTITUTE.

(a) DESIGNATION.—The Secretary of Transportation may designate a National Maritime Enhancement Institute for the Great Lakes Region.

(b) AUTHORIZED ACTIVITIES.—In addition to the activities that may be undertaken by that Institute under section 8(b) of Public Law 101–115 (46 App. U.S.C. 1121–2), the Great Lakes National Maritime Enhancement Institute may—

(1) conduct research and evaluate short sea shipping market opportunities on the Great Lakes, including the expanded use of freight ferries, improved mobility, and regional supply chain efficiency;

(2) evaluate markets for foreign trade between ports on the Great Lakes and draft-limited ports in Europe and Africa;

(3) evaluate the environmental benefits of waterborne transportation in the Great Lakes region;

(4) analyze the effect of the Harbor Maintenance Tax on Great Lakes shipping;

(5) study the state of shipbuilding and ship repair base on the Great Lakes;

(6) evaluate opportunities for passenger vessel services on the Great Lakes;

(7) analyze the origin to destination flow of freight cargo in the Great Lakes region that may be transported on vessels to relieve congestion in other modes of transportation;

(8) evaluate the economic viability establishing transshipment facilities for oceangoing cargoes;

(9) evaluate the adequacy of the infrastructure in ports to meet the needs of marine commerce; and

(10) study and develop new vessel designs for domestic and international shipping on the Great Lakes.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary $5,000,000 for each of fiscal years 2004 through 2008 for the activities described in subsection (b).

SEC. 606. AGILE PORT AND INTELLIGENT BORDER SECURITY NATIONAL DEMONSTRATION PROJECT.

(a) IN GENERAL.—The Secretary of Transportation may carry out an Agile Port and Intelligent Border Security National Demonstration Project under the Center for the Commercial Deployment of Transportation Technologies to develop and deploy dual use transportation technologies for commercial applications, including the following:

(1) Agile port facilities, including inland multi-modal transportation facilities.

(2) Advanced cargo and passenger vessel hull design, propulsion systems, and construction.

(3) Regional supply chain efficiency, improved mobility, and air quality.

(4) Maritime, port, cargo, and supply chain security, and total asset visibility.

(b) AUTHORIZATION OF APPROPRIATIONS.—To carry out the demonstration project under subsection (a) there is authorized to be appropriated to the Secretary of Transportation $5,000,000 for fiscal year 2004.

SEC. 607. KOSS COVE.

(a) IN GENERAL.—Notwithstanding any other provision of law or existing policy, the cove described in subsection (b) shall be known and designated as ''Koss Cove'', in honor of the late Able Bodied Seaman Eric Steiner Koss of the National Oceanic and Atmospheric Administration vessel RAINER who died in the performance of a nautical charting mission off the coast of Alaska.

(b) COVE DESCRIBED.—The cove referred to in subsection (a) is—

(1) adjacent to and southeast of Point Elrington, Alaska, and forms a portion of the southern coast of Elrington Island;

(2) ¾ mile across the mouth;

(3) centered at 59 degrees 56.1 minutes North, 148 degrees 14 minutes West; and

(4) 45 miles from Seaward, Alaska.

(c) REFERENCES.—Any reference in any law, regulation, document, record, map, or other paper of the United States to the cove described in subsection (b) is deemed to be a reference to Koss Cove.

SEC. 608. MISCELLANEOUS CERTIFICATES OF DOCUMENTATION.

Notwithstanding section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883), section 8 of the Act of June 19, 1886 (24 Stat. 81, chapter 421; 46 App. U.S.C. 289), and section 12106 of title 46, United States Code, the Secretary of the department in which the Coast Guard is operating may issue a certificate of documentation with appropriate endorsement for employment in the coastwise trade for the following vessels:

(1) OCEAN LEADER (United States official number 679511).

(2) REVELATION (United States official number 1137565).

SEC. 609. DREDGING STUDY.

(a) STUDY.—The Director of the Congressional Budget Office shall study and report to the Committee on Transportation and Infrastructure of the House of Representatives on the impacts of chartering by foreign citizens of dredges documented under the laws of the United States, on—

(1) the structure, conduct, and performance, of the United States dredging market; and

(2) costs paid by Federal agencies for dredging projects.

(b) FOREIGN CITIZEN DEFINED.—In subsection (a), the term ''foreign citizen'' means any corporation, partnership, or association that does not qualify as a citizen of the United States under section 2 of the Shipping Act of 1916 (46 APP. U.S.C. 802).

SEC. 610. REPORT REGARDING SECURITY INSPECTION OF VESSELS AND VESSEL-BORNE CARGO CONTAINERS ENTERING THE UNITED STATES.

(a) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act, the Secretary of the Department in which the Coast Guard is operating shall report to the Congress regarding the numbers and types of vessels and vessel-borne cargo containers that enter the United States in a year.

(b) CONTENTS.—The report under this section shall include the following:

(1) A section regarding security inspection of vessels that includes the following:

(A) A complete breakdown of the numbers and types of vessels that entered the United States in the most recent 1-year period for which information is available.

(B) The cost incurred by the Federal Government in inspecting such vessels in such 1-year period, including specification and comparison of such cost for each type of vessel.

(C) An estimate of the per-vessel cost that would be incurred by the Federal Government in inspecting in a foreign port each type of vessel that enters the United States each year, including costs for personnel, vessels, equipment, and funds.

(D) An estimate of the annual total cost that would be incurred by the Federal Government in inspecting in foreign ports all vessels that enter the United States each year, including costs for personnel, vessels, equipment, and funds.

(2) A section regarding security inspection of containers that includes the following:

(A) A complete breakdown of the numbers and types of vessel-borne cargo containers that entered the United States in the most recent 1-year period for which information is available, including specification of the number of 1 TEU containers and the number of 2 TEU containers.

(B) The cost incurred by the Federal Government in inspecting such containers in such 1-year period, including specification and comparison of such cost for a 1 TEU container and for a 2 TEU container.

(C) An estimate of the per-container cost that would be incurred by the Federal Government in inspecting in a foreign port each type of vessel-borne container that enters the United States each year, including costs for personnel, vessels, equipment, and funds.

(D) An estimate of the annual total cost that would be incurred by the Federal Government in inspecting in foreign ports all vessel-borne containers that enter the United States each year, including costs for personnel, vessels, equipment, and funds.

TITLE VII—AMENDMENTS RELATING TO OIL POLLUTION ACT OF 1990

SEC. 701. VESSEL RESPONSE PLANS FOR NONTANK VESSELS OVER 400 GROSS TONS.

(a) NONTANK VESSEL DEFINED.—Section 311(j) of the Federal Water Pollution Control Act (33 U.S.C. 1321(j)) is amended by adding at the end the following:

''(9) NONTANK VESSEL DEFINED.—In this subsection, the term 'nontank vessel' means a self-propelled vessel of 400 gross tons (as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of such title as prescribed by the Secretary under section 14104 of such title) or greater, other than a tank vessel, that carries oil of any kind as fuel for main propulsion and that—

''(A) is a vessel of the United States; or

''(B) operates on the navigable waters of the United States.''.

(b) AMENDMENTS TO REQUIRE RESPONSE PLANS.—Section 311(j) of the Federal Water Pollution Control Act (33 U.S.C. 1321(j)) is amended—

(1) in paragraph (5) in the heading by inserting '', NONTANK VESSEL,'' after ''VESSEL'';

(2) in paragraph 5(A) by inserting '', nontank vessel,'' after ''vessel'';

(3) in paragraph (5)(B), in the matter preceding clause (i), by inserting '', nontank vessels,'' after ''vessels'';

(4) in paragraph (5)(B), by redesignating clauses (ii) and (iii) as clauses (iii) and (iv), respectively, and by inserting after clause (i) the following:

''(ii) A nontank vessel.'';

(5) in paragraph (5)(D)—

(A) by inserting '', nontank vessel,'' after ''vessel'';

(B) by striking ''and'' after the semicolon at the end of clause (iii);

(C) by striking the period at the end of clause (iv) and inserting ''; and''; and

(D) by adding after clause (iv) the following:

''(v) for nontank vessels, consider any applicable State-mandated response plan and ensure consistency to the extent practicable.'';

(6) in paragraph (5)(E), in the matter preceding clause (i), by inserting ''nontank vessel,'' after ''vessel,'';

(7) in paragraph (5)(E)(i) by inserting ''nontank vessel,'' , after ''vessel,'';

(8) in paragraph (5)(F) by striking ''tank vessel or'' and inserting ''vessel or'';

(9) in paragraph (5)(G) by inserting ''nontank vessel,'' after ''vessel,'';

(10) in paragraph (5)(H) by inserting ''and nontank vessel'' after ''each tank vessel'';

(11) in paragraph (6) in the matter preceding subparagraph (A) by striking ''Not later than 2 years after the date of enactment of this section, the President shall require—'' and inserting ''The President may require—'';

(12) in paragraph (6)(B) by inserting '', and nontank vessels carrying oil of any kind as fuel for main propulsion,'' after ''cargo''; and

(13) in paragraph (7) by inserting '', nontank vessel,'' after ''vessel''.

(c) IMPLEMENTATION DATE.—The President shall not require the owner or operator of a nontank vessel (as defined section 311(j)(9) of the Federal Water Pollution Control Act (33 U.S.C. 1321(j)(9), as amended by this section) to prepare and submit a vessel response plan for such vessel before the end of the one-year period beginning on the date of the enactment of this Act.

SEC. 702. REQUIREMENTS FOR TANK LEVEL AND PRESSURE MONITORING DEVICES.

Section 4110 of the Oil Pollution Act of 1990 (46 U.S.C. 3703 note) is amended—

(1) in subsection (a), by striking ''Not later than 1 year after the date of the enactment of this Act, the Secretary shall'' and inserting ''The Secretary may'';

(2) in subsection (b)—

(A) by striking ''Not later than 1 year after the date of the enactment of this Act, the Secretary shall'' and inserting ''No sooner than 1 year after the Secretary prescribes regulations under subsection (a), the Secretary may''; and

(B) by striking ''the standards'' and inserting ''any standards''.

SEC. 703. LIABILITY AND COST RECOVERY.

(a) DEFINITION OF OWNER OR OPERATOR.—Section 1001(26) of the Oil Pollution Act of 1990 (33 U.S.C. 2701(26)) is amended to read as follows:

''(26) 'owner or operator'—

''(A) means—

''(i) in the case of a vessel, any person owning, operating, or chartering by demise, the vessel;

''(ii) in the case of an onshore or offshore facility, any person owning or operating such facility;

''(iii) in the case of any abandoned offshore facility, the person who owned or operated such facility immediately prior to such abandonment;

''(iv) in the case of any facility, title or control of which was conveyed due to bankruptcy, foreclosure, tax delinquency, abandonment, or similar means to a unit of State or local government, any person who owned, operated, or otherwise controlled activities at such facility immediately beforehand;

''(v) notwithstanding subparagraph (B)(i), any State or local government that has caused or contributed to a discharge or substantial threat of a discharge of oil from a vessel or facility ownership or control of which was acquired involuntarily through bankruptcy, tax delinquency, abandonment, or other circumstances in which the government involuntarily acquires title by virtue of its function as sovereign; and

''(vi) notwithstanding subparagraph (B)(ii), a person that is a lender and that holds indicia of ownership primarily to protect a security interest in a vessel or facility if, while the borrower is still in possession of the vessel or facility encumbered by the security interest, the person—

''(I) exercises decisionmaking control over the environmental compliance related to the vessel or facility, such that the person has undertaken

responsibility for oil handling or disposal practices related to the vessel or facility; or

''(II) exercises control at a level comparable to that of a manager of the vessel or facility, such that the person has assumed or manifested responsibility—

''(aa) for the overall management of the vessel or facility encompassing day-to-day decisionmaking with respect to environmental compliance; or

''(bb) over all or substantially all of the operational functions (as distinguished from financial or administrative functions) of the vessel or facility other than the function of environmental compliance; and

''(B) does not include—

''(i) a unit of State or local government that acquired ownership or control of a vessel or facility involuntarily through bankruptcy, tax delinquency, abandonment, or other circumstances in which the government involuntarily acquires title by virtue of its function as sovereign;

''(ii) a person that is a lender that does not participate in management of a vessel or facility, but holds indicia of ownership primarily to protect the security interest of the person in the vessel or facility;

''(iii) a person that is a lender that did not participate in management of a vessel or facility prior to foreclosure, notwithstanding that the person—

''(I) forecloses on the vessel or facility; and

''(II) after foreclosure, sells, re-leases (in the case of a lease finance transaction), or liquidates the vessel or facility, maintains business activities, winds up operations, undertakes a removal action under 311(c) of the Federal Water Pollution Control Act (33 U.S.C. 311(c)) or under the direction of an on-scene coordinator appointed under the National Contingency Plan, with respect to the vessel or facility, or takes any other measure to preserve, protect, or prepare the vessel or facility prior to sale or disposition,

if the person seeks to sell, re-lease (in the case of a lease finance transaction), or otherwise divest the person of the vessel or facility at the earliest practicable, commercially reasonable time, on commercially reasonable terms, taking into account market conditions and legal and regulatory requirements;''.

(b) OTHER DEFINITIONS.—Section 1001 of the Oil Pollution Act of 1990 (33 U.S.C. 2701) is amended by striking ''and'' after the semicolon at the end of paragraph (36), by striking the period at the end of paragraph (37) and inserting a semicolon, and by adding at the end the following:

''(38) 'participate in management'—

''(A)(i) means actually participating in the management or operational affairs of a vessel or facility; and

''(ii) does not include merely having the capacity to influence, or the unexercised right to control, vessel or facility operations; and

''(B) does not include—

''(i) performing an act or failing to act prior to the time at which a security interest is created in a vessel or facility;

''(ii) holding a security interest or abandoning or releasing a security interest;

''(iii) including in the terms of an extension of credit, or in a contract or security agreement relating to the extension, a covenant, warranty, or other term or condition that relates to environmental compliance;

''(iv) monitoring or enforcing the terms and conditions of the extension of credit or security interest;

''(v) monitoring or undertaking one or more inspections of the vessel or facility;

''(vi) requiring a removal action or other lawful means of addressing a discharge or substantial threat of a discharge of oil in connection with the vessel or facility prior to, during, or on the expiration of the term of the extension of credit;

''(vii) providing financial or other advice or counseling in an effort to mitigate, prevent, or cure default or diminution in the value of the vessel or facility;

''(viii) restructuring, renegotiating, or otherwise agreeing to alter the terms and conditions of the extension of credit or security interest, exercising forbearance;

''(ix) exercising other remedies that may be available under applicable law for the breach of a term or condition of the extension of credit or security agreement; or

''(x) conducting a removal action under 311(c) of the Federal Water Pollution Control Act (33 U.S.C. 1321(c)) or under the direction of an on-scene coordinator appointed under the National Contingency Plan,

if such actions do not rise to the level of participating in management under subparagraph (A) of this paragraph and paragraph (26)(A)(vi);

''(39) 'extension of credit' has the meaning provided in section 101(20)(G)(i) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (42 U.S.C. 9601(20)(G)(i));

''(40) 'financial or administrative function' has the meaning provided in section 101(20)(G)(ii) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (42 U.S.C. 9601(20)(G)(ii));

''(41) 'foreclosure' and 'foreclose' each has the meaning provided in section 101(20)(G)(iii) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (42 U.S.C. 9601(20)(G)(iii));

''(42) 'lender' has the meaning provided in section 101(20)(G)(iv) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (42 U.S.C. 9601(20)(G)(iv));

''(43) 'operational function' has the meaning provided in section 101(20)(G)(v) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (42 U.S.C. 9601(20)(G)(v)); and

''(44) 'security interest' has the meaning provided in section 101(20)(G)(vi) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (42 U.S.C. 9601(20)(G)(vi)).''.

(c) DEFINITION OF CONTRACTUAL RELATIONSHIP.—Section 1003 of the Oil Pollution Act of 1990 (33 U.S.C. 2703) is amended by adding at the end the following:

''(d) DEFINITION OF CONTRACTUAL RELATIONSHIP.—

''(1) IN GENERAL.—For purposes of subsection (a)(3) the term 'contractual relationship' includes, but is not limited to, land contracts, deeds, easements, leases, or other instruments transferring title or possession, unless—

''(A) the real property on which the facility concerned is located was acquired by the responsible party after the discharge of the oil on, in, or at the facility;

''(B) one or more of the circumstances described in subparagraph (A), (B), or (C) of paragraph (2) is established by the responsible party by a preponderance of the evidence; and

''(C) the responsible party complies with paragraph (3).

''(2) REQUIRED CIRCUMSTANCE.—The circumstances referred to in paragraph (1)(B) are the following:

''(A) At the time the responsible party acquired the real property on which the facility is located the responsible party did not know and had no reason to know that oil that is the subject of the discharge or substantial threat of discharge was placed on, in, or at the facility.

''(B) The responsible party is a government entity that acquired the facility—

''(i) by escheat;

''(ii) through any other involuntary transfer or acquisition; or

''(iii) through the exercise of eminent domain authority by purchase or condemnation.

''(C) The responsible party acquired the facility by inheritance or bequest.

''(3) ADDITIONAL REQUIREMENTS.—For purposes of paragraph (1)(C), the responsible party must establish by a preponderance of the evidence that the responsible party—

''(A) has satisfied the requirements of section 1003(a)(3)(A) and (B);

''(B) has provided full cooperation, assistance, and facility access to the persons that are authorized to conduct removal actions, including the cooperation and access necessary for the installation, integrity, operation, and maintenance of any complete or partial removal action;

''(C) is in compliance with any land use restrictions established or relied on in connection with the removal action; and

''(D) has not impeded the effectiveness or integrity of any institutional control employed in connection with the removal action.

''(4) REASON TO KNOW.—

''(A) APPROPRIATE INQUIRIES.—To establish that the responsible party had no reason to know of the matter described in paragraph (2)(A), the responsible party must demonstrate that—

''(i) on or before the date on which the responsible party acquired the real property on which the facility is located, the responsible party carried out all appropriate inquiries, as provided in subparagraphs (B) and (D), into the previous ownership and uses of the real property on which the facility is located in accordance with generally accepted good commercial and customary standards and practices; and

''(ii) the responsible party took reasonable steps to—

''(I) stop any continuing discharge;

''(II) prevent, minimize or mitigate any substantial threat of discharge; and

''(III) prevent or limit any human, environmental, or natural resource exposure to any discharged oil.

''(B) REGULATIONS ESTABLISHING STANDARDS AND PRACTICES.—Not later than 2 years after the date of the enactment of this paragraph, the Secretary shall by regulation establish standards and practices for the purpose of satisfying the requirement to carry out all appropriate inquiries under subparagraph (A).

''(C) CRITERIA.—In promulgating regulations that establish the standards and practices referred to in subparagraph (B), the Secretary shall include in such standards provisions regarding each of the following:

''(i) The results of an inquiry by an environmental professional.

''(ii) Interviews with past and present owners, operators, and occupants of the facility and the real property on which the facility is located for the purpose of gathering information regarding the potential for oil at the facility and on the real property on which the facility is located.

''(iii) Reviews of historical sources, including, to the extent available, chain of title documents, aerial photographs, building department records, and land use records, to determine previous uses and occupancies of the real property on which the facility is located since the property was first developed.

''(iv) Searches for recorded environmental cleanup liens against the facility and the real property on which the facility is located that are filed under Federal, State, or local law.

''(v) Reviews of Federal, State, and local government records, waste disposal records, underground storage tank records, and waste handling, generation, treatment, disposal, and spill records, concerning oil at the facility and on the real property on which the facility is located.

''(vi) Visual inspections of the facility, the real property on which the facility is located, and adjoining properties.

''(vii) Specialized knowledge or experience on the part of the responsible party.

''(viii) The relationship of the purchase price to the value of the facility and the real property on which the facility is located, if oil was not at the facility or on the real property.

''(ix) Commonly known or reasonably ascertainable information about the facility and the real property on which the facility is located.

''(x) The degree of obviousness of the presence or likely presence of oil at the facility and on the real property on which the facility is located, and the ability to detect the oil by appropriate investigation.

''(D) INTERIM STANDARDS AND PRACTICES.—

''(i) REAL PROPERTY PURCHASED BEFORE MAY 31, 1997.—With respect to real property purchased before May 31, 1997, in making a determination with respect to a responsible party described in subparagraph (A), a court or appropriate official shall take into account—

''(I) any specialized knowledge or experience on the part of the responsible party;

''(II) the relationship of the purchase price to the value of the facility and the real property on which the facility is located, if oil was not at the facility or on the real property;

''(III) commonly known or reasonably ascertainable information about the facility and the real property on which the facility is located;

''(IV) the obviousness of the presence or likely presence of oil at the facility and on the real property on which the facility is located; and

''(V) the ability of the responsible party to detect the oil by appropriate inspection.

''(ii) REAL PROPERTY PURCHASED ON OR AFTER MAY 31, 1997.—With respect to real property purchased on or after May 31, 1997, until the Secretary promulgates the regulations described in clause (ii), the procedures of the American Society for Testing and Materials, including the document known as 'Standard E1527–97', entitled 'Standard Practice for Environmental Site Assessment: Phase I Environmental Site Assessment Process', shall satisfy the requirements in subparagraph (A).

''(E) SITE INSPECTION AND TITLE SEARCH.—In the case of real property for residential use or other similar use purchased by a nongovernmental or noncommercial entity, inspection and title search of the facility and the real property on which the facility is located that reveal no basis for further investigation shall be considered to satisfy the requirements of this paragraph.

''(5) PREVIOUS OWNER OR OPERATOR.—Nothing in this paragraph or in section 1003(a)(3) shall diminish the liability of any previous owner or operator of such facility who would otherwise be liable under this Act. Notwithstanding this paragraph, if a responsible party obtained actual knowledge of the discharge or substantial threat of discharge of oil at such facility when the responsible party owned the facility and then subsequently transferred ownership of the facility or the real property on which the facility is located to another person without disclosing such knowledge, the responsible party shall be treated as liable under 1002(a) and no defense under section 1003(a) shall be available to such responsible party.

''(6) LIMITATION ON DEFENSE.—Nothing in this paragraph shall affect the liability under this Act of a responsible party who, by any act or omission, caused or contributed to the discharge or substantial threat of discharge of oil which is the subject of the action relating to the facility.''.

The CHAIRMAN pro tempore. During consideration of the bill for amendment, the Chair may accord priority in recognition to a Member offering an amendment that he has printed in the designated place in the CONGRESSIONAL RECORD. Those amendments will be considered as read.

Are there any amendments to the bill?

AMENDMENT OFFERED BY MR. LOBIONDO

Mr. LOBIONDO. Madam Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. LOBIONDO:

Strike section 101 (page 3, beginning at line 2) and insert the following:

SEC. 101. AUTHORIZATION OF APPROPRIATIONS.

Funds are authorized to be appropriated for fiscal year 2004 for necessary expenses of the Coast Guard as follows:

(1) For the operation and maintenance of the Coast Guard, $4,865,000,000, of which $25,000,000 is authorized to be derived from the Oil Spill Liability Trust Fund to carry out the purposes of section 1012(a)(5) of the Oil Pollution Act of 1990.

(2) For the acquisition, construction, rebuilding, and improvement of aids to navigation, shore and offshore facilities, vessels, and aircraft, including equipment related thereto, $1,147,000,000, of which—

(A) $23,500,000 is authorized to be derived from the Oil Spill Liability Trust Fund to carry out the purposes of section 1012(a)(5) of the Oil Pollution Act of 1990; and

(B) $702,000,000 is authorized for acquisition and construction of shore and offshore facilities, vessels, and aircraft, including equipment related thereto, and other activities that constitute the Integrated Deepwater System program.

(3) For research, development, test, and evaluation of technologies, materials, and human factors directly relating to improving the performance of the Coast Guard's mission in search and rescue, aids to navigation, marine safety, marine environmental protection, enforcement of laws and treaties, ice operations, oceanographic research, and defense readiness, $22,000,000, to remain available until expended, of which $3,500,000 is authorized to be derived from the Oil Spill Liability Trust Fund to carry out the purposes of section 1012(a)(5) of the Oil Pollution Act of 1990.

(4) For retired pay (including payment of obligations otherwise chargeable to lapsed appropriations for this purpose), payments under the Retired Serviceman's Family Protection and Survivor Benefit Plans, and payments for medical care of retired personnel and their dependents under chapter 55 of title 10, United States Code, $1,020,000,000.

(5) For alteration or removal of bridges over navigable waters of the United States constituting obstructions to navigation, and for personnel and administrative costs associated with the Bridge Alteration Program, $19,250,000, to remain available until expended.

(6) For environmental compliance and restoration at Coast Guard facilities (other than parts and equipment associated with operation and maintenance), $17,000,000, to remain available until expended.

(7) For maintenance and operation of facilities, supplies, equipment, and services necessary for the Coast Guard Reserve, as authorized by law, $114,000,000.

Strike section 205 (page 10, beginning at line 12) and insert the following:

SEC. 205. INDEMNIFICATION FOR DISABLING VESSELS LIABLE TO SEIZURE OR EXAMINATION.

(a) REPEAL OF REQUIREMENT TO FIRE WARNING SHOT.—Subsection (a) of section 637 of title 14, United States Code, is amended—

(1) by inserting ''(1)'' after ''(a)'';

(2) by striking ''after a'' and all that follows through ''signal,'' and inserting ''subject to paragraph (2),''; and

(3) by adding at the end the following:

''(2) Before firing at or into a vessel as authorized in paragraph (1), the person in command or in charge of the authorized vessel or authorized aircraft shall fire a gun as a warning signal, except that the prior firing of a gun as a warning signal is not required if that person determines that the firing of a warning signal would unreasonably endanger persons or property in the vicinity of the vessel to be stopped.''.

(b) EXTENSION TO MILITARY AIRCRAFT OF COAST GUARD INTERDICTION AUTHORITY.—Subsection (c) of such section is amended—

(1) in paragraph (1) by inserting ''or'' after the semicolon; and

(2) in paragraph (2) by—

(A) inserting ''or military aircraft'' after ''surface naval vessel''; and

(B) striking ''; or'' and all that follows through paragraph (3) and inserting a period.

(c) REPEAL OF TERMINATION OF APPLICABILITY TO NAVAL AIRCRAFT.—Subsection (d) of such section is repealed.

(d) TECHNICAL CORRECTION.—

(1) CORRECTION.—Section 637 of title 14, United States Code, is amended in the section heading by striking ''immunity'' and inserting ''indemnification''.

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 17 of title 14, United States Code, is amended by striking the item relating to section 637 and inserting the following:

''637. Stopping vessels; indemnification for firing at or into vessel.''.

Page 12, line 21, insert '', subject to the availability of appropriations,'' after ''expense, and''.

Strike section 209 (page 17, beginning at line 7) and insert the following:

SEC. 209. MAXIMUM AGE FOR RETENTION IN AN ACTIVE STATUS.

Section 742 of title 14, United States Code, is amended to read as follows:

''§ 742. Maximum age for retention in an active status

''(a) A Reserve officer, if qualified, shall be transferred to the Retired Reserve on the day the officer becomes 60 years of age unless on active duty. If not qualified for retirement, a Reserve officer shall be discharged effective upon the day the officer becomes 60 years of age unless on active duty.

''(b) A Reserve officer on active duty shall, if qualified, be retired effective upon the day the officer become 62 years of age. If not qualified for retirement, a Reserve officer on active duty shall be discharged effective upon the day the officer becomes 62 years of age.

''(c) Notwithstanding subsection (a)and (b), the Secretary may authorize the retention of a Reserve rear admiral or rear admiral (lower half) in an active status not longer than the day on which the officer concerned becomes 64 years of age.

''(d) For purposes of this section, 'active duty' does not include active duty for training, duty on a board, or duty of a limited or temporary nature if assigned to active duty from an inactive duty status.''.

At the end of title II (page 22, after line 5) insert the following:

SEC. 2___. ROTC DEMONSTRATION PROJECT.

(a) IN GENERAL.—For the purpose of preparing selected students for commissioned service in the Coast Guard, the Secretary of the Department in which the Coast Guard is operating (in this section referred to as the ''Secretary''), in consultation with the Superintendent of the Coast Guard Academy, may establish and maintain a Senior Reserve Officers' Training Corps demonstration project at the University of Alaska (in this section referred to as the ''University'').

(b) OBLIGATIONS OF UNIVERSITY, GENERALLY.—As part of any demonstration project undertaken under this section, the University shall—

(1) give the senior commissioned Coast Guard officer who is assigned to the project the academic rank of professor;

(2) adopt, as a part of its curriculum, a 4-year course of military instruction as prescribed by the Secretary; and

(3) provide advanced training to eligible members of the project.

(c) STUDENT ELIGIBILITY.—To be eligible for membership in the project an individual must—

(1) be a student at the University;
(2) be a citizen of the United States;
(3) be selected for advanced training under procedures prescribed by the Secretary;
(4) enlist in the Coast Guard for the period prescribed by the Secretary;
(5) contract (with the consent of the individual's parent or guardian if the individual is a minor) with the Secretary, or a designated representative of the Secretary, to serve for the period required by the program;
(6) agree in writing to accept an appointment, if offered, as a commissioned officer in the Coast Guard and to serve for the period prescribed by the Secretary;
(7) either—
(A) complete successfully—
(i) the first 2 years of the 4-year Senior Coast Guard Reserve Officers' Training Corps course; or
(ii) field training or a practice cruise of a duration prescribed by the Secretary as a preliminary requirement for admission to the advanced course; or
(B) at the discretion of the Secretary concerned, agree in writing to complete field training or a practice cruise, as prescribed by the Secretary, within 2 years after admission to the advanced course; and
(8) execute a certificate of loyalty in such form as the Secretary prescribes or take a loyalty oath as prescribed by the Secretary.

(d) SERVICE OBLIGATION.—A member of the project who is selected for advanced training under subsection (c), and who does not complete the course of instruction, or who completes the course but declines to accept a commission when offered, may be ordered to active duty by the Secretary to serve in the member's enlisted grade or rating for such period of time as the Secretary prescribes but not for more than 2 years.

(e) APPOINTMENT AS OFFICER.—
(1) IN GENERAL.—Upon satisfactorily completing the academic and military requirements of the program of advanced training under subsection (c), a member of the project who was selected for advanced training under subsection (c) may be appointed as a regular or reserve officer in the Coast Guard in the grade of second lieutenant or ensign, even if under 21 years of age.
(2) DATE OF RANK.—The date of rank of officers appointed under this subsection in May or June of any year is the date of graduation of cadets from the Coast Guard Academy. The Secretary shall establish the date of rank of all other officers appointed under this subsection.
(3) COMPUTATION OF LENGTH OF SERVICE.—In computing length of service for any purpose, an officer appointed under this subsection may not be credited with enlisted service for the period covered by advanced training under this section, other than any period of enlisted service performed in the Coast Guard.

(f) APPOINTMENT AS CADET.—
(1) IN GENERAL.—The Secretary may appoint as a cadet in the Coast Guard reserve any eligible member of the project who will be under 31 years of age on December 31 of the calendar year in which the member is eligible under this section for appointment as an ensign in the Coast Guard.
(2) ELIGIBILITY REQUIREMENTS.—To be an eligible member of the project for purposes of paragraph (1) a member must—
(A) be a citizen of the United States;
(B) be specially selected for the financial assistance program under procedures prescribed by the Secretary;
(C) enlist in the Coast Guard reserve as a cadet for the period prescribed by the Secretary;
(D) contract (with the consent of the member's parent or guardian if the member is a minor) with the Secretary, or a designated representative of the Secretary, to serve for the period required by the project; and
(E) agree in writing that, at the discretion of the Secretary, the member will—
(i)(I) accept an appointment, if offered, as a commissioned officer in Coast Guard, and, if the member is commissioned as a regular officer and the member's regular commission is terminated before the sixth anniversary of the member's date of rank, the member accept an appointment, if offered, in the Coast Guard reserve and not resign before that anniversary or before such other date, not beyond the eighth anniversary of the member's date of rank, that the Secretary may prescribe; and
(II) serve on active duty for 4 or more years;
(ii)(I) accept an appointment, if offered, as a commissioned officer in the Coast Guard; and
(II) serve in the Coast Guard reserve until the eighth anniversary of the receipt of such appointment, unless otherwise extended under subsection (g)(4), under such terms and conditions as shall be prescribed by the Secretary; or
(iii)(I) accept an appointment, if offered, as a commissioned officer in the Coast Guard; and
(II) serve in the Coast Guard reserve until at least the sixth anniversary and, at the discretion of the Secretary, up to the eighth anniversary of the receipt of such appointment, unless such appointment is otherwise extended under subsection (g)(4), under such terms and conditions as may be prescribed by the Secretary.

The performance of service under subparagraph (E)(ii) or (E)(iii) may include periods of active duty, active duty for training, and other service in an active or inactive status in the Coast Guard reserve, except that performance of service under subparagraph (E)(iii) shall include not less than 2 years of active duty.

(3) APPOINTMENT AS OFFICER.—Upon satisfactorily completing the academic and military requirements of the project, a cadet may be appointed as a regular or reserve officer in the grade of second lieutenant or ensign, even if under 21 years of age.
(4) DATE OF RANK.—The date of rank of officers appointed under this subsection in May or June of any year is the date of graduation of cadets from Coast Guard Academy in that year. The Secretary shall establish the date of rank of all other officers appointed under this subsection.
(5) SERVICE OBLIGATION.—A cadet who does not complete the 4-year course of instruction, or who completes the course but declines to accept a commission when offered, may be ordered to active duty by the Secretary to serve in the member's enlisted grade or rating for such period of time as the Secretary prescribes but not for more than 4 years.

(g) ADVANCED STANDING.—
(1) IN GENERAL.—The Secretary may give to any enlisted member of the Coast Guard, or any person who has served on active duty in any armed force, such advanced standing in the program as may be justified by the member's education and training.
(2) ELIGIBILITY FOR ADVANCED TRAINING.—In determining a member's eligibility for advanced training, the Secretary may credit the member with any military training that is substantially equivalent in kind to that prescribed for admission to advanced training and was received while the member was taking a course of instruction in a program under the jurisdiction of another armed force or while the member was on active duty in the armed forces.
(3) EXCUSE FROM PRESCRIBED INSTRUCTION.—The Secretary may excuse from a portion of the prescribed course of military instruction, including field training and practice cruises, any member found qualified on the basis of the member's previous education, military experience, or both.
(4) PARTICIPATION FOLLOWING UNDERGRADUATE STUDIES.—An individual may become, remain, or be readmitted as, a member of the advanced training program after receiving a baccalaureate degree or completing preprofessional studies if the member has not completed the course of military instruction or all field training or practice cruises prescribed by the Secretary. If a member of the project has been accepted for resident graduate or professional study, the Secretary may delay the commencement of the member's obligated period of active duty, and any obligated period of active duty for training or other service in an active or inactive status in the Coast Reserve, until the member has completed that study.
(5) RELEASE FROM PROJECT.—The Secretary, if the Secretary determines that the interest of the service so requires, may release any individual from the project and discharge the member from the Coast Guard.

(h) MISCELLANEOUS AUTHORITIES.—
(1) IN GENERAL.—The Secretary may issue to the senior commissioned Coast Guard officer who is assigned to the project, or to the officers of the Coast Guard who are designated as accountable or responsible for such property—
(A) supplies, means of transportation including aircraft, arms and ammunition, and military textbooks and educational materials; and
(B) uniform clothing, except that he may pay monetary allowances for uniform clothing at such rate as he may prescribe.
(2) FLIGHT INSTRUCTION.—The Secretary may provide, or contract with civilian flying or aviation schools or educational institutions to provide, the personnel, aircraft, supplies, facilities, services, and instruction necessary for flight instruction and orientation for properly designated members of the project.
(3) MEDICAL CARE.—The Secretary—
(A) may transport members of, and designated applicants for membership in, the project to and from installations when it is necessary for them to undergo medical or other examinations or for the purposes of making visits of observation; and
(B) may furnish to such members subsistence, quarters, and necessary medical care, including hospitalization, while they are at, or traveling to or from, such an installation.
(4) PARTICIPATION IN FLIGHTS AND CRUISES.—The Secretary may authorize members of, and designated applicants for membership in, the project to participate in aerial flights in Coast Guard aircraft and in indoctrination cruises in naval vessels.
(5) FINANCIAL ASSISTANCE.—The Secretary may, to the extent amounts are available, provide for the payment of financial assistance to students participating in the project, including for tuition, fees, books, and laboratory expenses.

(i) DETAIL OF RESERVE OFFICERS.—The Secretary may detail regular or reserve Coast Officers for instructional and administrative duties related to the project.

SEC. 2___. SHOCK MITIGATION REQUIREMENTS.

(a) REQUIREMENTS.—Chapter 17 of title 14, United Sates Code, is amended by adding the end the following:

"§ 675. Shock mitigation requirements

''(a) The Secretary shall establish a shock standard for Coast Guard vessels.

''(b) The Secretary shall include shock mitigation requirements for boat decking in each procurement of a vessel for the Coast Guard that does not meet the standard established under subsection (a).

''(c) Requirements under subsection (a) shall specify the weight and durability of decking material, effects on decking material of repeated use and weather conditions, and the capability of decking material to mitigate impacts.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 17, of title 14, United States Code, is amended by adding at the end the following:

''675. Shock mitigation requirements.''.

SEC. 2___. COAST GUARD YARD.

(a) IN GENERAL.—Section 648 of title 14, United States Code, is amended by—

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

''§ 648. Industrial work'';

(2) inserting ''(a)'' before the existing text; and

(3) adding at the end the following:

''(b) The Commandant may enter into a contract or cooperative agreement with any person for the performance of work on a local, State, or Federal government vessel, or the engine, ordnance, electronics, or other equipment related to such a vessel.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 17 of title 14, United States Code, is amended by amending the item relating to section 648 to read as follows:

''648. Industrial work.''.

SEC. 2___. RECOMMENDATIONS TO CONGRESS BY COMMANDANT OF THE COAST GUARD.

Section 93 of title 14, United States Code, is amended—

(1) in paragraph (w) by striking ''and'' after the semicolon at the end;

(2) in paragraph (x) by striking the period at the end and inserting ''; and''; and

(3) by adding at the end the following:

''(y) after informing the Secretary, make such recommendations to the Congress relating to the Coast Guard as the Commandant considers appropriate.''.

SEC. 2___. ASSIGNMENT OF OFFICER TO NATIONAL WAR COLLEGE.

(a) IN GENERAL.—Chapter 7 of title 14, United States Code, is amended by adding at the end the following:

''§ 152. Assignment of officer to National War College

''The Commandant shall assign an officer in the grade of captain to serve as the Coast Guard's Service Chair at the National War College.''.

(b) CLERICAL AMENDMENT.—The table of contents at the beginning of chapter 7 of title 14, United States Code, is amended by adding at the end the following:

''152. Assignment of officer to National War College.''.

SEC. 2___. COAST GUARD EDUCATION LOAN REPAYMENT PROGRAM.

(a) PROGRAM AUTHORIZED.—Chapter 13 of title 14, United States Code, is amended by inserting after section 471 the following:

''§ 472. Education loan repayment program

''(a)(1) Subject to the provisions of this section, the Secretary may repay—

''(A) any loan made, insured, or guaranteed under part B of title IV of the Higher Education Act of 1965 (20 U.S.C. 1071 et seq.);

''(B) any loan made under part D of such title (the William D. Ford Federal Direct Loan Program, 20 U.S.C. 1087a et seq.); or

''(C) any loan made under part E of such title (20 U.S.C. 1087aa et seq.).

Repayment of any such loan shall be made on the basis of each complete year of service performed by the borrower.

''(2) The Secretary may repay loans described in paragraph (1) in the case of any person for service performed on active duty as an enlisted member of the Coast Guard in a specialty specified by the Secretary.

''(b) The portion or amount of a loan that may be repaid under subsection (a) is 33⅓ percent or $1,500, whichever is greater, for each year of service.

''(c) If a portion of a loan is repaid under this section for any year, interest on the remainder of such loan shall accrue and be paid in the same manner as is otherwise required.

''(d) Nothing in this section shall be construed to authorize refunding any repayment of a loan.

''(e) The Secretary shall, by regulation, prescribe a schedule for the allocation of funds made available to carry out this section during any year for which funds are not sufficient to pay the sum of the amounts eligible for repayment under subsection (a).''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 13 of title 14, United States Code, is amended by inserting after the item relating to section 471 the following:

''472. Education loan repayment program.''.

Strike section 405 (page 25, beginning at line 17).

At the end of title IV (page 30, after line 21) insert the following:

SEC. 4___. SERVICE OF FOREIGN NATIONALS FOR MARITIME EDUCATIONAL PURPOSES.

Section 8103(b)(1)(A) of title 46, United State Code, is amended to read as follows:

''(A) each unlicensed seaman must be—

''(i) a citizen of the United States;

''(ii) an alien lawfully admitted to the United States for permanent residence; or

''(iii) a foreign national who is enrolled in the United States Merchant Marine Academy.''.

SEC. 4___. CLASSIFICATION SOCIETIES.

(a) IN GENERAL.—Section 3316 of title 46, United States Code, is amended by adding at the end the following:

''(c)(1) A person shall not operate in interstate or foreign commerce as a classification society unless the Secretary has reviewed and approved the person with respect to the conduct of those operations.

''(2) The Secretary may approve a person for purposes of paragraph (1) only if the Secretary determines that—

''(A) the vessels surveyed by the person while acting as a classification society have an adequate safety record; and

''(B) the person has an adequate program to—

''(i) develop safety standards for vessels surveyed by the person;

''(ii) make the safety records of the person available to the Secretary in an electronic format;

''(iii) provide the safety records of a vessel surveyed by the person to any other classification society that requests those records for the purpose of conducting a survey of the vessel; and

''(iv) request the safety records of a vessel the person will survey from any classification society that previously surveyed the vessel.

''(3) The Secretary shall issue regulations implementing this subsection, including regulations describing activities that constitute operation in interstate or foreign commerce as a classification society.''.

(b) APPLICATION.—Section 3316(c)(1) of title 46, United States Code, shall apply with respect to operation as a classification society on or after January 1, 2005.

SEC. 4___. MEMBERSHIP OF AREA MARITIME SECURITY ADVISORY COMMITTEES.

Section 70112(b) of title 46, United States Code, is amended by adding at the end following:

''(5) Membership of an Area Maritime Security Advisory Committee shall include representatives of the port industry, terminal operators, port labor organizations, and other users of the port areas.''.

SEC. 4___. SECURITY PLANS.

Section 70103(c) of title 46, United States Code, is amended—

(1) in paragraph (1)—

(A) by striking ''operator of a vessel or facility'' and inserting ''operator of a vessel (including a foreign vessel) or facility''; and

(B) by striking ''a security plan'' and inserting ''in writing a detailed security plan'';

(2) in paragraph (5), by striking ''A vessel'' and inserting ''A vessel (including a foreign vessel)'';

(3) in paragraph (6), by inserting ''(including a foreign vessel)'' after ''authorize a vessel'' ; and

(4) in paragraph (7), by inserting ''(including a foreign vessel)'' after ''operator of a vessel''.

Strike section 602 (page 32, beginning at line 21) and insert the following:

SEC. 602. CONVEYANCE OF DECOMMISSIONED COAST GUARD CUTTERS.

(a) IN GENERAL.—The Commandant of the Coast Guard shall convey all right, title, and interest of the United States in and to a vessel described in subsection (b) to the person designated in subsection (b) with respect to the vessel (in this section referred to as the ''recipient''), without consideration, if the person complies with the conditions under subsection (c).

(b) VESSELS DESCRIBED.—The vessels referred to in subsection (a) are the following:

(1) The Coast Guard Cutter BRAMBLE, to be conveyed to the Port Huron Museum of Arts and History (a nonprofit corporation under the laws of the State of Michigan), located in Port Huron, Michigan.

(2) The Coast Guard Cutter PLANETREE, to be conveyed to Jewish Life (a nonprofit corporation under the laws of the State of California), located in Sherman Oaks, California.

(3) The Coast Guard Cutter SUNDEW, to be conveyed to Duluth Entertainment and Convention Center Authority (a nonprofit corporation under the laws of the State of Minnesota), located in Duluth, Minnesota.

(c) CONDITIONS.—As a condition of any conveyance of a vessel under subsection (a), the Commandant shall require the recipient to—

(1) agree—

(A) to use the vessel for purposes of education and historical display;

(B) not to use the vessel for commercial transportation purposes;

(C) to make the vessel available to the United States Government if needed for use by the Commandant in time of war or a national emergency; and

(D) to hold the Government harmless for any claims arising from exposure to hazardous materials, including asbestos and polychlorinated biphenyls (PCBs), after conveyance of the vessel, except for claims arising from use of the vessel by the Government under subparagraph (C);

(2) have funds available that will be committed to operate and maintain the vessel conveyed in good working condition—

(A) in the form of cash, liquid assets, or a written loan commitment; and

(B) in an amount of at least $700,000; and

(3) agree to any other conditions the Commandant considers appropriate.

(d) MAINTENANCE AND DELIVERY OF VESSEL.—Prior to conveyance of a vessel under this section, the Commandant shall, to the extent practical, and subject to other Coast Guard mission requirements, make every effort to maintain the integrity of the vessel and its equipment until the time of delivery.

The Commandant shall deliver a vessel conveyed under this section at the place where the vessel is located, in its present condition, and without cost to the Government. The conveyance of a vessel under this section shall not be considered a distribution in commerce for purposes of section 6(e) of Public Law 94–469 (15 U.S.C. 2605(e)).

(e) OTHER EXCESS EQUIPMENT.—The Commandant may convey to the recipient of a vessel under this section any excess equipment or parts from other decommissioned Coast Guard vessels for use to enhance the vessel's operability and function as an historical display.

Strike section 607 (page 38, beginning at line 17) and insert the following:

SEC. 607. KOSS COVE.

(a) IN GENERAL.—Notwithstanding any other provision of law or existing policy, the cove described in subsection (b) shall be known and designated as ''Koss Cove'', in honor of the late Able Bodied Seaman Eric Steiner Koss of the National Oceanic and Atmospheric Administration vessel RAINIER who died in the performance of a nautical charting mission off the coast of Alaska.

(b) COVE DESCRIBED.—The cove referred to in subsection (a) is—

(1) adjacent to and southeast of Point Elrington, Alaska, and forms a portion of the southern coast of Elrington Island;

(2) 3/4 mile across the mouth;

(3) centered at 59 degrees 56.1 minutes North, 148 degrees 14 minutes West; and

(4) 45 miles from Seward, Alaska.

(c) REFERENCES.—Any reference in any law, regulation, document, record, map, or other paper of the United States to the cove described in subsection (b) is deemed to be a reference to Koss Cove.

Strike section 609 (page 40, beginning at line 3) and insert the following:

SEC. 609. REGULATIONS.

No later than February 1, 2004, the Secretary of the department in which the Coast Guard is operating shall implement final regulations to carry out section 12106(e), title 46, United States Code.

At the end of title VI (page 43, after line 2) insert the following:

SEC. 6___. CONVEYANCE OF DECOMMISSIONED COAST GUARD VESSELS.

(a) IN GENERAL.—Upon the scheduled decommissioning of a Coast Guard vessel listed in subsection (d), the Commandant of the Coast Guard shall convey all right, title, and interest of the United States in and to that vessel to the respective recipient listed in subsection (d) for that vessel, if—

(1) the recipient agrees—

(A) to use the vessel for public safety activities;

(B) not to use the vessel for commercial transportation purposes;

(C) to make the vessel available to the United States Government if needed for use by the Commandant in time of war or a national emergency; and

(D) to hold the Government harmless for any claims arising from exposure to hazardous materials, including asbestos and polychlorinated biphenyls (PCBs), after conveyance of the vessel, except for claims arising from use by the Government under subparagraph (C);

(2) the recipient has funds available that will be committed to operate and maintain the vessel conveyed in good working condition, in the form of cash, liquid assets, or a written loan commitment; and

(3) the recipient agrees to any other conditions the Commandant considers appropriate.

(b) MAINTENANCE AND DELIVERY OF VESSEL.—Prior to conveyance of the vessel under this section, the Commandant shall, to the extent practical, and subject to other Coast Guard mission requirements, make every effort to maintain the integrity of the vessel and its equipment until the time of delivery. If a conveyance is made under this section, the Commandant shall deliver the vessel at the place where the vessel is located, in its present condition, and without cost to the Government. The conveyance of the vessel under this section shall not be considered a distribution in commerce for purposes of section 6(e) of Public Law 94–469 (15 U.S.C. 2605(e)).

(c) OTHER EXCESS EQUIPMENT.—The Commandant may convey to the recipient any excess equipment or parts from other decommissioned Coast Guard vessels for use to enhance the vessel's operability and function.

(d) VESSELS AND RECIPIENTS.—The vessels and recipients referred to in subsection (a) are the following:

(1) A 21-foot rigid hull Coast Guard vessel, to the Berrien County Sheriff's Department, Berrien County, Michigan.

(2) A 44-foot motor life boat, to the Port Norris Fire Company, Commercial Township, New Jersey.

(3) A 44-foot motor life boat, to the City of Margate, New Jersey.

(4) A 44-foot motor life boat, to the Lower Alloway Creek Fire Company, Hancocks Bridge, New Jersey.

(5) A 44-foot motor life boat, to the Fortescue Fire Rescue Company 1, Downe Township, New Jersey.

(6) A 21-foot rigid hull inflatable, to the Longport Volunteer Fire Department, Longport, New Jersey.

(7) A 21-foot rigid hull inflatable, to West Wildwood Fire Company, West Wildwood, New Jersey.

(8) A 21-foot rigid hull inflatable, to the San Diego Unified Port District, California.

SEC. 6___. ASSATEAGUE LIGHTHOUSE LENS.

The Secretary of the department in which the Coast Guard is operating shall convey to the Oyster and Maritime Museum, located in Chincoteague, Virginia, without consideration, all right, title, and interest of the United States in and to the first order Fresnel lens formerly used in the Assateague Lighthouse located on Assateague Island, Virginia.

SEC. 6___. STUDY OF THE ROLE OF COAST GUARD ICE BREAKERS IN SUPPORTING UNITED STATES OPERATIONS IN THE ANTARCTIC AND THE ARCTIC.

(a) IN GENERAL.—The Commandant of the Coast Guard may enter into an arrangement with the Polar Research Board and the Marine Board of the National Academy of Sciences to—

(1) conduct a study of the role of Coast Guard icebreakers in supporting United States operations in the Antarctic and the Arctic, including—

(A) roles in logistics and material support and a general inventory of contributions to science in both regions;

(B) alternative methods for staging, supporting, and conducting Arctic and Antarctic activities other than by use of Coast Guard icebreakers;

(C) the operational status of the POLAR STAR and POLAR SEA, including the projected life expectancy of vessel systems, and strategies for extending the service life of these vessels; and

(D) key short-term and long-term functions provided by the Coast Guard icebreaker fleet and how these functions might be addressed under different service life extension and replacement scenarios; and

(2) conduct a study of changes in the roles and missions of Coast Guard icebreakers in the support of future marine operations in the Arctic that may develop due to environmental change, including—

(A) the amount and kind of icebreaking support that may be required in the future to support marine operations in the Northern Sea Route and the Northwest Passage;

(B) the suitability of the Polar Class icebreakers for these new roles; and

(C) appropriate changes in existing laws governing Coast Guard icebreaking operations and the potential for new operating regimes.

(b) REPORT.—Not later than 18 months after the date of enactment of the Act, the Commandant shall submit a report on the studies required under subsection (a) to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.

(c) CHARGE FOR ICEBREAKING SERVICES.—After the date on which the Commandant submits the report under subsection (b), and notwithstanding any other provision of law, the Secretary of the department in which the Coast Guard is operating may charge other Federal agencies for the Secretary's cost of providing icebreaking and related transportation services to those agencies.

SEC. 6___. CORRECTION OF REFERENCES TO NATIONAL DRIVER REGISTER.

Title 46, United States Code, is amended—

(1) in section 7302—

(A) by striking ''section 206(b)(7) of the National Driver Register Act of 1982 (23 U.S.C. 401 note)'' and inserting ''30305(b)(5) of title 49''; and

(B) by striking ''section 205(a)(3)(A) or (B) of that Act'' and inserting ''30304(a)(3)(A) or (B) of title 49'';

(2) in section 7702(d)(1)(B)(iii) by striking ''section 205(a)(3)(A) or (B) of the National Driver Register Act of 1982'' and inserting ''section 30304(a)(3)(A) or (B) of title 49''; and

(3) in section 7703(3) by striking ''section 205(a)(3)(A) or (B) of the National Driver Register Act of 1982'' and inserting ''section 30304(a)(3)(A) or (B) of title 49''.

SEC. 6___. WATEREE RIVER.

For purposes of bridge administration, the portion of the Wateree River in the State of South Carolina, from a point 100 feet upstream of the railroad bridge located at approximately mile marker 10.0 to a point 100 feet downstream of such bridge, is declared to not be navigable waters of the United States for purposes of the General Bridge Act of 1946 (33 U.S.C. 525 et seq.).

SEC. 6___. ALASKA MERCHANT MARINERS' DOCUMENTS PILOT PROGRAM.

(a) IN GENERAL.—The Secretary of the department in which the Coast Guard is operating shall conduct a pilot program in the 17th Coast Guard District to demonstrate methods to improve processing and procedures for issuing merchant mariners' documents.

(b) USE OF EXISTING TOOLS.—Before conducting the pilot program authorized under subsection (a), the Secretary shall consult with the Secretary of the Air Force regarding the efficiency and effectiveness of the content management technology and information management tools that are currently used by the department of the Air Force in the Air Force Publishing Directorate.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary of the department in which the Coast Guard is operating $5,000,000 to carry out the pilot program under subsection (a).

SEC. 6___. CONVEYANCE OF SENTINEL ISLAND LIGHT STATION, ALASKA.

(a) AUTHORITY TO CONVEY.—

(1) IN GENERAL.—Notwithstanding any other provision of law, the Secretary of the Department in which the Coast Guard is operating shall convey, by an appropriate

means of conveyance, all right, title, and interest of the United States in and to the Sentinel Island Light Station and Sentinel Island, Alaska, to the Gastineau Channel Historical Society.

(2) IDENTIFICATION OF PROPERTY.—The Secretary may identify, describe, and determine the property to be conveyed under this subsection.

(3) LIMITATION.—The Secretary may not under this section convey—

(A) any historical artifact, including any lens or lantern, located on property conveyed under this section at or before the time of the conveyance; or

(B) any interest in submerged land.

(b) GENERAL TERMS AND CONDITIONS.—

(1) IN GENERAL.—Any conveyance of property under this section shall be made—

(A) without payment of consideration; and

(B) subject to the terms and conditions required by this section and other terms and conditions the Secretary may consider appropriate, including the reservation of easements and other rights on behalf of the United States.

(2) REVERSIONARY INTEREST.—In addition to any term or condition established under this section, any conveyance of property under this section shall be subject to the condition that all right, title, and interest in the property, at the option of the Secretary shall revert to the United States and be placed under the administrative control of the Secretary, if—

(A) the property, or any part of the property—

(i) ceases to be available and accessible to the public, on a reasonable basis, for educational, park, recreational, cultural, historic preservation, or other similar purposes specified for the property in the terms of conveyance;

(ii) ceases to be maintained in a manner that is consistent with its present or future use as a site for Coast Guard aids to navigation or compliance with this section; or

(iii) ceases to be maintained in a manner consistent with the conditions in paragraph (4) established by the Secretary pursuant to the National Historic Preservation Act (16 U.S.C. 470 et seq.); or

(B) at least 30 days before that reversion, the Secretary provides written notice to the owner that the property is needed for national security purposes.

(3) MAINTENANCE OF NAVIGATION FUNCTIONS.—Any conveyance of property under this section shall be made subject to the conditions that the Secretary considers to be necessary to assure that—

(A) the lights, antennas, and associated equipment located on the property conveyed that are active aids to navigation shall continue to be operated and maintained by the United States for as long as they are needed for this purpose;

(B) the owner of the property may not interfere or allow interference in any manner with aids to navigation without express written permission from the Commandant of the Coast Guard;

(C) there is reserved to the United States the right to relocate, replace, or add any aids to navigation or make any changes to the property conveyed as may be necessary for navigational purposes;

(D) the United States shall have the right, at any time, to enter the property without notice for the purpose of operating, maintaining, and inspecting aids to navigation and for the purpose of enforcing compliance with this subsection; and

(E) the United States shall have an easement of access to and across the property for the purpose of maintaining the aids to navigation in use on the property.

(4) MAINTENANCE OF PROPERTY.—

(A) IN GENERAL.—Subject to subparagraph (B), the owner of a property conveyed under this section shall maintain the property in a proper, substantial, and workmanlike manner, and in accordance with any conditions established by the Secretary pursuant to the National Historic Preservation Act (16 U.S.C. 470 et seq.) and other applicable laws.

(B) LIMITATION.—The owner of a property conveyed under this section is not required to maintain any active aids to navigation on the property, except private aids to navigation authorized under section 83 of title 14, United States Code.

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

(1) AIDS TO NAVIGATION.—The term ''aids to navigation'' means equipment used for navigation purposes, including a light, antenna, radio, sound signal, electronic navigation equipment, or other associated equipment that are operated or maintained by the United States.

(2) OWNER.—The term ''owner'' means, for property conveyed under this section, the person to which property is conveyed under subsection (a)(1), and any successor or assign of that person.

SEC. 6___. MARITIME INTELLIGENCE AND LONG-RANGE VESSEL TRACKING SYSTEM.

(a) MARITIME INTELLIGENCE.—

(1) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary of the department in which the Coast Guard is operating $25,000,000 for fiscal year 2004 to implement a system to carry out section 70113(a) of title 46, United States Code.

(2) SYSTEM REQUIREMENT.—Any system implemented with amounts made available under this subsection shall—

(A) include a vessel terrorism risk profiling system that assigns incoming vessels a risk rating; and

(B) be based on independently verified intelligence data.

(b) VESSEL TRACKING SYSTEM.—

(1) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary of the Department in which the Coast Guard is operating $12,000,000 for fiscal year 2004 to carry out section 70115 of title 46, United States Code.

(2) SYSTEM REQUIREMENTS.—Any automated vessel tracking system implemented with amounts made available under this subsection shall be operated by an existing nonprofit maritime organization that—

(A) operates satellite communications systems, and vessel tracking software and hardware; and

(B) can have nationwide vessel tracking capability in operation by no later than 90 days after the date the organization enters into a contract with the Coast Guard to establish and operate the system.

SEC. 6___. COLUMBIA SLOUGH.

Section 325 of Public Law 97–369 (96 Stat. 1785) is repealed.

SEC. 6___. SENSE OF CONGRESS REGARDING CARBON MONOXIDE AND WATERCRAFT.

It is the sense of the Congress that the Coast Guard should continue—

(1) to place a high priority on addressing the safety risks posed to boaters by elevated levels of carbon monoxide that are unique to watercraft; and

(2) to work with vessel and engine manufacturers, the American Boat & Yacht Council, other Federal agencies, and the entire boating community in order to determine the best ways to adequately address this public safety issue and minimize the number of tragic carbon monoxide-related boating deaths that occur each year.

SEC. 6___. SENSE OF CONGRESS REGARDING NAMING NEW VESSELS UNDER THE DEEPWATER PROGRAM FOR CITIES OF THE UNITED STATES.

It is the sense of the Congress that the Coast Guard should consider including in its naming protocols for new vessels constructed under the Deepwater Program the names of cities of the United States and its territories and possessions.

SEC. 6___. PORT SECURITY GRANT AUTHORITY.

(a) IN GENERAL.—Section 70107 of title 46, United States Code, is amended—

(1) in subsection (a) by striking ''Secretary of Transportation, acting through the Maritime Administrator,'' and inserting ''Secretary, acting through the Commandant of the Coast Guard,'';

(2) by striking ''Secretary of Transportation'' each place it appears and inserting ''Secretary, acting through the Commandant of the Coast Guard,''; and

(3) by striking ''Department of Transportation'' each place it appears and inserting ''department in which the Coast Guard is operating''.

(b) EFFECTIVE DATE.—Subsection (a)—

(1) shall take effect October 1, 2004; and

(2) shall not affect any grant made before that date.

SEC. 6___. SECURITY ASSESSMENT OF INDIAN POINT ENERGY CENTER.

Not later than one year after the date of the enactment of this Act, the Secretary of the department in which the Coast Guard is operating shall—

(1) conduct a vulnerability assessment under section 70102(b) of title 46, United States Code, of the navigable waters adjacent to Indian Point Energy Center, located in Westchester County, New York; and

(2) submit a report on that assessment to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science and Transportation of the Senate.

SEC. 6___. MITIGATION OF PENALTY DUE TO AVOIDANCE OF A CERTAIN HAZARDOUS CONDITION.

(a) TREATMENT OF VIOLATION.—For purposes of any administrative proceeding to consider mitigation of any civil penalty for a violation described in subsection (b), such violation is deemed to have been committed by reason of a safety concern.

(b) VIOLATION DESCRIBED.—A violation referred to in subsection (a) is any violation of the Act of June 19, 1886 (chapter 421; 46 App. U.S.C. 289), occurring before August 1, 2003, and consisting of operation of a passenger vessel in transporting passengers—

(1) between the Port of New Orleans and another port on the Gulf of Mexico at a time when the power lines across the Mississippi River at Chalmette, Louisiana, are a hazard to the safe return transport of passengers on that vessel to the Port of New Orleans; or

(2) in repositioning the vessel to the Port of New Orleans after that hazard is temporarily resolved.

SEC. 6___. DESIGNATION OF EMPRESS OF THE NORTH AS A TOUR VESSEL.

Notwithstanding any other law, the passenger vessel EMPRESS OF THE NORTH (United States official number 1140867) is deemed to be a tour vessel for the purpose of the regulations promulgated by the Secretary of the Interior under section 3(h) of Public Law 91–383 (16 U.S.C. 1a–2(h)) and section 3 of the Act of August 25, 1916 (16 U.S.C. 3), with respect to vessel operations in Glacier Bay National Park and Preserve, Alaska.

SEC. 6___. SENSE OF CONGRESS REGARDING TIMELY REVIEW AND ADJUSTMENT OF GREAT LAKES PILOTAGE RATES.

It is the sense of the Congress that the Secretary of the department in which the

Coast Guard is operating should, on a timely basis, review and adjust the rates payable under part 401 of title 46, Code of Federal Regulations, for services performed by United States registered pilots on the Great Lakes.

Strike section 703 (page 46, beginning at line 19) and insert the following:

SEC. 703. LIABILITY AND COST RECOVERY.

(a) DEFINITION OF OWNER OR OPERATOR.—Section 1001(26) of the Oil Pollution Act of 1990 (33 U.S.C. 2701(26)) is amended to read as follows:

''(26) 'owner or operator'—

''(A) means—

''(i) in the case of a vessel, any person owning, operating, or chartering by demise, the vessel;

''(ii) in the case of an onshore or offshore facility, any person owning or operating such facility;

''(iii) in the case of any abandoned offshore facility, the person who owned or operated such facility immediately prior to such abandonment;

''(iv) in the case of any facility, title or control of which was conveyed due to bankruptcy, foreclosure, tax delinquency, abandonment, or similar means to a unit of State or local government, any person who owned, operated, or otherwise controlled activities at such facility immediately beforehand;

''(v) notwithstanding subparagraph (B)(i), any State or local government that has caused or contributed to a discharge or substantial threat of a discharge of oil from a vessel or facility ownership or control of which was acquired involuntarily through bankruptcy, tax delinquency, abandonment, or other circumstances in which the government involuntarily acquires title by virtue of its function as sovereign; and

''(vi) notwithstanding subparagraph (B)(ii), a person that is a lender and that holds indicia of ownership primarily to protect a security interest in a vessel or facility if, while the borrower is still in possession of the vessel or facility encumbered by the security interest, the person—

''(I) exercises decisionmaking control over the environmental compliance related to the vessel or facility, such that the person has undertaken responsibility for oil handling or disposal practices related to the vessel or facility; or

''(II) exercises control at a level comparable to that of a manager of the vessel or facility, such that the person has assumed or manifested responsibility—

''(aa) for the overall management of the vessel or facility encompassing day-to-day decisionmaking with respect to environmental compliance; or

''(bb) over all or substantially all of the operational functions (as distinguished from financial or administrative functions) of the vessel or facility other than the function of environmental compliance; and

''(B) does not include—

''(i) a unit of State or local government that acquired ownership or control of a vessel or facility involuntarily through bankruptcy, tax delinquency, abandonment, or other circumstances in which the government involuntarily acquires title by virtue of its function as sovereign;

''(ii) a person that is a lender that does not participate in management of a vessel or facility, but holds indicia of ownership primarily to protect the security interest of the person in the vessel or facility; or

''(iii) a person that is a lender that did not participate in management of a vessel or facility prior to foreclosure, notwithstanding that the person—

''(I) forecloses on the vessel or facility; and

''(II) after foreclosure, sells, re-leases (in the case of a lease finance transaction), or liquidates the vessel or facility, maintains business activities, winds up operations, undertakes a removal action under 311(c) of the Federal Water Pollution Control Act (33 U.S.C. 311(c)) or under the direction of an on-scene coordinator appointed under the National Contingency Plan, with respect to the vessel or facility, or takes any other measure to preserve, protect, or prepare the vessel or facility prior to sale or disposition,

if the person seeks to sell, re-lease (in the case of a lease finance transaction), or otherwise divest the person of the vessel or facility at the earliest practicable, commercially reasonable time, on commercially reasonable terms, taking into account market conditions and legal and regulatory requirements;''.

(b) OTHER DEFINITIONS.—Section 1001 of the Oil Pollution Act of 1990 (33 U.S.C. 2701) is amended by striking ''and'' after the semicolon at the end of paragraph (36), by striking the period at the end of paragraph (37) and inserting a semicolon, and by adding at the end the following:

''(38) 'participate in management'—

''(A)(i) means actually participating in the management or operational affairs of a vessel or facility; and

''(ii) does not include merely having the capacity to influence, or the unexercised right to control, vessel or facility operations; and

''(B) does not include—

''(i) performing an act or failing to act prior to the time at which a security interest is created in a vessel or facility;

''(ii) holding a security interest or abandoning or releasing a security interest;

''(iii) including in the terms of an extension of credit, or in a contract or security agreement relating to the extension, a covenant, warranty, or other term or condition that relates to environmental compliance;

''(iv) monitoring or enforcing the terms and conditions of the extension of credit or security interest;

''(v) monitoring or undertaking one or more inspections of the vessel or facility;

''(vi) requiring a removal action or other lawful means of addressing a discharge or substantial threat of a discharge of oil in connection with the vessel or facility prior to, during, or on the expiration of the term of the extension of credit;

''(vii) providing financial or other advice or counseling in an effort to mitigate, prevent, or cure default or diminution in the value of the vessel or facility;

''(viii) restructuring, renegotiating, or otherwise agreeing to alter the terms and conditions of the extension of credit or security interest, exercising forbearance;

''(ix) exercising other remedies that may be available under applicable law for the breach of a term or condition of the extension of credit or security agreement; or

''(x) conducting a removal action under 311(c) of the Federal Water Pollution Control Act (33 U.S.C. 1321(c)) or under the direction of an on-scene coordinator appointed under the National Contingency Plan,

if such actions do not rise to the level of participating in management under subparagraph (A) of this paragraph and paragraph (26)(A)(vi);

''(39) 'extension of credit' has the meaning provided in section 101(20)(G)(i) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (42 U.S.C. 9601(20)(G)(i));

''(40) 'financial or administrative function' has the meaning provided in section 101(20)(G)(ii) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (42 U.S.C. 9601(20)(G)(ii));

''(41) 'foreclosure' and 'foreclose' each has the meaning provided in section 101(20)(G)(iii) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (42 U.S.C. 9601(20)(G)(iii));

''(42) 'lender' has the meaning provided in section 101(20)(G)(iv) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (42 U.S.C. 9601(20)(G)(iv));

''(43) 'operational function' has the meaning provided in section 101(20)(G)(v) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (42 U.S.C. 9601(20)(G)(v)); and

''(44) 'security interest' has the meaning provided in section 101(20)(G)(vi) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (42 U.S.C. 9601(20)(G)(vi)).''.

(c) DEFINITION OF CONTRACTUAL RELATIONSHIP.—Section 1003 of the Oil Pollution Act of 1990 (33 U.S.C. 2703) is amended by adding at the end the following:

''(d) DEFINITION OF CONTRACTUAL RELATIONSHIP.—

''(1) IN GENERAL.—For purposes of subsection (a)(3) the term 'contractual relationship' includes, but is not limited to, land contracts, deeds, easements, leases, or other instruments transferring title or possession, unless—

''(A) the real property on which the facility concerned is located was acquired by the responsible party after the discharge of the oil on, in, or at the facility;

''(B) one or more of the circumstances described in subparagraph (A), (B), or (C) of paragraph (2) is established by the responsible party by a preponderance of the evidence; and

''(C) the responsible party complies with paragraph (3).

''(2) REQUIRED CIRCUMSTANCE.—The circumstances referred to in paragraph (1)(B) are the following:

''(A) At the time the responsible party acquired the real property on which the facility is located the responsible party did not know and had no reason to know that oil that is the subject of the discharge or substantial threat of discharge was located on, in, or at the facility.

''(B) The responsible party is a government entity that acquired the facility—

''(i) by escheat;

''(ii) through any other involuntary transfer or acquisition; or

''(iii) through the exercise of eminent domain authority by purchase or condemnation.

''(C) The responsible party acquired the facility by inheritance or bequest.

''(3) ADDITIONAL REQUIREMENTS.—For purposes of paragraph (1)(C), the responsible party must establish by a preponderance of the evidence that the responsible party—

''(A) has satisfied the requirements of section 1003(a)(3)(A) and (B);

''(B) has provided full cooperation, assistance, and facility access to the persons that are authorized to conduct removal actions, including the cooperation and access necessary for the installation, integrity, operation, and maintenance of any complete or partial removal action;

''(C) is in compliance with any land use restrictions established or relied on in connection with the removal action; and

''(D) has not impeded the effectiveness or integrity of any institutional control employed in connection with the removal action.

''(4) REASON TO KNOW.—

''(A) APPROPRIATE INQUIRIES.—To establish that the responsible party had no reason to know of the matter described in paragraph (2)(A), the responsible party must demonstrate that—

''(i) on or before the date on which the responsible party acquired the real property on which the facility is located, the responsible party carried out all appropriate inquiries, as provided in subparagraphs (B) and (D), into the previous ownership and uses of the real property on which the facility is located in accordance with generally accepted good commercial and customary standards and practices; and

''(ii) the responsible party took reasonable steps to—

''(I) stop any continuing discharge;

''(II) prevent, minimize or mitigate any substantial threat of discharge; and

''(III) prevent or limit any human, environmental, or natural resource exposure to any previously discharged oil.

''(B) REGULATIONS ESTABLISHING STANDARDS AND PRACTICES.—Not later than 2 years after the date of the enactment of this paragraph, the Secretary, in consultation with the Administrator of the Environmental Protection Agency, shall by regulation establish standards and practices for the purpose of satisfying the requirement to carry out all appropriate inquiries under subparagraph (A).

''(C) CRITERIA.—In promulgating regulations that establish the standards and practices referred to in subparagraph (B), the Secretary shall include in such standards and practices provisions regarding each of the following:

''(i) The results of an inquiry by an environmental professional.

''(ii) Interviews with past and present owners, operators, and occupants of the facility and the real property on which the facility is located for the purpose of gathering information regarding the potential for contamination at the facility and on the real property on which the facility is located.

''(iii) Reviews of historical sources, including, to the extent available, chain of title documents, aerial photographs, building department records, and land use records, to determine previous uses and occupancies of the real property on which the facility is located since the property was first developed.

''(iv) Searches for recorded environmental cleanup liens against the facility and the real property on which the facility is located that are filed under Federal, State, or local law.

''(v) Reviews of Federal, State, and local government records, waste disposal records, underground storage tank records, and waste handling, generation, treatment, disposal, and spill records, concerning contamination at or near the facility and on the real property on which the facility is located.

''(vi) Visual inspections of the facility, the real property on which the facility is located, and adjoining properties.

''(vii) Specialized knowledge or experience on the part of the responsible party.

''(viii) The relationship of the purchase price to the value of the facility and the real property on which the facility is located, if the facility or the real property was not contaminated.

''(ix) Commonly known or reasonably ascertainable information about the facility and the real property on which the facility is located.

''(x) The degree of obviousness of the presence or likely presence of contamination at the facility and on the real property on which the facility is located, and the ability to detect contamination by appropriate investigation.

''(D) INTERIM STANDARDS AND PRACTICES.—

''(i) REAL PROPERTY PURCHASED BEFORE MAY 31, 1997.—With respect to real property purchased before May 31, 1997, in making a determination with respect to a responsible party described in subparagraph (A), a court or appropriate official shall take into account—

''(I) any specialized knowledge or experience on the part of the responsible party;

''(II) the relationship of the purchase price to the value of the facility and the real property on which the facility is located, if the facility or the real property was not contaminated;

''(III) commonly known or reasonably ascertainable information about the facility and the real property on which the facility is located;

''(IV) the obviousness of the presence or likely presence of contamination at the facility and on the real property on which the facility is located; and

''(V) the ability of the responsible party to detect contamination by appropriate inspection.

''(ii) REAL PROPERTY PURCHASED ON OR AFTER MAY 31, 1997.—With respect to real property purchased on or after May 31, 1997, until the Secretary promulgates the regulations described in clause (ii), the procedures of the American Society for Testing and Materials, including the document known as 'Standard E1527–97', entitled 'Standard Practice for Environmental Site Assessment: Phase I Environmental Site Assessment Process', shall satisfy the requirements in subparagraph (A).

''(E) SITE INSPECTION AND TITLE SEARCH.—In the case of real property for residential use or other similar use purchased by a nongovernmental or noncommercial entity, inspection and title search of the facility and the real property on which the facility is located that reveal no basis for further investigation shall be considered to satisfy the requirements of this paragraph.

''(5) PREVIOUS OWNER OR OPERATOR.—Nothing in this paragraph or in section 1003(a)(3) shall diminish the liability of any previous owner or operator of such facility who would otherwise be liable under this Act. Notwithstanding this paragraph, if a responsible party obtained actual knowledge of the discharge or substantial threat of discharge of oil at such facility when the responsible party owned the facility and then subsequently transferred ownership of the facility or the real property on which the facility is located to another person without disclosing such knowledge, the responsible party shall be treated as liable under 1002(a) and no defense under section 1003(a) shall be available to such responsible party.

''(6) LIMITATION ON DEFENSE.—Nothing in this paragraph shall affect the liability under this Act of a responsible party who, by any act or omission, caused or contributed to the discharge or substantial threat of discharge of oil which is the subject of the action relating to the facility.''.

SEC. 704. OIL SPILL RECOVERY INSTITUTE.

(a) TERMINATION OF FUNDING FOR INSTITUTE.—Section 5001(i) of the Oil Pollution Act of 1990 (33 U.S.C. 2731(i)) is amended by striking ''September 30, 2012'' and inserting ''one year after the Secretary of the department in which the Coast Guard is operating, in consultation with the Secretary of the Interior, determines that oil and gas exploration, development, and production in Alaska have ceased''.

(b) USE OF FUNDING FOR SECTION 1012 OF OPA.—Subsection (c) of section 5006 of the Oil Pollution Act of 1990, as added by section 1102(b)(4) of Public Law 104–324 (110 Stat. 3965; 33 U.S.C. 2736(c)), is amended by striking ''with the eleventh year following the date of enactment of the Coast Guard Authorization Act of 1996,'' and inserting ''one year after the Secretary of the department in which the Coast Guard is operating, in consultation with the Secretary of the Interior, determines that oil and gas exploration, development, and production in Alaska have ceased,''.

SEC. 705. ALTERNATIVES.

Section 4115(e)(3) of the Oil Pollution Act of 1990 (46 U.S.C. 3703a note) is amended to read as follows:

''(3) No later than one year after the date of enactment of the Coast Guard and Maritime Transportation Act of 2003, the Secretary shall, taking into account the recommendations contained in the report by the Marine Board of the National Research Council entitled 'Environmental Performance of Tanker Design in Collision and Grounding' and dated 2001, establish and publish an environmental equivalency evaluation index (including the methodology to develop that index) to assess overall outflow performance due to collisions and groundings for double hull tank vessels and alternative hull designs.''.

At the end of title VI (page 43, after line 2) insert the following:

SEC. 6___. PRIORITY FOR PUBLIC TRANSPORTATION SYSTEMS IN MAKING GRANTS FOR IMPLEMENTATION OF SECURITY PLANS.

Section 70107(e) of title 46, United State Code, is amended by adding at the end the following:

''(5) PRIORITY FOR PUBLIC TRANSPORTATION SYSTEMS.—

''(A) PRIORITY.—In making grants under subsection (a) the Secretary of Transportation shall give priority to otherwise eligible projects concerning implementation of security plans with respect to public transportation systems.

''(B) REGULATIONS.—The Secretary shall issue regulations establishing procedures and requirements for awarding grants pursuant to the priority required by this paragraph.''.

Mr. LOBIONDO (during the reading). Madam Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

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

There was no objection.

Mr. LOBIONDO. Madam Chairman, I rise to offer an amendment which has been worked out with the minority to make changes from the reported bill.

In addition to reaching an agreement with the full committee ranking Democratic member, the gentleman from Minnesota (Mr. OBERSTAR), the amendment includes provisions that have been proposed by the gentleman from North Carolina (Mr. JONES), the gentleman from New York (Mr. ENGEL), the gentleman from Michigan (Mr. STUPAK), the gentlewoman from California (Ms. MILLENDER-MCDONALD), the gentleman from Indiana (Mr. HOSTETTLER), the gentleman from Virginia (Mr. SCHROCK), the gentleman from Louisiana (Mr. VITTER), the gentleman from Maryland (Mr. GILCHREST), the gentleman from Oregon (Mr. BLUMENAUER), the gentleman from Colorado (Mr. MCINNIS), the gentlewoman from California (Ms. HARMAN), the gentleman from South Carolina (Mr. SPRATT), the gentleman from Michigan (Mr. UPTON), and the gentleman from Washington (Mr. INSLEE). I appreciate the interest of all of these Members in this bill, and I look forward to their support today.

The amendment restructures the authorization to match the format used in the appropriation measure which funds the Coast Guard. It also makes changes to laws governing management of the Coast Guard. The amendment protects the Coast Guardsmen while they are forced to use disabling fire. It also authorizes a Coast Guard ROTC pilot program, allows the Coast Guard yard to work with private firms on government ship repair jobs, and allows the commandant to make recommendations directly to Congress.

The amendment also makes changes to shipping laws. It sets standards for vessel classification societies operating in the United States, and specifies membership in maritime security advisory committees.

Finally, the amendment contains other numerous issues of interest to members. It allows the Coast Guard to convey certain property it no longer uses, requires long-overdue regulations to be published by February 1, 2004, mandates a National Academy of Science study of future polar icebreaking needs, establishes a pilot project for improving the technology related to issuing merchant mariners' documents. It also authorizes funds to implement an intelligence-based vessel profiling system and a long-rang automated vessel tracking system for vessels operating in U.S. waters, and expresses the sense of Congress that Coast Guard should address safety risks posed by elevated levels of carbon monoxide in recreational vessels.

Again, this amendment has been worked out on a bipartisan basis. It incorporates numerous provisions sought by Members of both parties. It also makes improvements to U.S. maritime policy and Coast Guard management. I urge Members to vote in favor of this amendment.

Madam Chairman, I yield the balance of my time to the gentleman from Alaska (Mr. YOUNG).

Mr. YOUNG of Alaska. Madam Chairman, I think the gentleman made a very good point about the bipartisan bill. As the gentleman read Members' names off of amendments that were worked out, it shows we can work together and that there is a good relationship between the majority and the minority. In fact, some of those amendments, if there was any hostility, I would not have accepted by some of the Members; but because we tried to work out the differences, I believe we have come out with a very good bill.

Again, I want to thank the subcommittee chairman and the ranking member for their work on this legislation, understanding there will be some discussion on other amendments. Overall, we have settled every difficult amendment prior to coming to the floor. That is one thing I pride this committee on, is working behind the scenes, in front of the scenes, and making sure the scene is finally done. And this bill does it, and I compliment the gentlemen. I also thank the staff who worked very hard on this legislation over the past 6 to 8 months. We have come out with a very good product.

Mr. OBERSTAR. Madam Chairman, I rise in support of the amendment.

The amendment addresses a number of issues. It is always a puzzle to people, if we bring a bill to the floor, why do we have a manager's amendment? Well, because from the time the bill leaves the committee and gets to the floor, there are issues that either were fermenting and developing or that arose from the time the committee reports a bill, and that is the case here.

We first have the Reserve Officer Training Program for Coast Guard officers that is established in the context of this manager's amendment, requiring all of the classification societies, including foreign classification societies, that want to do business in the United States, directly or indirectly through agents, to be licensed by the Coast Guard. We clarify that foreign flag vessels have to have security plans submitted to the Coast Guard in writing and may not operate after July 1, 2004, unless those plans have been reviewed and approved by the Coast Guard. A provision from the gentlewoman from California (Ms. MILLENDER-MCDONALD) to transfer responsibility for port security grants from DOT to Coast Guard in the Department of Homeland Security, that is a procedural matter; and the matter raised by the gentleman from New York (Mr. ENGEL), which he adequately discussed just a moment ago on the Indian Point nuclear energy facility.

Finally, we will not have to deal with the issue of the authority in the basic bill for the Coast Guard to suspend or revoke a license if the mariner has been found to have operated a vessel in a negligent manner, or to have interfered with the safe operation of a vessel, endangering life or property. That has been discussed.

I think this manager's amendment does all of the right things and does what a manager's amendment is supposed to do. I appreciate the work of the gentleman from New Jersey (Mr. LOBIONDO). And as he and the gentleman from Alaska (Mr. YOUNG) have noted, we have had full participation and discussion between the majority and the minority on this matter in the historic tradition of our committee.

Mrs. LOWEY. Madam Chairman, I rise in support of a provision authored by my colleague and good friend from New York, ELIOT ENGEL, and included in the Manager's amendment. The provision would close a critical security loophole by requiring the Coast Guard to conduct a vulnerability assessment of the Indian Point Energy Center in Buchanan, NY.

Since September 11, 2001, intelligence officials have amassed a critical body of evidence suggesting terrorist intentions to strike our nuclear infrastructure. Plans of U.S. nuclear facilities were discovered in Al Qaeda caves during U.S. military operations in Afghanistan. Most recently, reports of a terrorist plan to sabotage the Palo Verde nuclear power plants in Arizona were sufficiently serious that the National Guard was immediately deployed to secure the plant.

The public health and economic consequences of an attack on a nuclear power plant are almost too chilling to contemplate. Congressman ENGEL and I, whose districts abut Indian Point on the eastern banks of the Hudson River in Buchanan, have been briefed in detail on these scenarios. In 1982, the NRC commissioned a study which found that a meltdown at Indian Point—which lies within 50 miles of 21 million people—could lead to 123,000 short- and long-term deaths, over 300,000 injuries, and property damages conservatively estimated at over $1 trillion. Factoring the fourfold increase in property values in the New York metropolitan area since the study, the damages for our region could reach $2.3 trillion.

These devastating impacts justify the strongest possible security posture. While the NRC has required power plants to erect road barriers, increase the distance between security check points and the plants, and add perimeter fencing, the Commission has neglected the possibility of a waterborne attack. Cooperation and coordination between the Coast Guard and private security teams at the plant is lacking. Indeed, in July, 2003, the NRC aborted a force-on-force test at the plants when Coast Guard personnel, who had not been previously informed of the drill, threatened to use their live ammo against the mock attackers.

In October, 2002, Riverkeeper, a local nuclear watchdog group, approached Indian Point in a small boat. A Naval Militia cutter, manned by two officers, stopped them well outside of the security buoys. During the encounter, terrorists could have easily snuck behind the distracted militia boat and struck the unprotected plants. Moreover, neither of the militia officers carried weapons—only radios. Needless to say, their poorly maintained boat, which actually broke down as they returned to shore, would have been quickly overwhelmed by a well-armed attacking force.

The Indian Point episode vividly illustrates the need for a thorough assessment by the Coast Guard of the plant's security plans.

The NRC's casual dismissal of waterborne threats constitutes, in my estimation, a glaring oversight. We underestimate terrorists' capabilities at our own peril. In a recent article, maritime security expert Vijay Sakhuja notes that Al Qaeda and other international terrorist organizations possess ''substantial maritime capabilities'' and have developed the ''capacity to disrupt and even destroy regional maritime infrastructure.'' The article discusses in detail Al Qaeda's perfection of ''kamikaze'' tactics.

We can no longer afford to leave water approaches to nuclear reactors unprotected. The Coast Guard must carefully review Indian Point's security plans now to prevent a future terrorist attack.

I want to again thank my good friend ELIOT ENGEL for his leadership on this issue, and urge my colleagues to support the amendment.

The CHAIRMAN pro tempore. Is there any further debate on the amendment?

The question is on the amendment offered by the gentleman from New Jersey (Mr. LOBIONDO).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. DE FAZIO

Mr. DEFAZIO. Madam Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. DEFAZIO:

Page 21, line 9, strike the close quotation marks and the following period.

Page 21, after line 9, insert the following:

''(e) RESTRICTION ON LOCATION.—The museum established under this section may not be located on any property that is condemned or taken after December 31, 1999, by eminent domain by the Federal Government, by a State or local government, or by any other person acting under a delegation of authority from a State or local government.''.

Mr. DEFAZIO. Madam Chairman, as was discussed earlier, there were issues that arose. At least in my case I was contacted by an attorney representing a number of homeowners, Mr. Scott Bullock of the Institute for Justice, after the committee mark. I have discussed this with a number of members of the committee.

This is a simple amendment, and there seems to be some consensus on the objective. The problem is that the bill has no statement regarding the issue of eminent domain. It is silent on that issue. In fact, that was confirmed in a letter that I received today from the Chamber of Commerce of Eastern Connecticut, which says the bill does not address the issue of eminent domain and we believe it should be left to the local judicial process.

Certainly condemnation of property in New London, Connecticut, should be left to the local judicial process; but the issue of whether or not a Federal facility, the Coast Guard Museum, might be sited on property taken by eminent domain is the business of this Congress and this committee.

I feel strongly about this issue. We have families that have lived for generations on this site. I have letters from five people who are affected homeowners, but this is from the son of one: ''My great-grandmother's family moved to this neighborhood from northern Italy in the 1890s. My mother was born in her house at 87 Wabach Street in 1918, never lived anywhere else. She married my father, a merchant marine in World War II in 1945. They have lived in the house for 56 years. She has seen three of her four children die in this property, including her first. These houses are not simply buildings on a plot of land, but home for her with a lifetime of memories. I live with my wife, son, and niece in a home right next door.'' The letter has other sections that are pertinent.

I will just read one other letter: ''I hope all Members of Congress will recognize that if the Coast Guard Museum is ultimately built on property that has been taken through eminent domain, it will be forever tainted. There is no honor in kicking my mother, an 85-year-old woman, or my father, who fought for this country in World War II, out of the only home she has ever known to make room for a museum that celebrates the past, present, and future of the Coast Guard, a service whose history is steeped in honor and integrity.''

That is the issue before this body. It is quite simple. The bill is silent on this issue. A proceeding has begun locally, and that is up to the local jurisdiction to take this property by eminent domain with the idea that the museum would be sited there. The commandant of the Coast Guard, I have been told, says they do not want to take property by eminent domain. I would hope it would also mean that they do not want the museum to ever be sited on property that was taken by eminent domain with the intent of them moving there, and this would just make that clear.

This amendment would say any property condemned or taken after December 31, 1999, by eminent domain by the Federal Government, State or local government, or any other person acting under a delegation of authority. And that is what has happened in Connecticut; the local government has delegated to a development group the authority to take this property by eminent domain. It is pending in the courts of Connecticut.

If we do not adopt this amendment, the museum could end up on property that was taken from families who have lived there for generations by a local corporation, if it is upheld by the State courts to site the museum. There seems to be broad consensus on the objective. I offered to the gentleman whose project this is, and it is a meritorious project, and I congratulate him on that, to make this a friendly amendment since he agrees he does not want eminent domain used. I said I would be happy if we could do it as a friendly amendment. The gentleman does not want to do that. I hope the gentleman will explain why, and if he wants to contest that the bill somehow restricts eminent domain, I hope he cites from a specific section of the bill because I have read the only section that pertains to this. There is no mention of restriction on siting this museum on property taken by eminent domain, and it seems to me there is no good reason why we should not adopt this amendment. I would hope the committee would move forward and look at it as a friendly amendment and adopt it.

Mr. SIMMONS. Madam Chairman, I rise in opposition to the amendment.

Madam Chairman, I thank my colleagues for working with me to establish a national Coast Guard Museum. This issue of eminent domain came up at a business meeting of the subcommittee on June 12, 2003, when I offered legislation to create a national Coast Guard Museum that was designed to extend the curriculum of the cadets at the academy and also for the leadership courses which take place in New London, which is the location of the academy.

□ 1630

Currently there is a one-room museum on academy grounds that is used for this purpose. It is inadequate for this purpose, and for years we have wanted to expand that facility into what we call the National Coast Guard Museum. The distinguished ranking member of the committee raised an objection at the time and stated that while he felt the language was well-intentioned and a good idea, a number of problems were brought to his attention by a homeowners association raising concerns. This was the issue of the displacement of people under eminent domain authority, an issue that I share his concern about.

In the context of the subcommittee meeting, I was asked by the distinguished chairman of the subcommittee, the gentleman from New Jersey, if I would be willing to withdraw my amendment and work with the distinguished ranking member on language which addressed this issue. In the intervening weeks, we did just that. On Wednesday, June 25, alternative language was introduced which is now in the bill, which I believed and I think others believed address the issue. When it was passed unanimously by the committee, I thanked the ranking member, I thanked the chairman of the committee and the subcommittee for their cooperation on this matter. It has only been in the last week that I have discovered that another Member had concerns about this language.

It is true that the bill is silent on the issue of eminent domain. That was the intent. Because issues of eminent domain, especially issues that are in litigation, should not be affected one way or another by legislative action. But what the language of subsection (d) does which is so important and it does it in what I consider to be a very elegant way, and I thank the ranking member and his staff for coming up with this formulation. It says, before the date on which the Commandant establishes a museum under subsection (a), the Commandant shall provide to the committee, shall, he has no choice. He must do it. He must provide to the Committee on Transportation and Infrastructure a plan for operating and maintaining such a museum which gives us as members of the committee the opportunity to say yes or to say no. That is where the discussion of eminent domain from our standpoint should take place, from my point of view, not legislating language that would interfere with ongoing litigation involving the State, the municipality and other instruments. I believe firmly that this is the solution that we were looking for. This is the solution that very elegantly threads the needle on this difficult issue. I was grateful to the ranking member and to the other members of the committee for this assistance in coming up with this language.

We all know that the Coast Guard has assumed new duties and a new role since September 11. We all know that the Coast Guard is the only uniformed service that currently does not have a

national-level museum. The Army, and I was proud to serve in the Army for 37 years, has 46 museums. The Marine Corps has six. The Navy has 11, and so on and so on and so forth.

But let us take the discussion of eminent domain just one step further. Following the action of the full committee on June 25, the New London Day published an article the following day which says, Museum Proposal Makes Progress. Congressional Panel Approves, et cetera, et cetera.

The CHAIRMAN pro tempore (Mrs. BIGGERT). The time of the gentleman from Connecticut (Mr. SIMMONS) has expired.

Mr. SIMMONS. Madam Chairman, I ask unanimous consent to proceed for 2 additional minutes.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Connecticut?

Mr. DEFAZIO. Reserving the right to object, Madam Chairman, if the gentleman will give me the courtesy of an additional 2 minutes to respond, I would be happy not to object.

Madam Chairman, I withdraw my reservation of objection.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Connecticut?

There was no objection.

Mr. SIMMONS. Madam Chairman, it states, very briefly, the oversight provision, this is subsection (d), will enable Members of Congress to continue to raise questions as the project proceeds and should make it harder for backers of the museum to pursue the Fort Trumbull site, according to Scott Bullock, attorney for the Institute for Justice. Then it goes on to make several other statements in that line.

I think it is apparent, based on the reading of the RECORD and based on the reading of that public news story, that in crafting the oversight language, we met the objectives of dealing with the issue of eminent domain without interfering with litigation that may be taking place at a municipal or a State level. In that way, we have fulfilled our obligations and any further amendments to this effect are not helpful.

[From the New London Day, June 26, 2003]

MUSEUM PROPOSAL MAKES PROGRESS—CONGRESSIONAL PANEL APPROVES NL AS HOST FOR COAST GUARD PLAN

(By Judy Benson)

A Congressional subcommittee approved a measure Wednesday that authorizes the establishment of a Coast Guard museum in New London.

In addition, the measure, an amendment to a larger Coast Guard authorization bill, gives Congress continued oversight of the museum project, an addition that addresses concerns about using property taken by eminent domain.

The original measure was introduced by U.S. Rep. Rob Simmons, D–2nd District, with the oversight language added by other members of the panel concerned that property in the Fort Trumbull neighborhood in New London taken by eminent domain would be used.

The oversight provision will enable members of Congress to continue to raise questions as the project proceeds and should make it harder for backers of the Coast Guard museum to pursue the Fort Trumbull site, according to Scott Bullock, attorney for the Institute for Justice, The institute is representing property owners in the Fort Trumbull neighborhood in a lawsuit to block the city and the New London Development Corp. from taking the land by eminent domain as part of a redevelopment project.

Simmons said the action Wednesday is an important step toward the creation of the museum in New London, the home of the Coast Guard Academy. Earlier this month, Simmons proposed a similar amendment that he later withdrew when a ranking committee member brought up the eminent domain issue.

''Today's action in the House Transportation and Infrastructure Committee was a bipartisan stamp of approval to move forward and designate a national museum for the U.S. Coast Guard,'' Simmons said. ''Every other military service has at least six museums to commemorate their histories and service men and women. The Coast Guard deserves to have one.

''As the Coast Guard increases its responsibilities in a post-September 11 world,'' he continued, ''now is the time to honor the service and history of the many men and women in the Coast Guard with a national museum.''

The bill containing the amendment next goes to the full transportation committee for a vote and then to the full House. Funds to build the museum are to come from private groups.

Bullock said he considers Wednesday's action significant because it enables the museum project to move forward, but with the restriction of Congressional oversight even though federal funds have not been allocated for the museum.

''This demonstrates the very real concern in Congress about what is happening in New London and how eminent domain would be used,'' Bullock said.

He noted that the amendment said that the preferred site would be ''at or near the Coast Guard Academy,'' leaving the door open for a location in New London other than Fort Trumbull.

''There are ways to establish the museum in New London and make all parties happy,'' he said.

Coast Guard leaders remain committed to locating the museum near the academy, and are considering all options in New London, according to Jolie Shifflet, spokeswomen for the Coast Guard.

Mr. YOUNG of Alaska. Madam Chairman, will the gentleman yield?

Mr. SIMMONS. I yield to the gentleman from Alaska.

Mr. YOUNG of Alaska. Is this museum going to be in the gentleman's district?

Mr. SIMMONS. The Coast Guard Academy is in my district.

Mr. YOUNG of Alaska. That is where the museum will be?

Mr. SIMMONS. That is where we hope the museum will be.

Mr. YOUNG of Alaska. This will not be built on Federal land?

Mr. SIMMONS. This will be built by an entity that was created to build the museum without the expenditure of Federal funds.

Mr. YOUNG of Alaska. There will be no Federal funds and not on Federal lands. It is not on Federal property as was just mentioned? I think the point here, and I have, as the gentleman from Oregon knows, some great interest in condemnation proceedings, which I do not approve of, but I do think it is wrong, though, for this body to get involved in a local government and in a State process in a condemnation deciding which side it should be on. It should be left up to the local governments to do this because there are no Federal lands involved and no Federal funds. I think gentleman's presentation is correct. Although, I do not like condemnation proceedings, I do think we have to look at the local government's position as well as the State, and we should butt out, frankly.

Mr. SIMMONS. I thank the chairman for those comments.

Mr. DEFAZIO. Madam Chairman, I ask unanimous consent to strike the last word.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Oregon?

There was no objection.

Mr. DEFAZIO. Madam Chairman, the point here is that this says that a private entity will build this museum and then gift it to the Federal Government for operation. This is ultimately going to be an official museum of the United States Coast Guard, a Federal museum. This amendment does not interfere in the litigation for a taking. If this local development corporation indeed has the right under Connecticut law and the United States Constitution to take the land and throw these people off their property, they will have that right as determined by the courts. All this amendment says is that this Coast Guard museum, which is going to be a Coast Guard facility in the future after it is built and gifted to the Federal Government and the Coast Guard, will not be built on land that was condemned for that purpose, throwing families out of their homes. It is very simple. That is the issue before this Congress.

Mr. OBERSTAR. Madam Chairman, I move to strike the requisite number of words.

Madam Chairman, the subject at hand here is a matter that the gentleman from Connecticut and I did indeed discuss in the course of the markup on the Coast Guard authorization bill. I raised two questions. One was with respect to the funding the gentleman has discussed and language that he has read accurately from the committee bill. The second was the eminent domain issue. I recall how very poignantly the gentleman, in fact, we met in the Democratic sitting room off the committee floor, off the committee dias, told me how very poignantly his family had been displaced by an eminent domain proceeding and that he did not want to see anybody displaced by eminent domain. I read to him the language that the gentleman from Oregon has just a moment ago referred to from the Hartford newspaper. I was very distressed by this. People had written to me about it, especially that 87-year-old Italian immigrant

woman. Half Italian myself, I deeply sympathized with it.

But in further reviewing the matter since the issue was before the State supreme court, I said, I will desist from the eminent domain issue. Let us watch and see whether the court can resolve this matter. If not, we can revisit it again. So we bifurcated the issue and dealt with the Federal funding issue.

Now, comes the gentleman from Oregon who has been approached by the locals who very much are upset about this matter, and I understand his concern. Representing a western State, the gentleman from Oregon as the chairman of the full committee, frequently is crosscut by eminent domain issues and has confronted this matter time and again in the Committee on Resources. That is why, out of very deep personal conviction, he brings this issue to the floor. I say that for the RECORD. I want the RECORD to be clear. If the gentleman has any concern or question, I will be glad to give him a moment.

Mr. DEFAZIO. Madam Chairman, will the gentleman yield?

Mr. OBERSTAR. I yield to the gentleman from Oregon.

Mr. DEFAZIO. I guess maybe we could establish at least one point here.

I would ask the gentleman from Connecticut if he would agree that the museum should not be placed on property that is condemned for that purpose.

Mr. OBERSTAR. I yield to the gentleman from Connecticut (Mr. SIMMONS) to respond.

Mr. SIMMONS. Madam Chairman, I thank the gentleman for his comments and his recollections. I refer to a letter from the Coast Guard in June of this year saying, the Coast Guard is not directly involved in the acquisition process. The issue of eminent domain is not for the Coast Guard to decide. We look forward to a resolution of these issues by the community.

If I could further add to the RECORD, the amendment, as drafted, would prevent any property that has been taken by eminent domain from being used for this purpose. If the Coast Guard, for example, was to decide to take the existing 3,500-square-foot facility and add a second and a third floor to it and call it the national museum, they could not because that property was taken by eminent domain back in the thirties.

DEPARTMENT OF HOMELAND SECURITY, U.S. COAST GUARD,
Washington, DC, June 18, 2003.

Hon. ROBERT SIMMONS,
House of Representatives, Washington, DC.

DEAR REPRESENTATIVE SIMMONS: I am writing to you concerning the establishment and siting of the National Coast Guard Museum. The American public deserves a National Coast Guard Museum to preserve the heroic and important heritage of the Service.

For over 90 years, the Coast Guard has enjoyed a close, warm, and productive relationship with the people of New London and Connecticut. New London is already the home of the Coast Guard Academy, our Leadership Development Center, America's tall ship EAGLE, Coast Guard Station New London, and Coast Guard Cutter CHINOOK. New London is also a city where our roots are established and a center of maritime and nautical tradition. Therefore, New London is the focus of current efforts to acquire a suitable property.

We realize there is an energetic local dialogue and debate over the merits of possible sites and methods of acquiring property suitable for a National Coast Guard Museum. The Coast Guard is not, however, directly involved in the acquisition process. The issue of eminent domain is not for the Coast Guard to decide. We look forward to a resolution of these issues by the community.

We have recognized, and have signed an agreement that establishes, the Coast Guard National Museum Association (CGNMA) as the sole organization working to acquire land, raise funds for the construction of a museum, and donate the museum and land to the Coast Guard. We have no formal relationship with New London Development Corporation (NLDC) beyond informing them on the progress of the museum project. I refer you to the President of the National Coast Guard Museum Association to discuss the specifics about any agreements between them and the NLDC.

Although there is an initial conceptual design, the final design of the building will depend on the site chosen and the finalization of plans for the museum style, exhibits, and functions. It will be integrated into the overall plans for development of the selected site through coordination with appropriate local officials, agencies, and affected parties.

The Coast Guard has been part of the New London community for over 90 years and has great ties with, and great feelings for the people of New London. My House Liaison Office at (202) 225–4775 would be pleased to respond to any further questions you or your staff may have.

Sincerely,

T.J. BARRETT,
Vice Admiral, U.S. Coast Guard,
Acting Commandant.

Mr. OBERSTAR. The gentleman's language limits to 1999. So it cannot go back as far as the gentleman is suggesting.

I regret that this matter could not have been resolved at the committee level. It is an issue raised out of deep conviction by the gentleman from Oregon. I support his concern.

Mr. BAIRD. Madam Chairman, I move to strike the requisite number of words.

I yield to the gentleman from Oregon (Mr. DEFAZIO).

Mr. DEFAZIO. Madam Chairman, in the previous exchange, I did not get a definitive answer. He read from something from the Coast Guard that says they are neutral on this. If someone else condemns the land and the museum is built there, they will accept it. That is what that letter says. That is the bottom line here. We are not protecting these families who have lived on that land for nearly a century and do not want to give it up. An 87-year-old woman and her husband, a merchant mariner from World War II. I would just like a simple answer. I know the gentleman does not generally support eminent domain, he added something with his own family, but the question is simple. Would the gentleman agree, will he stand up and say ''yes'' in response to the question, will the gentleman say that this museum should not be built on property taken from these families in New London, Connecticut, by eminent domain, yes or no. It is a simple question.

Mr. BAIRD. I yield to the gentleman from Connecticut.

Mr. SIMMONS. Madam Chairman, unfortunately, it is not as simple as that. Unfortunately, 90 acres of land that was disposed of by the Navy as part of the BRAC process is now the focus of this development activity in a distressed city in the State of Connecticut and nobody can tell me with any assurance that this language that has been offered will not make it impossible for the Coast Guard to accept any of that Navy property, Customs property or even preexisting Coast Guard property.

If I could just make one other point. The language addresses the Coast Guard museum and places a burden on the Coast Guard, whether it be looking at property in Connecticut or New York or New Jersey, but nothing in the language prevents the New London Development Corporation from proceeding with its condemnation activities which are currently in the courts. Nothing in this amendment protects those families.

Mr. BAIRD. I appreciate the gentleman's clarification of that.

Mr. DEFAZIO. There we have it. As the gentleman said earlier in the debate, it does not interfere in the legal proceedings, and certainly we cannot do that. But what this amendment does, and this has nothing to do with the BRAC process or Federal excess property, a museum established under this section may not be located on any property that is condemned or taken after December 31, 1999. The land that was formerly a military base BRAC process does not meet that definition. By eminent domain. That is the key here. There is a group of people who are targeted. They are targeted. Families are targeted, living on this property. They do not want to give up their homes. An elderly couple. Their son and daughter-in-law and others who live on this property and have lived there for years, they do not want to give it up. This is simple. The Coast Guard has many options on where to put this museum and many adjacent and in the city of New London. It does not have to be on property that was condemned for that purpose.

I thank the gentleman for yielding.

□ 1645

The CHAIRMAN pro tempore (Mrs. BIGGERT). The question is on the amendment offered by the gentleman from Oregon (Mr. DEFAZIO).

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

Mr. DEFAZIO. Madam Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN pro tempore. Pursuant to clause 6 of rule XVIII, further

proceedings on the amendment offered by the gentleman from Oregon (Mr. DEFAZIO) will be postponed.

The point of no quorum is considered withdrawn.

AMENDMENT NO. 2 OFFERED BY MR. MANZULLO

Mr. MANZULLO. Madam Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 2 offered by Mr. MANZULLO:

Insert at the end of title VI the following new section:

SEC. 6___. LIMITATION ON BRIDGE ALTERATION PROJECTS.

The Coast Guard may conduct bridge alteration projects using amounts authorized under section 101(1)(B)(iv) of this Act only to the extent that the steel, iron, and manufactured products used in such projects are produced in the United States, unless the Commandant of the Coast Guard determines such action to be inconsistent with the public interest or the cost unreasonable.

Mr. MANZULLO. Madam Chairman, I rise to introduce this amendment to close a loophole that is allowing Federal funding under this bill to purchase foreign-made steel for bridge construction.

In 1940 Congress established the Alteration of Bridges program that enabled the Coast Guard to ensure open navigation of waterways. Under this program the Coast Guard can require bridge owners to alter bridges that pose an unreasonable obstruction to navigation. The Coast Guard contributes a portion of the bridge alteration costs based on modifications or replacement related to ensuring improved navigation. I cite two recent examples:

Even though 80 to 90 percent of the construction funds to alter a railroad bridge over the Mississippi River in Burlington, Iowa, came from the Coast Guard, the Coast Guard argued that the Buy American Act did not apply because the bridge was owned by a non-Federal entity. This project used 3,400 tons of steel.

The agency made the same argument for a $44 million railroad bridge replacement project in the Port of New Orleans. The Coast Guard's share of the project's cost came to 94 percent; yet they still determined the Buy American Act did not apply.

The Buy American Act was intended to ensure that when the taxpayers' money was spent on Federal projects that the materials and goods used came from American production, to stimulate our production in the jobs-producing aspect of the project. The Coast Guard's refusal to follow the intention of the act because of its legalistic determination circumvents the act's intent.

Let me illustrate the economic impact of this. It takes an average of 25 man-hours of labor to fabricate a ton of steel. The 3,400 tons required for the Burlington bridge equals about 85,000 hours. That is over 40 full-time jobs for 1 year. And these are exactly the kind of high-wage jobs, averaging $17 an hour plus benefits that pay enough for people to buy a home and support a decent standard of living.

The steel bridge industry fabricates on average about 500,000 tons of steel a year. That is over 12 million man-hours of labor. Now we are talking about 6,000 jobs. With an average price of steel at about $2,000 a ton, this means a billion-dollar manufacturing industry. These are the jobs directly related to fabricating the beams and girders.

When the Coast Guard circumvents the Buy American Act, it uses taxpayer dollars to pay the steelworkers of Japan and Korea. The problem here today is not with the Buy American Act, but with the multiple efforts being used to get around it. This amendment closes one of the loopholes and makes it clear that federally funded public works will be expected to adhere to the intent of the act as Congress envisioned.

The Coast Guard is our first line of defense in homeland security, guarding our shores and waterways. We should not allow the Coast Guard to undermine our economic security, the very jobs of our citizens that pay the taxes that allow us to have a Coast Guard in the first place. A similar amendment was adopted by the other body to the appropriations for the Department of Homeland Security and passed into law.

I urge the adoption of the amendment to make this permanent law.

Mr. LOBIONDO. Madam Chairman, will the gentleman yield?

Mr. MANZULLO. I yield to the gentleman from New Jersey.

Mr. LOBIONDO. Madam Chairman, I thank the gentleman for his amendment. We have looked it over, and we think it is a good amendment; and we are prepared to accept it.

Mr. BAIRD. Madam Chairman, I move to strike the last word.

I appreciate the comments from my colleagues, and I thank the chairman of the committee for his willingness to accept this.

I just want to briefly add my support for this. This is about jobs. It is about national security, and it is about efficient transportation. It is about jobs because we need to preserve the fundamental principles of the Buy American Act. Steel fabricators, steel producers in this country produce a high-quality product. They employ thousands of Americans with family-wage jobs, and the Buy American Act assures that they will continue to do so. It is about national security because we must sustain the domestic steel fabrication and manufacturing industry both for defense purposes and for transportation purposes. And, finally, it is about transportation efficiency. An efficient, quality, modern and economically sound steel fabrication industry is absolutely essential to the viability of our transportation system. I applaud the gentleman for his leadership, and I thank the Chair for his willingness to support this.

Mr. OBERSTAR. Madam Chairman, I move to strike the requisite number of words.

I appreciate the amendment offered by the gentleman from Illinois (Mr. MANZULLO). It fits in with the long-standing position of our Committee on Transportation and Infrastructure on Buy America on steel in our Federal aid highway and transit and Corps of Engineers programs. It is only recently the committee has had jurisdiction over the Coast Guard, and there too we need this vigilance over the Truman-Hobbs Act.

I authored in 1982 in the Surface Transportation Assistance Act of that year a provision that requires American steel to be used in all Federal-aid highway projects. The amendment accepted in committee and approved in the House required 100 percent American steel on all Federal-aid highway programs; and when we got to conference with the Senate, we had a little dispute.

They wanted to be more supportive of international trade, and we worked out language that I had a fallback position on, and it has worked out well. It requires all steel in the Federal-aid highway program to be American steel. What we see is every bridge, every girder, every rebar, every guardrail, every fence post is American steel. When I chaired the Subcommittee on Investigations and Oversight in the mid-1980s, my good friend Bill Clinger, who was ranking Republican on the subcommittee at the time, and I conducted extensive inquiry into the application of the Buy American Act, and we found that the Federal Highway Administration was administering that program rigorously. Two million tons of steel a year that go into the Federal-aid highway program is American steel.

It was not quite so good in the Federal Transit Administration. The Corps of Engineers was not doing a very good job at all. When they put in the caissons for the footings for bridges that the Corps of Engineers built, they used foreign steel. They built the bridge with American steel. I said wait a minute, how can they do this? Well, this is a temporary structure. But I found that the corps leaves that steel covering for the caisson in place afterward to help against scouring at the time of flood. I said, so that is a permanent structure. So we changed the law to toughen it up so the corps could not circumvent the Buy America provision.

Now we come to the Coast Guard and the Truman-Hobbs bridge alteration program. The language that the gentleman offers restates a provision that is already in the Homeland Security Appropriations Act that requires American steel to be used in these projects, but we ought to put it in here. We ought to reinforce an already-established strongly held principle. These are American dollars, taxpayer dollars.

In the Federal Highway Program, that is our highway trust fund dollars that are to be used to buy American steel and put it in those facilities.

What stimulated events in 1982 was we were building a bridge between Duluth and Superior. The State of Wisconsin had a responsibility for that bridge construction. They let a contract to Japanese steel, 10,000 tons of Japanese steel to build a center-arch span in that bridge. I vowed that never again would we have this happen. That iron ore from the Minnesota Iron Range would have to go under a bridge built with Japanese steel? They have got to be kidding. Out of that came the Buy American provisions.

By heavens, I am not going to let that slip away. We lost 890,000 jobs in the steel industry in the last 20 years to foreign steel, subsidized overseas, dumped in America, driving American jobs out.

The gentleman offers a very fine amendment. We ought to toughen it, but we ought to take an overview in our committee, I say to the chairman of the subcommittee. We ought to have an in-depth review of the Buy America provision as it applies not just to the Coast Guard, and I say this to the chairman of the full committee, but as it applies to all the issues under the jurisdiction of our committee. We provide funding which averages about $80 billion a year for infrastructure programs, and we ought to make sure that everything we are buying is American steel, and American goods in other arenas as well. Cement that goes into the concrete, asphalt, they all ought to be American product. So I support the gentleman's amendment.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Illinois (Mr. MANZULLO).

The amendment was agreed to.

AMENDMENT NO. 13 OFFERED BY MS. BALDWIN

Ms. BALDWIN. Madam Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 13 offered by Ms. BALDWIN:
At the end of title VI (page 43, after line 2), add the following:

SEC. . LIMITATION ON USE OF FUNDS TO ACQUIRE ENGINES FOR INTEGRATED DEEP WATER SYSTEM.

None of the funds authorized in this Act may be used to acquire any main propulsion diesel engine for the Coast Guard's Integrated Deep Water System unless the engine is manufactured in the United States.

Ms. BALDWIN. Madam Chairman, I offer this bipartisan amendment on behalf of myself and the gentleman from Wisconsin (Mr. RYAN). Our amendment is simple. It would prohibit funds authorized in this bill from being used to acquire the main propulsion diesel engines for the Coast Guard's new fleet of ships in the Integrated Deep Water System, unless the engines are manufactured in the United States of America.

Earlier this year I offered a similar amendment to the Department of Homeland Security Appropriations bill. At that time my amendment was not in order; so it did not come up for a vote. But during consideration of my prior amendment to the homeland security bill, a lively debate ensued; and I believe that there was some confusion at that time, and I wanted to take a moment right now to address those misimpressions.

A colleague opposed my amendment, arguing that the diesel engines for the new Coast Guard ships were being made in America and that my amendment was not necessary. The gentleman was incorrect. While it is true that there is a Michigan company that was selected to be the vendor for the propulsion system, I have a letter received from the Coast Guard 2 days after the conclusion of that debate that states clearly that the diesel engines are foreign made. The Coast Guard letter states that the components of the propulsion system ''include MTU Diesels of German design and manufacture.'' So while Detroit Diesel may be the vendor for the whole system, the diesel propulsion engines are designed and made in Germany by German workers, not Michigan or other American workers as the gentleman had claimed.

As we all know, Congress has made a commitment to overhaul the Coast Guard's fleet, phasing out older and obsolete ships and building new ones. It is a large taxpayer investment, one that I am proud to support. But for goodness sake, let us build those ships and all of their components in America.

Our amendment would require that the main propulsion diesel engines, a critical component of this new fleet of large ships, are made in the United States. There are several good U.S. firms with U.S. plants that are ready, willing, and able to provide the diesel engines for the Coast Guard at or below total operation cost of the German-made engines. And in the interest of full disclosure, one of those companies is in Wisconsin. But I also note that the Michigan vendor that I referred to earlier would also qualify for the engine contract under this amendment if it were to pass, if the engines were to be made in Michigan or in other U.S. locations and not in Germany.

□ 1700

Madam Chairman, we are bleeding well-paying, family-supporting manufacturing jobs in this country. Since 2000, we have lost over 2.7 million manufacturing jobs. When manufacturing jobs go away, economic history shows us that it is hard to get them back.

Let me remind Members that these are United States taxpayer dollars. They should be supporting U.S. workers, and not just U.S. CEO's who are contracting out with foreign sister corporations to take these good jobs overseas. Our amendment would help keep some of those jobs here at home, making vital products for vital parts of the defense of our Nation.

Keep in mind, the Coast Guard is part of our homeland defense. Do we want to be reliant on overseas suppliers for essential parts and services for our defense infrastructure, or do we want to produce these important components here at home? I urge Members to support this amendment.

Mr. KNOLLENBERG. Madam Chairman, I rise to oppose this amendment.

I want to keep my remarks brief, because we have been down this road before, but there is really no rational reason to support this amendment. The competition to supply the main propulsion diesel engines for the Coast Guard's Integrated Deepwater System is over. It was a fair and open competition that was won by Detroit Diesel of Michigan. It is history. Unfortunately, and we should name the other competitor that the author of the amendment brings up, it is Fairbanks Morse of Wisconsin, it is a good company, but they simply have not accepted the results of that competition.

For the second time in a few months, I have come to the floor to oppose an amendment, this particular amendment or one designed very similarly. It does nothing more than reverse the outcome of the competition and give Fairbanks Morse an unfair competitive advantage.

Now, these are both very good American companies that employ thousands of Americans, thousands of Americans, both of them. However, in this case, the proposal offered by Detroit Diesel was selected because the company offered a low-cost, high-performance, low-risk solution that was technically superior. The Coast Guard did not make this decision lightly, and it is my understanding that they oppose the amendment as well. It is time to accept the results of that competition.

This is not about protecting American manufacturers, this is about doing an end run around the procurement process. I encourage all my colleagues to oppose this amendment, to ensure that open and fair competition for government contracts are respected and maintained.

Mr. TOM DAVIS of Virginia. Madam Chairman, will the gentleman yield?

Mr. KNOLLENBERG. I yield to the gentleman from Virginia.

Mr. TOM DAVIS of Virginia. Madam Chairman, I join my friend from Michigan in opposition to this amendment, which would apply a radical domestic source restriction to the acquisition of main propulsion diesel engines for use in Coast Guard vessels. This could have a devastating effect on the Coast Guard's ability to buy the best propulsion engines at reasonable costs to support its critical anti-terror missions.

We talk about taxpayers. We are asking taxpayers to pay more money to subsidize a private company. Despite the high sounding ''Buy America'' language, this is basically an earmark for a company. This goes against everything we stand for.

What about the American companies that sell abroad? This invites retaliation, so American companies selling abroad today would be retaliated against and could lose those contracts. One has to remember that 95 percent of the world's consumers live outside of the United States.

Restrictive provisions such as these run counter to our efforts to create an open, flexible, responsive and impartial competitive acquisition system that will enable all government agencies, including the Coast Guard, to acquire from the world markets, the best products available at fair and reasonable prices for American taxpayers.

At the end of the day, this is about American taxpayers and getting them the best deal. As the gentleman said, they went through a lengthy procurement process where this was all analyzed, and the taxpayers won out in this contract. It is trying to be reversed here on the House floor.

I hope my colleagues with will join the gentleman from Michigan and myself in opposing this amendment.

Mr. KNOLLENBERG. Madam Chairman, reclaiming my time, I thank the gentleman for making those comments.

Mr. RYAN of Wisconsin. Mr. Chairman, I rise in support of this amendment offered by my colleague from Wisconsin and would like to comment on a few of the comments my colleague from Michigan said. He basically said the procurement process is done. This is an end run around the system.

It is very important that we note we have had Buy American provisions in many, many Defense Department contracts. On issues of national security and on issues of homeland security, this Congress has, time over time over time, stipulated that we need to keep our U.S. manufacturing base intact so that when it comes to these matters of national and homeland security, we have the infrastructure and economy in this country to produce these goods that we need.

This is simply being consistent with our Buy American language that we have had in other bills. We have had provisions for these kinds of purchases of these kinds of engines in the Defense Department appropriations bill. So it is very consistent that this language be included in this particular authorization bill, because this exact language has been included in other bills, namely Defense appropriations.

We are not asking for something that is new and novel and different. The one thing we are asking for is we think it is important that this Congress does make a statement, and that statement is that, especially in areas of homeland and national security, we work to make sure we still have a manufacturing base in this country that can produce the kinds of goods and services we need to keep our country secure, to keep our borders secure.

These engines that are going into these ships to protect our homeland, it is very important that we keep this industry alive in this country, because who knows what could happen down the road when we have to rely on other countries to help us protect our own country? They may not be there in the future. That is why this is important.

It is also important because we are losing manufacturing jobs in this economy. Many areas of this economy are growing very well. We had 7.2 percent economic growth in the last quarter. That is the fastest in 19 years. But, and the big ''but'' is, we are still losing manufacturing jobs. This provision would keep and maintain manufacturing jobs in America, not in Germany.

We are not against manufacturing jobs in Germany, we are just more for manufacturing jobs in America, especially in matters of homeland and national security.

I urge adoption of this amendment. It is consistent with many other policies this Congress has passed in the very recent past, and, because of that, I urge its passage.

Mr. OBERSTAR. Mr. Chairman, I move to strike the last word.

Mr. Chairman, the exchange that we have just had between the Michigan delegation, or its voice, and the Wisconsin delegation and the previous amendment offered by the gentleman from Illinois, point up a problem that we have to face and to which I alluded in my previous remarks, and that is the Buy America provisions that affect activities under the jurisdiction of our Committee on Transportation and Infrastructure need to be revisited and thought through and refined.

We have two very differing views of the application of the Buy American Act to the procurement at hand that the Coast Guard is involved with. The Coast Guard is opposed to the amendment. They say the Deepwater Program will comply with the Buy American Act. The Coast Guard and the prime contractor on this procurement, Lockheed Martin, have not, to the best of my knowledge, yet selected the engine to be used, although it is widely known and supposed that it will be the Detroit Diesel engine, with major parts made in Germany, assembled in the United States.

That is where the refinements come in; products, parts of which are made overseas, assembled in the United States. We have lost the whole subway, locomotive and passenger car business to overseas producers. We have lost virtually all light rail and heavy rail production to overseas. Only just recently, Colorado Railcar has come in to produce a very high quality commuter rail vehicle. We need to recapture all of that back to the United States.

In the Transit Program, we have spent $36 billion over the last 6 years on buses and heavy rail, commuter rail, light rail, intercity passenger rail, and a good deal of that is being produced overseas with subassemblies brought back to the United States, largely because our industry abandoned that field because we were not buying much of it, because we were building a lot of highways.

Now, a lot more money is going into the transit system. We are handling 1 million new transit riders a day in America. There is a new market, so we are starting to recreate that market. Yet, big pieces of it being be produced overseas.

Well, we need to recapture that business. We need to stimulate American manufacturers. The Manzullo amendment deals with steel in bridges under the Truman-Hobbs Act. The provision offered by the gentlewoman from Wisconsin deals with equipment, vessels. There will be others when we get into the Transit program that will deal with railcars and locomotives and so on. We need a comprehensive approach to this issue. We need to further refine how the Buy American Act applies.

While I sympathize fully and totally with the advocacy by the gentlewoman and the gentleman from Wisconsin, I think we are in an inadequate position right now, and I do not think that this language adequately addresses the problem at hand.

So, I urge the chairman of the subcommittee, and I will yield to the gentleman, to schedule hearings on this subject. Let us take a closer in-depth look as we prepare for the next authorization for the Coast Guard in the next session of this Congress.

Mr. LOBIONDO. Mr. Chairman, will the gentleman yield?

Mr. OBERSTAR. I yield to the gentleman from New Jersey.

Mr. LOBIONDO. Mr. Chairman, I thank the gentleman for raising some very good points. We will certainly take a close look at this. It is an issue that I think most Members in this body can agree that we want to put a focus of attention on.

I strongly agree with the gentleman that, while I understand the amendment offered by the gentlewoman from Wisconsin, that this is not the right amendment, that this is the wrong time.

Mr. OBERSTAR. Mr. Chairman, reclaiming my time, I appreciate the gentleman's response. I would say to the gentleman from Wisconsin, I will insist, and I know we will have the cooperation at the full committee level and subcommittee level, that we explore these matters in the depth and detail to which they are entitled and which you and your colleague from Wisconsin are entitled.

Mr. LOBIONDO. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, as Chair of the Subcommittee for Coast Guard and Maritime Transportation, I rise in very strong opposition to this amendment, and I join with the gentleman from Alaska (Chairman YOUNG), the chairman of the full committee, in saying that, first and foremost, this is a matter of national security.

This Deepwater Program that we are finally under way with and finally gaining some momentum with is replacing the aged assets of the Coast Guard that are desperately needed. Prior to September 11, it was an issue that just related to Coast Guard traditional missions. Since September 11, with the role that the Coast Guard has taken for homeland and port security, it is essential that we replace these assets as quickly as possible.

If in fact this amendment were to pass, the Coast Guard's National Security Cutter would be delayed by 18 months. That is totally unacceptable. The proposed amendment would also force the layoff of a number of U.S. workers; not workers in Germany, not workers somewhere else, workers right here in the United States of America. That is unacceptable.

This proposal actually is an attempt to rewrite and to go beyond the Buy America provisions that currently apply to the Coast Guard's Deepwater Program and would cancel, I repeat, cancel the current task force order that was awarded to another American company.

In addition to this, for those of my colleagues who are fiscally minded, this amendment, if enacted, would cost the American taxpayers in excess of $160 million. Unacceptable. Unacceptable on all fronts.

This was a bidding process that we entered into that we went through. I understand that there is a regional dispute about how one company was affected. But it was done fairly, it was done properly.

□ 1715

For the sake of the Coast Guard, and I will say that the Coast Guard has not taken a formal position because they have not had the opportunity to see this amendment in writing and to respond, but I feel very confident in saying that the Coast Guard would strongly oppose this if they had the opportunity to respond in writing for all of the reasons outlined above.

So I would urge my colleagues as strongly as I can to understand the implications of the Deep Water program moving forward, not being delayed, to understand the implications of national security, to understand the implications of taxpayer dollars being spent wisely, and vote against this amendment.

The CHAIRMAN pro tempore (Mr. SIMPSON). The question is on the amendment offered by the gentlewoman from Wisconsin (Ms. BALDWIN).

The amendment was rejected.

AMENDMENT OFFERED BY MR. BELL

Mr. BELL. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BELL:

At the end of title VI (page 43, after line 2) add the following:

SEC. . AREA MARITIME TRANSPORTATION SECURITY PLAN FOR PORT OF HOUSTON AND HOUSTON SHIP CHANNEL.

Section 70103(b) of title 46, United States Code, is amended by adding at the end the following:

''(5) Any Area Maritime Transportation Security Plan for the Port of Houston or the Houston Ship Channel shall include the information required by this subsection for each petrochemical facility located within 5 miles of navigable waters with respect to which the plan applies.''.

Mr. BELL. Mr. Chairman, I rise today to offer this amendment to the Coast Guard and Maritime Transportation Act. This amendment is vital to the continued security of my hometown, Houston, Texas.

The amendment calls on the Coast Guard to include petrochemical plants within 5 miles of the Port of Houston and the Houston Ship Channel in their area maritime security plans.

The Maritime Transportation and Security Act requires the Coast Guard to develop both an area maritime security plan and a vessel and facilities plan.

There has been some reluctance by the Coast Guard to include things like power plants in their plans because they do not consider power plants to be transportation related. However, Mr. Chairman, Houston, Texas, is the heart of America's energy industry and our coastline in Texas, and particularly in the Houston area, is dotted with refineries and petrochemical plants that are no doubt attractive targets to would-be terrorists. In fact, in my district alone, we have over 100 refineries responsible for close to 40 percent of the entire country's petroleum and petrochemical products, which are adjacent to the navigable waterways of the Port of Houston and the Houston Ship Channel. Some of these facilities are located right on the waterway and some are a bit inland. But because of the chemicals they deal with, a terrorist incident at an inland facility could produce a chain reaction affecting plants located much further away from the port itself. A terrorist incident at one of these plants could also cost thousands of lives and could have a devastating impact on the Houston metropolitan area, the fourth largest city in America.

We have a responsibility to look at this situation holistically, Mr. Chairman. My amendment allows the Coast Guard to address the global security concerns that impact this vital transportation corridor and one of the biggest population centers in America. This amendment provides for a creative security solution that will actually make Houston, Texas, America's energy capital, much more secure.

Mr. OBERSTAR. Mr. Chairman, will the gentleman yield?

Mr. BELL. I yield to the gentleman from Minnesota.

Mr. OBERSTAR. Mr. Chairman, I appreciate very much the concern of the gentleman. He presents a unique circumstance and that is that while the Coast Guard has authority for anything on the water or immediately adjacent to the water, the facilities the gentleman refers to are inland, several miles inland. We need a little time to think this through and to see whether the Coast Guard is the truly appropriate entity to have this responsibility and, if so, how we can provide it.

I will assure the gentleman that, as the bill moves forward and as we get into conference with the other body, there is always an opportunity to make some adjustments, and I think we should respond, hopefully in that context, but if not, certainly by the time the committee researches the next Coast Guard reauthorization, which will be sometime next spring. We should revisit this matter. I share the gentleman's concern. Our Port Security Act does not deal with a matter of this kind, and we ought to think of a way in which we can provide the protection the gentleman legitimately has concerns about.

Mr. Chairman, I thank the gentleman for yielding.

Mr. BELL. Mr. Chairman, reclaiming my time, with that assurance, and I very much appreciate the ranking member's commitment to this very important issue that affects the Houston area, and with the assurance that it can either be addressed in conference or at some point in the near future, at this point.

Mr. Chairman, I ask unanimous consent to withdraw my amendment.

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

There was no objection.

AMENDMENT OFFERED BY MR. DEFAZIO

The CHAIRMAN pro tempore. The pending business is the demand for a recorded vote on the amendment offered by the gentleman from Oregon (Mr. DEFAZIO) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will designate the amendment.

The Clerk designated the amendment.

RECORDED VOTE

The CHAIRMAN pro tempore. A recorded vote has been demanded.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 199, noes 221, not voting 14, as follows:

[Roll No. 604]

AYES—199

Abercrombie	Clay	Filner
Ackerman	Clyburn	Flake
Andrews	Costello	Ford
Baca	Crowley	Frank (MA)
Baird	Cummings	Frost
Baldwin	Davis (AL)	Garrett (NJ)
Ballance	Davis (CA)	Gonzalez
Barrett (SC)	Davis (FL)	Goode
Becerra	Davis (IL)	Gordon
Bell	Davis (TN)	Green (TX)
Berkley	Davis, Jo Ann	Grijalva
Berman	DeFazio	Gutierrez
Berry	DeGette	Gutknecht
Bishop (GA)	DeLauro	Harman
Bishop (NY)	Deutsch	Hastings (FL)
Boswell	Dingell	Hastings (WA)
Boucher	Doggett	Hayworth
Boyd	Dooley (CA)	Hill
Brady (PA)	Doyle	Hinchey
Brown (OH)	Duncan	Hinojosa
Brown, Corrine	Edwards	Hoeffel
Capps	Emanuel	Holden
Capuano	Engel	Holt
Cardin	Eshoo	Honda
Cardoza	Etheridge	Hooley (OR)
Carson (IN)	Evans	Hoyer
Carson (OK)	Farr	Inslee

Israel	Meek (FL)	Ryan (OH)
Jackson (IL)	Meeks (NY)	Sabo
Jefferson	Menendez	Sanchez, Linda T.
Johnson, E. B.	Michaud	Sanchez, Loretta
Jones (NC)	Millender-McDonald	Sandlin
Jones (OH)	Miller (NC)	Schiff
Kanjorski	Miller, Gary	Scott (VA)
Kaptur	Miller, George	Serrano
Kennedy (MN)	Mollohan	Sherman
Kennedy (RI)	Moore	Skelton
Kildee	Moran (VA)	Slaughter
Kilpatrick	Myrick	Smith (WA)
Kind	Nadler	Solis
Kleczka	Napolitano	Spratt
Lampson	Neal (MA)	Stark
Lantos	Oberstar	Strickland
Larsen (WA)	Obey	Stupak
Larson (CT)	Olver	Tancredo
Lee	Ortiz	Tauscher
Levin	Otter	Taylor (MS)
Lewis (GA)	Owens	Thompson (CA)
Lipinski	Pallone	Thompson (MS)
Lofgren	Pascrell	Toomey
Lowey	Pastor	Towns
Lucas (KY)	Paul	Udall (CO)
Lynch	Payne	Udall (NM)
Majette	Pelosi	Van Hollen
Maloney	Peterson (MN)	Velazquez
Markey	Pombo	Visclosky
Marshall	Price (NC)	Walden (OR)
Matheson	Rahall	Waters
Matsui	Ramstad	Watson
McCarthy (MO)	Rangel	Watt
McCarthy (NY)	Renzi	Waxman
McCollum	Rohrabacher	Weiner
McDermott	Rothman	Wexler
McGovern	Roybal-Allard	Woolsey
McInnis	Ruppersberger	Wu
McNulty	Rush	Wynn
Meehan		

NOES—221

Aderholt	DeMint	Kingston
Akin	Diaz-Balart, L.	Kirk
Alexander	Diaz-Balart, M.	Kline
Allen	Dicks	Knollenberg
Bachus	Doolittle	Kolbe
Baker	Dreier	LaHood
Ballenger	Dunn	Langevin
Bartlett (MD)	Ehlers	Latham
Barton (TX)	Emerson	Leach
Bass	English	Lewis (CA)
Beauprez	Everett	Lewis (KY)
Bereuter	Feeney	Linder
Biggert	Ferguson	LoBiondo
Bilirakis	Foley	Lucas (OK)
Bishop (UT)	Forbes	Manzullo
Blackburn	Fossella	McCotter
Blumenauer	Franks (AZ)	McCrery
Blunt	Frelinghuysen	McHugh
Boehner	Gallegly	McIntyre
Bonilla	Gerlach	McKeon
Bonner	Gibbons	Mica
Bono	Gilchrest	Miller (FL)
Boozman	Gillmor	Miller (MI)
Bradley (NH)	Gingrey	Moran (KS)
Brady (TX)	Goodlatte	Murphy
Brown (SC)	Goss	Murtha
Brown-Waite, Ginny	Granger	Musgrave
	Graves	Nethercutt
Burgess	Green (WI)	Neugebauer
Burns	Greenwood	Ney
Burr	Hall	Northup
Burton (IN)	Harris	Norwood
Buyer	Hart	Nunes
Calvert	Hayes	Nussle
Camp	Hefley	Osborne
Cannon	Hensarling	Ose
Cantor	Herger	Oxley
Capito	Hobson	Pearce
Carter	Hoekstra	Pence
Case	Hostettler	Peterson (PA)
Castle	Houghton	Petri
Chabot	Hulshof	Pickering
Chocola	Hunter	Pitts
Coble	Hyde	Platts
Cole	Isakson	Pomeroy
Collins	Issa	Porter
Cooper	Istook	Portman
Cox	Janklow	Pryce (OH)
Cramer	Jenkins	Putnam
Crane	John	Quinn
Crenshaw	Johnson (CT)	Radanovich
Culberson	Johnson (IL)	Regula
Cunningham	Johnson, Sam	Rehberg
Davis, Tom	Keller	Reynolds
Deal (GA)	Kelly	Rodriguez
Delahunt	King (IA)	Rogers (AL)
DeLay	King (NY)	Rogers (KY)
Rogers (MI)	Shuster	Tiberi
Ros-Lehtinen	Simmons	Tierney
Ross	Simpson	Turner (OH)
Royce	Smith (MI)	Upton
Ryan (WI)	Smith (NJ)	Vitter
Ryun (KS)	Smith (TX)	Walsh
Saxton	Snyder	Wamp
Schakowsky	Souder	Weldon (FL)
Schrock	Stenholm	Weldon (PA)
Scott (GA)	Sullivan	Weller
Sensenbrenner	Sweeney	Whitfield
Sessions	Tanner	Wicker
Shadegg	Tauzin	Wilson (NM)
Shaw	Terry	Wilson (SC)
Shays	Thomas	Wolf
Sherwood	Thornberry	Young (AK)
Shimkus	Tiahrt	Young (FL)

NOT VOTING—14

Boehlert	Gephardt	Reyes
Conyers	Jackson-Lee (TX)	Sanders
Cubin		Stearns
Fattah	Kucinich	Taylor (NC)
Fletcher	LaTourette	Turner (TX)

ANNOUNCEMENT BY THE CHAIRMAN PRO TEMPORE

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

□ 1744

Messrs. DEMINT, TIERNEY, SMITH of Texas, Mrs. EMERSON, and Mrs. MUSGRAVE changed their vote from ''aye'' to ''no.''

Messrs. NADLER, JONES of North Carolina, ROHRABACHER, RAMSTAD, MCINNIS, and Mrs. JO ANN DAVIS of Virginia changed their vote from ''no'' to ''aye.''

So the amendment was rejected.

The result of the vote was announced as above recorded.

Stated against:

Mr. STEARNS. Mr. Chairman, on rollcall No. 604 I was unavoidably detained. Had I been present, I would have voted ''no.''

The CHAIRMAN pro tempore. Are there other amendments?

The question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN pro tempore. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. THORNBERRY) having assumed the chair, Mr. SIMPSON, Chairman pro tempore of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 2443) to authorize appropriations for the Coast Guard for fiscal year 2004, to amend various laws administered by the Coast Guard, and for other purposes, pursuant to H. Res. 416, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

□ 1745

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

AUTHORIZING THE CLERK TO MAKE CORRECTIONS IN ENGROSSMENT OF H.R. 2443, COAST GUARD AND MARITIME TRANSPORTATION ACT OF 2003

Mr. LOBIONDO. Mr. Speaker, I ask unanimous consent that in the engrossment of the bill, H.R. 2443, the Clerk be authorized to correct section numbers, punctuation and cross references, and to make such other necessary technical and conforming changes as may be necessary to reflect the actions of the House.

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

There was no objection.

GENERAL LEAVE

Mr. LOBIONDO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 2443.

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

There was no objection.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, proceedings will now resume on the questions previously postponed.

Votes will be taken in the following order:

H.J. Res. 76, by the yeas and nays;

Conference report to accompany H.R. 2559, by the yeas and nays;

H.R. 3214, by the yeas and nays;

Concur in Senate amendments to H.R. 3365, by the yeas and nays;

Conference report to accompany H.R. 2559, by the yeas and nays; and

H.R. 2620, debated Tuesday, by the yeas and nays.

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

FURTHER CONTINUING APPROPRIATIONS, FISCAL YEAR 2004

The SPEAKER pro tempore. The pending business is the vote on passage of the joint resolution, H.J. Res. 76, on which the yeas and nays were ordered.

The Clerk read the title of the joint resolution.

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

The vote was taken by electronic device, and there were—yeas 418, nays 5, not voting 11, as follows:

[Roll No. 605]

YEAS—418

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

NAYS—5

DeFazio
Hefley
McDermott
Paul
Stark

NOT VOTING—11

Boehlert
Conyers
Fattah
Fletcher
Gephardt
Jackson-Lee (TX)
Kucinich
LaTourette
Reyes
Taylor (NC)
Turner (TX)

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

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

□ 1803

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Remaining votes will be taken in the following order:

Conference report to accompany H.R. 2559, H.R. 2620, H.R. 3214, H.R. 3365.

All remaining votes will be by the yeas and nays, and all will be 5-minute votes.

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

The SPEAKER pro tempore. The pending business is the question of agreeing to the conference report on the bill, H.R. 2559, on which the yeas and nays are ordered.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the conference report.

Pursuant to clause 10 of rule XX, the yeas and nays are ordered.

This is a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 417, nays 5, not voting 12, as follows:

[Roll No. 606]

YEAS—417

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Baldwin
Ballance
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Becerra
Bell
Bereuter
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehner
Bonilla
Bonner
Bono
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Carter
Case
Castle
Chabot
Chocola
Clay
Clyburn
Coble
Cole
Collins
Cooper
Costello
Cox
Cramer
Crane
Crenshaw
Crowley
Cubin
Culberson
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette
Delahunt
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Dooley (CA)
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emanuel
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Farr
Feeney
Ferguson
Filner
Flake
Foley
Forbes
Ford
Fossella
Frank (MA)
Franks (AZ)
Frelinghuysen
Frost
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gonzalez
Goode
Goodlatte
Gordon
Goss
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Grijalva
Gutierrez
Gutknecht
Hall
Harman
Harris
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hill
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Honda
Hooley (OR)
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hyde
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Janklow
Jefferson
Jenkins
John
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick
Kind
King (IA)
King (NY)
Kingston
Kirk
Kleczka
Kline
Knollenberg
Kolbe
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
Leach
Lee
Levin
Lewis (CA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Lynch
Majette
Maloney
Manzullo
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCotter
McCrery
McDermott
McGovern
McHugh
McInnis
McIntyre
McKeon
McNulty

Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Michaud
Millender-McDonald
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Mollohan
Moore
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Nadler
Napolitano
Neal (MA)
Nethercutt
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Ose
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Payne
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Renzi
Reynolds
Rodriguez
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Sanchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Saxton
Schakowsky
Schiff
Schrock
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Souder
Spratt
Stark
Stearns
Stenholm
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Tauzin
Taylor (MS)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Toomey
Towns
Turner (OH)
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velazquez
Visclosky
Vitter
Walden (OR)
Walsh
Wamp
Watson
Watt
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NAYS—5

Conyers
Lewis (GA)
Paul
Slaughter
Waters

NOT VOTING—12

Boehlert
Fattah
Fletcher
Gephardt
Hart
Jackson-Lee (TX)
Johnson (CT)
Kucinich
LaTourette
Reyes
Taylor (NC)
Turner (TX)

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

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

□ 1811

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Ms. HART. Mr. Speaker, on rollcall No. 606 I was unavoidably detained. Had I been present, I would have voted "yes."

TRAFFICKING VICTIMS PROTECTION REAUTHORIZATION ACT OF 2003

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill, H.R. 2620, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New Jersey (Mr. SMITH) that the House suspend the rules and pass the bill, H.R. 2620, as amended, on which the yeas and nays are ordered.

This is a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 422, nays 1, not voting 11, as follows:

[Roll No. 607]

YEAS—422

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

NAYS—1

Paul

NOT VOTING—11

Boehlert
Cummings
Fattah
Fletcher
Gephardt
Jackson-Lee (TX)
Kucinich
LaTourette
Reyes
Taylor (NC)
Turner (TX)

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

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

□ 1818

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

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

ADVANCING JUSTICE THROUGH DNA TECHNOLOGY ACT OF 2003

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the bill, H.R. 3214, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Wisconsin (Mr. SENSENBRENNER) that the House suspend the rules and pass the bill, H.R. 3214, as amended, on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 357, nays 67, not voting 10, as follows:

[Roll No. 608]

YEAS—357

Abercrombie
Ackerman
Alexander
Allen
Andrews
Baca
Baird
Baker
Baldwin
Ballance
Ballenger
Bass
Beauprez
Becerra
Bell
Bereuter
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Blumenauer
Boehner
Bonilla
Bono
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (PA)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burr
Buyer
Calvert
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Case
Castle
Chabot
Chocola
Clay
Clyburn
Coble
Cole
Conyers
Cooper
Costello
Cox
Cramer
Crane
Crenshaw
Crowley
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
DeFazio
DeGette
Delahunt
DeLauro
DeLay
Deutsch
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Dooley (CA)
Doolittle
Doyle
Dreier
Dunn
Edwards
Emanuel
Emerson
Engel
English
Eshoo
Etheridge
Evans
Farr
Feeney
Ferguson
Filner
Foley
Forbes
Ford
Fossella
Frank (MA)
Frelinghuysen
Frost
Gallegly
Gerlach
Gibbons
Gilchrest
Gillmor
Gonzalez
Goodlatte
Gordon
Goss
Graves
Green (TX)
Green (WI)
Greenwood
Grijalva
Gutierrez
Hall
Harman
Harris
Hart
Hastings (FL)
Hastings (WA)
Hill
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Honda
Hooley (OR)
Hostettler
Houghton
Hoyer
Hunter
Hyde
Inslee
Israel
Issa
Istook
Jackson (IL)
Janklow
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick
Kind
King (IA)
King (NY)
Kirk
Kleczka
Kline
Knollenberg
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Lynch
Majette
Maloney
Manzullo
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCotter
McCrery
McDermott
McGovern
McHugh
McIntyre
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Michaud
Millender-McDonald
Miller (MI)
Miller (NC)
Miller, George
Mollohan
Moore
Moran (KS)
Moran (VA)
Murphy
Murtha
Myrick
Nadler
Napolitano
Neal (MA)
Nethercutt
Ney
Northup
Nunes
Oberstar
Obey
Olver
Ortiz
Osborne
Ose
Owens
Oxley
Pallone
Pascrell
Pastor
Payne
Pearce
Pelosi
Pence
Petri
Pickering
Platts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Reynolds
Rodriguez
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Sabo
Sanchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Saxton
Schakowsky
Schiff
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Souder
Spratt
Stark
Stearns
Stenholm
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Tauzin
Terry
Thomas
Thompson (CA)
Thompson (MS)
Tiahrt
Tiberi
Tierney
Toomey
Towns
Turner (OH)
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velazquez
Visclosky
Vitter
Walden (OR)
Walsh
Waters
Watson
Watt
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NAYS—67

Aderholt
Akin
Bachus
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bishop (UT)
Blackburn
Blunt
Bonner
Brady (TX)
Burgess
Burns
Burton (IN)
Camp
Cannon
Carter
Collins
Cubin
Culberson
Deal (GA)
DeMint
Duncan
Ehlers
Everett
Flake
Franks (AZ)
Garrett (NJ)
Gingrey
Goode
Granger
Gutknecht
Hayes
Hayworth
Hefley
Hensarling
Herger
Hulshof
Isakson
Johnson, Sam
Jones (NC)
Kingston
Kolbe
Linder
McInnis
McKeon
Miller (FL)
Miller, Gary
Musgrave
Neugebauer
Norwood
Nussle
Otter
Paul
Peterson (MN)
Peterson (PA)
Pitts
Renzi
Ryun (KS)
Schrock
Shadegg
Shaw
Simpson
Taylor (MS)
Thornberry
Wamp
Wilson (SC)

NOT VOTING—10

Boehlert
Fattah
Fletcher
Gephardt
Jackson-Lee (TX)
Kucinich
LaTourette
Reyes
Taylor (NC)
Turner (TX)

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

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

□ 1826

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

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

MILITARY FAMILY TAX RELIEF ACT OF 2003

The SPEAKER pro tempore. The pending business is the question of suspending the rules and concurring in the Senate amendments to the bill, H.R. 3365.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas (Mr. SAM JOHNSON) that the House suspend the rules and concur in the Senate amendments to the bill, H.R. 3365, on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 420, nays 0, not voting 14, as follows:

[Roll No. 609]

YEAS—420

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Baldwin
Ballance
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Becerra
Bell
Bereuter
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehner
Bonilla
Bonner
Bono
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Carter
Case
Castle
Chabot
Chocola
Clay
Clyburn
Coble
Cole
Collins
Conyers
Cooper
Costello
Cox
Cramer
Crane
Crenshaw
Crowley
Cubin
Culberson
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette
Delahunt
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Dooley (CA)
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emanuel
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Farr
Feeney
Ferguson
Filner
Flake
Foley
Forbes
Ford
Fossella
Frank (MA)
Franks (AZ)
Frelinghuysen
Frost
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gonzalez
Goode
Goodlatte
Gordon
Goss
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Grijalva
Gutierrez
Gutknecht
Hall
Harman
Harris
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hill
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Honda
Hooley (OR)
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hyde
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Janklow
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick
Kind
King (IA)
King (NY)
Kingston
Kirk
Kleczka
Kline
Knollenberg
Kolbe
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Lynch
Majette
Maloney
Manzullo
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCotter

McCrery	Pitts	Smith (NJ)
McDermott	Platts	Smith (TX)
McGovern	Pombo	Smith (WA)
McHugh	Pomeroy	Snyder
McInnis	Porter	Solis
McIntyre	Price (NC)	Souder
McKeon	Pryce (OH)	Spratt
McNulty	Putnam	Stark
Meehan	Quinn	Stearns
Meek (FL)	Radanovich	Stenholm
Meeks (NY)	Rahall	Strickland
Menendez	Ramstad	Stupak
Mica	Rangel	Sullivan
Michaud	Regula	Sweeney
Millender-McDonald	Rehberg	Tancredo
	Renzi	Tanner
Miller (FL)	Reynolds	Tauscher
Miller (MI)	Rodriguez	Tauzin
Miller (NC)	Rogers (AL)	Taylor (MS)
Miller, Gary	Rogers (KY)	Terry
Miller, George	Rogers (MI)	Thomas
Mollohan	Rohrabacher	Thompson (CA)
Moore	Ros-Lehtinen	Thompson (MS)
Moran (KS)	Ross	Thornberry
Moran (VA)	Rothman	Tiahrt
Murphy	Roybal-Allard	Tiberi
Musgrave	Royce	Tierney
Myrick	Ruppersberger	Toomey
Nadler	Rush	Towns
Napolitano	Ryan (OH)	Turner (OH)
Neal (MA)	Ryan (WI)	Udall (CO)
Nethercutt	Ryun (KS)	Udall (NM)
Neugebauer	Sabo	Upton
Ney	Sanchez, Linda T.	Van Hollen
Northup		Velazquez
Norwood	Sanchez, Loretta	Visclosky
Nunes	Sanders	Vitter
Nussle	Sandlin	Walden (OR)
Oberstar	Saxton	Walsh
Obey	Schakowsky	Wamp
Olver	Schiff	Waters
Ortiz	Schrock	Watson
Osborne	Scott (GA)	Watt
Ose	Scott (VA)	Waxman
Otter	Sensenbrenner	Weiner
Owens	Serrano	Weldon (FL)
Oxley	Sessions	Weldon (PA)
Pallone	Shadegg	Weller
Pascrell	Shaw	Wexler
Pastor	Shays	Whitfield
Paul	Sherman	Wicker
Payne	Sherwood	Wilson (NM)
Pearce	Shimkus	Wilson (SC)
Pelosi	Shuster	Wolf
Pence	Simmons	Woolsey
Peterson (MN)	Simpson	Wu
Peterson (PA)	Skelton	Wynn
Petri	Slaughter	Young (AK)
Pickering	Smith (MI)	Young (FL)

NOT VOTING—14

Boehlert	Kaptur	Reyes
Fattah	Kucinich	Taylor (NC)
Fletcher	LaTourette	Turner (TX)
Gephardt	Lewis (KY)	
Jackson-Lee (TX)	Murtha	
	Portman	

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

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

□ 1832

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

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

FURTHER MESSAGE FROM THE SENATE

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

H.R. 2622. An act to amend the Fair Credit Reporting Act, to prevent identity theft, improve resolution of consumer disputes, improve the accuracy of consumer records, make improvements in the use of, and consumer access to, credit information, and for other purposes.

The message also announced that the Senate insists upon its amendment to the bill (H.R. 2622) ''An Act to amend the Fair Credit Reporting Act, to prevent identity theft, improve resolution of consumer disputes, improve the accuracy of consumer records, make improvements in the use of, and consumer access to, credit information, and for other purposes,'' requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. SHELBY, Mr. BENNETT, Mr. ALLARD, Mr. ENZI, Mr. SARBANES, Mr. DODD, and Mr. JOHNSON, to be the conferees on the part of the Senate.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 3308

Mr. DOOLEY of California. Mr. Speaker, I ask unanimous consent that the gentleman from Texas (Mr. RODRIGUEZ) be removed as a cosponsor from my bill, H.R. 3308. The gentleman from Texas had asked me to be a cosponsor of H.R. 3242, which I introduced, and was mistakenly added as a cosponsor of H.R. 3308.

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

There was no objection.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 2366

Mr. DOOLEY of California. Mr. Speaker, I ask unanimous consent to have my name removed as a cosponsor of H.R. 2366.

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

There was no objection.

ANNOUNCEMENT OF INTENTION TO OFFER MOTION TO INSTRUCT CONFEREES ON H.R. 2660, DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 2004

Mr. BELL. Pursuant to clause 7(c) of House rule XXII, I hereby notify the House of my intention tomorrow to offer the following motion to instruct House conferees on H.R. 2660, the fiscal year 2004 Labor, Health and Human Services, Education and Related Agencies Appropriations Act.

The form of the motion is as follows:

I move that the managers on the part of the House at the conference on the disagreeing votes of the two Houses on the bill, H.R. 2660, be instructed to insist on the highest funding levels possible for the National Institutes of Health.

ANNOUNCEMENT OF INTENTION TO OFFER MOTION TO INSTRUCT CONFEREES ON H.R. 6, ENERGY POLICY ACT OF 2003

Mr. FILNER. Mr. Speaker, pursuant to rule XXII, clause 7(c), I hereby announce my intention to offer a motion to instruct conferees on H.R. 6, the Energy Policy Act.

The form of the motion is as follows:

I move that the managers on the part of the House at the conference on the disagreeing votes of the two Houses on the Senate amendment to the bill, H.R. 6, be instructed to reject section 12403 of the House bill, relating to the definition of oil and gas exploration and production in the Federal Water Pollution Control Act.

ANNOUNCEMENT OF INTENTION TO OFFER MOTION TO INSTRUCT CONFEREES ON H.R. 1, MEDICARE PRESCRIPTION DRUG AND MODERNIZATION ACT OF 2003

Mr. CARDOZA. Mr. Speaker, subject to rule XXII, clause 7(c), I hereby announce my intention to offer a motion to instruct on H.R. 1, the Medicare Prescription Drug and Modernization Act of 2003.

The form of the motion is as follows:

I move that the managers on the part of the House at the conference on the disagreeing votes of the two Houses on the Senate amendment to the bill H.R. 1 be instructed as follows:

(1) To reject the provisions of subtitle C of title II of the House bill;

(2) To reject the provisions of section 231 of the Senate amendment

(3) Within the scope of conference, to increase payments under the medicaid program for inpatient hospital services furnished by disproportionate share hospitals by an amount equal to the amount of savings attributable to the rejection of the aforementioned provisions

(4) To insist upon section 1001 of the House bill and section 602 of the Senate bill.

RECOGNIZING CONTINUED IMPORTANCE OF TRANSATLANTIC RELATIONSHIP AND PROMOTING STRONGER RELATIONS WITH EUROPE

Mr. BEREUTER. Mr. Speaker, I ask unanimous consent that the Committee on International Relations be discharged from further consideration of the resolution (H. Res. 390) recognizing the continued importance of the transatlantic relationship and promoting stronger relations with Europe by reaffirming the need for a continued and meaningful dialogue between the United States and Europe, and ask for its immediate consideration in the House.

The Clerk read the title of the resolution.

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

Mr. WEXLER. Mr. Speaker, reserving the right to object, I yield to the gentleman from Nebraska for purposes of a description of the resolution.

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

Mr. BEREUTER. I thank the gentleman for yielding.

Mr. Speaker, I offer this resolution in that it recognizes the continued importance of transatlantic relations and the need for a continued and meaningful dialogue between the United States and Europe.

Mr. Speaker, in the wake of the difficult debate over Iraq, the Subcommittee on Europe held two hearings in June on the future of transatlantic relations. At these hearings, experts from both Europe and the United States presented their views on what went wrong. More important, however, was the consensus view of all of the witnesses who testified at these hearings that the time was right to put the debate over the Iraq war behind us and to begin to energetically consider how to reenergize the transatlantic relationship in a positive manner which is forward looking and which focuses on developing common strategies to address common challenges.

H. Res. 390 urges a renewed effort to develop stronger relations with our friends and allies in Europe through enhanced dialogue and communications between this Nation and Europe, especially through such mechanisms as the various formal and informal interparliamentary organizations which we have here in the Congress.

Mr. Speaker, as the Iraq debate has shown, both sides need to communicate more. It is neither in the interest of the United States to ignore Europe nor to try to work with a weak or divided Europe. Europeans, on the other hand, need to attempt to better understand U.S. policies and objectives and its responsibilities as a global power.

The good news is there is dialogue, but that dialogue must be enhanced, and it must be predicated on the conviction that the United States and Europe cannot meet the global challenges which confront us both unless we strengthen our partnership and address these challenges together.

Mr. WEXLER. Further reserving the right to object, Mr. Speaker, I would like to congratulate and thank the gentleman from Nebraska, the chairman, for his leadership in introducing this resolution which recognizes the importance of America's transatlantic relationship. It is an undeniable fact that the present and future of America and Europe are interwoven and cannot be separated without grave consequence to either side. If the transatlantic relationship is to move forward, it is critical that Europe accept the realities of a post-Saddam Iraq and the potential for transformation in the greater Middle East. At the same time, the Bush administration, which has deftly managed to turn most of Europe against America, must understand that military power alone is not a panacea to guaranteeing our security, fighting terror or halting the proliferation of weapons of mass destruction. Ultimately, these goals cannot be achieved without the assistance of our allies in Europe and throughout the world. It is this message of friendship, understanding and cooperation that I hope will lay the future of transatlantic ties.

Mr. Speaker, I withdraw my reservation of objection.

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

There was no objection.

The Clerk read the resolution, as follows:

H. RES. 390

Whereas for more than a half century transatlantic policy cooperation and coordination have been essential for the preservation of peace and freedom in Europe, have enabled the development of free and prosperous economies, and helped restore stability and unity in the Euro-Atlantic area;

Whereas a central goal of United States policy toward Europe remains that the development of a Europe united, free, strong, and at peace is in the best interests of the United States and Europe so long as the United States and Europe continue to work as partners, not rivals or counterweights;

Whereas the central pillar of the United States partnership with Europe remains a strong and cohesive Atlantic Alliance;

Whereas the United States and the European community are aware of their shared responsibility, not only to further transatlantic security, but to address other common interests such as environmental protection, poverty reduction, combatting international crime and promoting human rights, and to work together to meet those transnational challenges which affect the well-being of all;

Whereas in recognition of the threats posed by global terrorism, terrorist states, the proliferation of weapons of mass destruction, and the nexus of the three, the partnership should be expanded progressively from a transatlantic community of values to an effective transatlantic community of action by developing a collaborative strategy and action plan for dealing with those challenges of mutual interest and concern;

Whereas no policy disagreement, such as the dispute with respect to Iraq, should be allowed to significantly disrupt transatlantic relations nor cause any member of the Euro-Atlantic community to choose between partners;

Whereas a renewed commitment to strengthen the partnership through increased cooperation, communication, consultation and information-exchange is required to achieve our common goals, which will continue to ensure peace and prosperity between the United States and Europe;

Whereas Congress has played a constructive role in this cooperative approach to partnership with Europe through mechanisms such as the North Atlantic Treaty Organization (NATO) Parliamentary Assembly, the Transatlantic Legislators' Dialogue, and the Organization for Security and Cooperation in Europe (OSCE) Parliamentary Assembly which have for years brought together legislators of both the United States and Europe for discussions of issues of common interest in order to further transatlantic understanding and partnership at the parliamentary level; and

Whereas the House of Representatives welcomes and congratulates the newest member nations invited to join NATO and the European Union and looks forward to broader dialogue through their participation in these transatlantic parliamentary organizations: Now, therefore, be it

Resolved, That the House of Representatives—

(1) affirms the conviction of the United States that, despite the occasional differences and difficulties, the underlying ties which have historically bound the people of the United States and of Europe remain strong;

(2) accepts the indivisibility of transatlantic security which provides an indispensable link between North America and Europe;

(3) recognizes that both the United States and Europe face new challenges at home and abroad and must strengthen and adapt the transatlantic partnership to effectively meet these challenges;

(4) acknowledges that in order to strengthen the transatlantic partnership there must be a renewed commitment to regular and intensive consultation, information exchange and dialogue between the United States Government and the governments of Europe and the European Union; and

(5) commits on its part to continue to improve the transatlantic partnership by enhancing the communication between the United States Congress and the legislatures of Europe through the formal frameworks of the NATO Parliamentary Assembly, the Transatlantic Legislators' Dialogue, the OSCE Parliamentary Assembly, and various other formal and informal inter-parliamentary organizations.

The resolution was agreed to.

A motion to reconsider was laid on the table.

MOTION TO INSTRUCT CONFEREES ON H.R. 2660, DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 2004

Ms. DELAURO. Mr. Speaker, I offer a motion to instruct.

The SPEAKER pro tempore. The Clerk will report the motion.

The Clerk read as follows:

Ms. DELAURO moves that the managers on the part of the House at the conference on the disagreeing votes of the two Houses on the bill, H.R. 2660, be instructed to insist on the Senate level for part B of the Individuals with Disabilities Education Act.

The SPEAKER pro tempore. Pursuant to clause 7 of rule XXII, the gentlewoman from Connecticut (Ms. DELAURO) and the gentleman from Ohio (Mr. REGULA) each will control 30 minutes.

The Chair recognizes the gentlewoman from Connecticut (Ms. DELAURO).

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

Mr. Speaker, I rise to offer the motion to instruct that I presented yesterday. This motion will instruct House conferees for the fiscal year 2004 Labor, Health and Human Services and Education appropriations bill to insist on the Senate funding level for part B of the special education funding, the Individuals With Disabilities Education Act, or IDEA. IDEA part B is the main vehicle with which the Federal Government provides its contribution to States toward educating children with disabilities.

Twenty-eight years ago, Congress made a promise to students, families

and communities around this country, a promise that said that the Federal Government would do its part to ensure that the more than 6.5 million children with disabilities and special needs in this country would have the same educational opportunities as every other child. It is a promise that this body has never lived up to, a promise quite honestly that this body has never even attempted to live up to.

This shortfall creates a huge burden on local communities and denies full opportunity to all students, with or without disabilities. And today in a time of unprecedented deficits at the State and Federal level alike, special education becomes just another in a long line of unfunded mandates that the Federal Government has passed on to the States. But we have an obligation to fund special education for children who have special needs. It is a moral obligation.

With the passage of the Individuals with Disabilities Education Act of 1975, Congress agreed that it would pay 40 percent of that bill. Only, it never has. What that has meant for the last 28 years is that the burden of meeting the mandates of special education has been placed largely on the shoulders of local communities. As the cost of educating students with disabilities continues to rapidly increase, there is little doubt that these increased costs are being paid for at the expense of other student services and programs. Moreover, this Republican majority cannot even keep the commitments they made earlier this year, both in the budget resolution and during the vote on the reauthorization of IDEA in April to provide a $2.2 billion increase for special education over fiscal year 2003. Sadly, the House Labor-HHS bill only provides a $1 billion increase which is demonstrated on this chart, promises made and promises broken.

In my State of Connecticut, which faces a billion-dollar budget deficit, school districts are paying $409 million more for special education than they did 10 years ago, a 76 percent cost increase. During the 2000–2001 school year, nearly 19 percent of the total education expenditures in the State were directed to special education students with some individual districts exceeding 25 percent, meaning one out of every four education dollars was going to special education.

This is a situation not unique to my district or my State. Right now, 47 States are experiencing budget deficits. If you ask virtually any municipality in the Nation what their number one budgetary concern is, they will tell you, without hesitation, special education. They simply cannot bear the strain the Federal Government is putting on them year after year. The strain will continue should Congress adopt the special education funding levels included in the House Labor, Health and Human Services, Education appropriations bill for fiscal year 2004. That bill fell $1.2 billion below what is needed to even put IDEA on the path to full funding by 2010. In my opinion, an abdication of our responsibility to our States and our children alike and a situation in which no one wins.

What is needed here is leadership. Our States are crying out for it. Parents are crying out for it. I wish we could call on the President to intervene on behalf of children with special needs. But President Bush's special education request would have amounted to the smallest increase for special education in 5 years.

□ 1845

So the responsibility falls to us to rise to the occasion, match what the other body has done by meeting our commitment once and for all to our children and our States and provide that extra $1.2 billion. The time for using the issue of special education as a political football is over. As I said before, it is a game in which no one wins. And as representatives for 50 States and the more than 6½ million children who need our help, the Congress is obliged, obliged to provide this $1.2 billion in funding in this bill and obliged to promote the capacity of our country to act together on what are indisputably shared values.

Mr. Speaker, the Congress reneged on its commitment to children with special needs in 1975. We cannot allow it to renege on that commitment again. We must meet our obligations. That is what this motion to instruct is about. And I urge my colleagues to support it.

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

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

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

Mr. Speaker, this is a very interesting point. Promises made, 1975, the Democrats were in control. They made promises. Here is the performance. Look at that, barely increased over 19 years. Barely increased over 19 years. Republicans take over, and we kept the promises. Here it goes, up, up, up, up, up, up. We can see the difference. This clearly shows us the difference between the Democrat Party, make the promises, do nothing. Republicans deliver.

On top of that, just recently the Members of the Democrat Party voted against a bill to increase special education by $1 billion. And I think it is interesting that my colleagues on the other side of the aisle are seeking to instruct conferees to adopt the Senate funding levels for IDEA when just 3 months ago they voted against a $1 billion increase. They did not seem to want that. We strongly support funding for special education and the hope it gives millions of families every day.

In fact, since fiscal year 1996, the first year Republicans controlled the House, funding for special education has tripled; and under Republican control the percentage of per-pupil expenditures that the Federal Government contributes toward special education has increased to nearly 20 percent. By way of contrast, when the Democrats were in charge from 1975 until 1995, 20 years, the percentage of per-pupil expenditures was never more than 9 percent.

There are the facts; and I say to those who are looking at this situation, do not go on what I say. Go on what the chart shows happened when the Republicans took control. They made the promises; we delivered.

Mr. Speaker, the Republican commitment to funding special education cannot be questioned. The bill passed by this House in July continued the investment in IDEA by increasing the program by another $1 billion, representing the largest dollar increase in the entire Labor, Health and Human Services Education appropriations bill ever.

As most of my colleagues know, the original bill reported by the Committee on Appropriations in the other body provided a slightly smaller increase for this program. That is the bill that they reported out of committee. It was less than we have done. On the floor the other body adopted an amendment that would have added $1.2 billion to the program.

One little problem, however. This amendment was offset by the use of a customs user fee. Basically, this is a tax, and as we all know, increasing taxes is something that is not within the jurisdiction of the Committee on Appropriations to decide. And tax policy is also something which the United States Constitution says must, and I emphasize must, originate in the House, not in the Senate. Therefore, this provision must be dropped by the other body in order for us to complete our conference on this bill. So we are talking about an instruction that cannot happen under the Constitution.

If we accept the gentlewoman's motion, it will have the effect of cutting $1.2 billion out of every other program in this bill. It will mean we will have to make cuts in funding for biomedical research that is seeking cures for cancer or diabetes or Parkinson's disease. Or perhaps the gentlewoman would suggest we take the funding out of programs under No Child Left Behind, such as programs to teach children to read or improve teacher quality. Or should we take the funding out of that provided for colleges and universities, or funding to produce textbooks for blind students? Or should we reduce the Pell grants? That is the effect of this motion.

We are not going to disagree with it because we are for IDEA. Here is the evidence: it says clearly which party cares about these children; and, therefore, we want the conference committee to do as much as possible. We did it on the bill that passed here in July. We raised IDEA by $1 billion, and the Democrats for whatever reason chose to oppose this.

Mr. Speaker, this motion is nothing more than a vain attempt to divert the

public's attention from the fact that my colleagues on the other side of this aisle voted against the $1 billion increase for children with special needs earlier this year.

The bill passed by this House was a balanced approach to addressing the needs of all of our citizens, including those with special needs. It gives hope to children and families across this Nation. And I say once again here are the facts, just look at the chart. It tells us the story eloquently. They make the promises; the Republicans deliver.

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

Ms. DELAURO. Mr. Speaker, I yield myself 1½ minutes.

Let me be very quick, and there are others who will respond to what my colleague has said, and I appreciate his comments. I said in my remarks that the commitment to children with special needs was reneged on in 1975. We cannot let that happen again. In this current year, the Republican majority committed to $2.2 billion. They have reneged on that promise. No, in fact, we should not cut back on Pell grants, on No Child Left Behind, not any of the other education programs.

What, in fact, we ought to cut back on is that $93,000 a year that we are giving in a tax cut to the 184,000 millionaires in this country. That is why we are short on this effort. That is why we are short-changing children with special needs. The fact of the matter is that the Republicans would have cut IDEA in 1996 by $88 million; 1997 by $279 million; in 2003, $500 million below the President's budget. They have every single year worked at cutting the amount of money for children with special needs.

Mr. Speaker, I yield 3 minutes to the gentlewoman from California (Ms. WOOLSEY).

Ms. WOOLSEY. Mr. Speaker, I rise in strong support of the DeLauro motion to instruct conferees on H.R. 2660 to fully fund the Federal commitment to the Individuals with Disabilities Education Act, IDEA. What an idea, taking the funding out of the tax cuts for the wealthiest 1 percent of Americans, not funding this program from other deserving programs.

Whenever I talk to educators or school administrators in my district, the very first thing they bring up is IDEA, special education. The first thing they say about IDEA is that we need to have it funded. The Federal Government must meet its commitment for 40 percent of the cost. In fact, if the Federal Government fully funded its share of IDEA, schools in Sonoma County, in my congressional district, would have received almost $20 million to help educate students with disabilities, students with special education needs. Instead, Sonoma County schools received just under $6 million, or about 15 percent of their costs.

Every Member here could tell the same story about their school districts. If the Federal Government fully funded its share of IDEA, schools nationwide would receive almost $20 billion to help pay for the cost of educating students with special needs. H.R. 2660 falls far short of this needed funding; and when we do not fully fund IDEA, we do not just take needed resources from students with disabilities. We shortchange all students.

If school districts had their full share of IDEA funds, they would be able to use their own funds for improvements that benefit all students such as increasing teachers' salaries, reducing class size, building new schools, renovating old schools. When we underfund IDEA, we pit children with disabilities against other children, schools against parents, parents against parents. We must fully fund the Federal share of IDEA. Vote for the DeLauro motion to instruct conferees to include full funding in the Labor-HHS-Education appropriations bill to cover the Federal share of IDEA.

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

Ms. DELAURO. Mr. Speaker, I yield 3 minutes to the gentleman from Massachusetts (Mr. TIERNEY).

Mr. TIERNEY. Mr. Speaker, I thank the gentlewoman from Connecticut for yielding me this time.

Mr. Speaker, the original IDEA bill authorized this Congress to give up the 40 percent of the additional cost of educating a child with special needs so that communities would have some help with that burden even though it was their constitutional obligation to educate every child to 100 percent of that. For years Congress did not fulfill that commitment. They were at 9, 10, 11, or 12 percent. What were those years? Those years were the Reagan-Bush years. We were running deficits of incredible amounts, building up on our debt in this Nation; $295 billion of deficit in 1992 accumulated since 1980 to a point where we had a debt of almost $5 trillion. Congress could not do more. They were busy trying to pay off those bills.

From 1993 to 2000 with a Democrat in the White House, Congress started to pay down those deficits, started to pay those bills; and around 1997 where the yellow number is upticking on that chart that the gentleman from Ohio was showing, that was when we finally got a grip on the deficit, and we finally were able to start putting some money towards the obligations of IDEA. In fact, we did it almost every year over the objections of the Republican majority and had to fight every year. This is the type of issue the Republican majority almost brought the House to a standstill on. But we managed to tick it up. We managed to bring those numbers up, with the objections of the Republicans in many instances, and started to do better.

Now we have an opportunity in 2000, with a $5.6 trillion surplus projected over 10 years, to really reach that 40 percent level; and instead the Republican majority and the White House decided that is not where they want to spend the money. Despite the fact that the Republican ''Contract on America'' in the mid-1990s promised this was one of their 10 items, they have never come close; and we have had resolutions in this House where every single Democrat voted to fund IDEA and not a single Republican voted to do it. And when we had the chance with a $5.6 trillion surplus projected over 10 years, the majority in this House, the Republican majority, and the White House walked away from it and did not do it.

And why does the gentlewoman from Connecticut come up with the number of $2.2 billion? Because it is the amount that Republicans promised. They put it in their budget very disingenuously as if they were going to do it. They put it in their authorization bill as if they might do it. And when Democrats on the Committee on Education and the Workforce tried to make that mandatory so they would have to do $2.2 billion, the Republicans would not vote for it. And now we know why they would not. They had no intention of doing it. 2.2 billion was the number they held publicly out in both the budget and their authorization; $1 billion is the amount they finally come in with in the end. And they claim it might be more than last year. Yes, a paltry amount more than last year. And again we are back to pushing, pushing, pushing, trying to make them meet their obligation.

Why can we not do it? It is not because we would have to cut from every other part of the budget. It is because there is not much in every other part of the budget because the Republicans decided to give $1.3 trillion away in three rounds of tax cuts.

□ 1900

The choices that were made, the Republican majority and the President and the White House decided money is not going to go to special education. They decided money is not going to go to No Child Left Behind. They decided no money is going to go to fix our roads and bridges, nor for the myriad of obligations the Federal Government has made to cities and states and towns. It is going to go, instead, to the wealthiest people in this country.

That, my friends, is what is happening here. It is a canard to say we do not have the money. It was an intentional misappropriation. We need to do better in this Congress.

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

Ms. DELAURO. Mr. Speaker, I yield 3 minutes to the gentlewoman from Oregon (Ms. HOOLEY).

Ms. HOOLEY of Oregon. Mr. Speaker, I thank the gentlewoman for yielding me time.

Mr. Speaker, I rise in support of the motion to instruct conferees, insisting on increasing funding for the Individuals with Disabilities Education Act, or IDEA.

Full funding of IDEA has been one of my priorities since I have been in Congress. When Congress first addressed

this issue in 1975, we made a commitment that we would provide children with disabilities access to a quality education, but not once in the past 28 years has Congress lived up to its obligation to fund the services it requires States and school districts to provide, despite a commitment that we would do so.

My home State of Oregon, like so many States across this country, is suffering from tremendous budget shortfalls. When the Federal Government does not pay its share, the remaining costs just do not go away. The States and school districts are forced to pick up the additional costs, putting additional strain on our education funding.

In 2003, we appropriated $8.9 billion for Part B of IDEA. While this is a small increase over past years, it is still leaving States and local school districts with an unfunded Federal mandate of over $10 billion. That is $10 billion that our States and school districts could be spending to alleviate State budget crises, reduce class sizes and build and modernize our schools.

Funding IDEA is not just about educating disabled students, it is about relieving the school funding crises that States across this Nation are facing.

It is high time we renew our commitment to all of our Nation's children and pay our fair share of the cost of IDEA. I urge my colleagues to support funding for IDEA and support the DeLauro motion to instruct conferees. This is a promise the Federal Government made. This is a promise, for the sake of our children, we need to keep.

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

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

Mr. DAVIS of Illinois. Mr. Speaker, I rise today in support of the DeLauro motion to instruct conferees, and I commend the gentlewoman from Connecticut for introducing it.

H.R. 2660, the appropriations bill for the Department of Labor, Health and Human Services and Education, is underfunding our Nation's education system. Although this Congress made the promise to increase funding for education by $2.2 billion in the FY 2004 budget resolution, and then again in H.R. 1350, the Individuals with Disabilities Education Act, these promises do not appear in the appropriations bill. Instead, special education falls $1.2 billion short of the budget promise.

Due to the insufficiency of funding for local education, our local communities will need to absorb more of the costs for providing special education to 6.7 million school children. Ultimately, schools will be forced to cut essential programs or raise local taxes. That is why I voted against the appropriation resolution and why I voted against the IDEA reauthorization.

During discussion in the Committee on Education and the Workforce, I spoke to the need to fully fund IDEA, and even voted in favor of an amendment which did in fact fail. Now I am asking my colleagues in the House to follow suit with our Senate colleagues and fulfill the promise from the budget resolution and the Senate-passed bill, which included the bipartisan amendment to increase IDEA funding by $2.2 billion.

I believe that we have no greater responsibility as legislators than to fully fund education; to make sure that we have adequate buildings, schools, teachers, textbooks; and to help those children who have the greatest amount of need. No children have greater needs than those with disabilities. I ask that we support the DeLauro motion and support our children who need help the most.

Mr. REGULA. Mr. Speaker, I reserve my time.

Ms. DELAURO. Mr. Speaker, I yield 4 minutes to the gentleman from Maryland (Mr. VAN HOLLEN).

Mr. VAN HOLLEN. Mr. Speaker, I rise to support the DeLauro amendment.

Many decades ago, our country did a great and noble thing. We made a commitment as American people that every child in this country, regardless of his or her disability, would get a good education. At that time, the Federal Government promised that it would pick up 40 percent of the costs of providing that education to youngsters with disabilities. But as we are gathered here today, the Federal Government is only paying 19 percent, and the result of that is not only that children with disabilities are not getting the Federal resources that are required for education, but also children without disabilities are suffering, as we are pitting one against the other.

Now, we can talk about decades of who is to blame or who promised what, but let us just look at this year. This year we already have a story of sordid, broken promises.

I serve on the Committee on Education and the Workforce. This year the chairman of the committee came forward with an authorization bill that would increase the authorization from last year's levels originally by $1.4 billion, to $10.3 billion. Then we in the Committee on Education and the Workforce had a discussion where we, Republicans and Democrats alike, agreed that in order to meet our commitment, we had to increase that authorization.

So the chairman of the committee went back to the Committee on the Budget and, very proudly, as he should, came back to the Committee on Education and the Workforce and said, ''Look, I have talked to my colleagues, and they have agreed we are not going to increase it by just $1.3 billion; we are going to increase it by $2.2 billion.'' That is what the chairman of the Committee on Education and the Workforce announced.

Many of us were skeptical about whether that would be delivered on. We said, ''Let's make that mandatory.'' We had a vote in committee. The chairman of the committee said to The Members, ''Let's not take a vote to make it mandatory, because I have talked to my colleagues on the Republican side on the Committee on the Budget and we have a commitment here. Let us not make this binding.''

We had a vote. It was 10 to 9. Democrats voted in favor in the subcommittee of making it binding, Republicans did not. The same story in the full committee.

Well, look where we are today. It turns out that we should have had a binding vote. That would have been the only way to hold the Committee on the Budget and the Republican leadership to its word on this issue. The chairman of the committee said, ''Don't worry about it. Trust us.'' Well, look where that has gotten us.

The fact of the matter is, we have let down the American people. We do not need to go back with broken promises for decades. We have multiple broken promises just this year, promises broken to American children.

Let me just end by talking about priorities, because what we are seeing here is the budget that was passed at the beginning of the year, that set the road map. Everything after that was on automatic pilot. That budget was premised on huge tax cuts for the very wealthiest Americans.

Now, I do not have any problem if people want to say ''I am for tax cuts,'' and it is okay that for some economic theory that they should go to the wealthiest Americans. But do not say you are for that, and, at the same time, go back to your districts and say, ''We are for full funding for special education,'' as Republicans and Democrats alike do. They all go out and say they are in favor of it. Because you cannot do everything. You cannot have big tax cuts for the wealthiest and come back to this body and fully fund special education.

We have to make choices. That is what leadership is all about. If you want to choose higher tax cuts for the wealthy, that is a fine choice. Stand up for it. But do not at the same time come and say we really wanted to do this, but we just could not do it, because we can do it if we make the right choices. We should make the right choices for the America's children. That is why we have got to support this motion.

Mr. REGULA. Mr. Speaker, I yield 5 minutes to the gentleman from Pennsylvania (Mr. SHERWOOD), a very valued member of our subcommittee.

Mr. SHERWOOD. Mr. Speaker, I rise in opposition to this motion to instruct, and I do it with a lot of history.

For many of the years, about 15 of the years that the Democrats controlled this House, I was a school board member in Tunkhannock, Pennsylvania, and I know what it means to not have enough IDEA funding. We worked

very hard to make the choices to balance our budget, to do what the Federal law required with the amount of money that was given to us.

At that time, the highest that we ever got was 9.9 percent. When the Democrats controlled this House, the most money we ever got was 9.9 percent. This year, we are giving the schools 20 percent. That is double what we ever got when the Democrats were in control.

Now, what is this disingenuous discussion about? We do have choices to make. We made choices to give more funding this year than we have done in the past. There is an extra $1 billion in this bill, and we are halfway to full funding the 40 percent of IDEA. That is much more than we have done in the past, and it will go a long way toward helping school districts with these major challenges.

I want to thank the gentleman from Ohio (Chairman REGULA) for his leadership on this bill. He always gives us fair and balanced leadership, and this is a fair and balanced bill that lives within realistic priorities and shows that the majority is trying very hard to leave no child behind, to do the right thing for American education.

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

Mr. REGULA. Mr. Speaker, I yield 5 minutes to the gentleman from Pennsylvania (Mr. PETERSON), also a very valued member of our subcommittee.

Mr. PETERSON of Pennsylvania. Mr. Speaker, I would like to compliment the chairman on this bill. The bill that we presented increased special education funding by over $1 billion, and I believe those who are offering this motion to instruct tonight all voted against it.

Now, you cannot have it both ways. When you look at the chart that we had up here a little bit ago, the big chart, in 9 years under Republican leadership we went from a little over $2 billion to almost $10 billion. That is just under $8 billion.

Now, the 9 years preceding that, under Democrat leadership, you increased funding $1 billion in 9 years. We increased it $1 billion this year. We increased it almost $8 billion in the 9 years that we have been in control. Just count them, 9 years. Come back here 9, just a little bit over $2 billion. $1 billion in 9 years.

Now, the interesting part is it is easy to say they want to fully fund it. The other body put in a tax provision to fund it that cannot stay there. It is illegal. It cannot be there. So if you are really serious about this, your motion to instruct will say we are going to take it from Pell Grants, or we are going to take it from basic education, or we are going to take it from higher education, because that is how you have to do it.

You are making no choices. When we look at the record, the choices you made for 9 years previous to the 9 years that we have been in power were not for special education. In 9 years, a $1 billion increase.

□ 1915

Just a few days ago, we passed this bill with $1 billion of additional money in it, and they vote ''no.'' I think the American public understands showmanship. I think the American public understands a sham motion, because that is what this one is.

Now, I do not think there is anybody here that does not think we should not fully fund special education, and we are on track today to do it. We have the record. There has been a game plan of when we are going to reach it. Now, that is reasonable, because we will be taking new money and new dollars. But if you are serious, tell us where it comes from, because the other body's tax provision cannot remain to fund it. If you are serious, show us where the cuts are. Is it Pell grants? Is it higher education? Is it No Child Left Behind? Because it has got to come from one of them.

Mr. Speaker, I am proud of the record, and I am proud of our chairman's leadership on this issue, and his predecessor, John Porter's leadership on this issue. Because this is their record: getting us to where we ought to be as fast as we can.

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

Let me just make one or two comments about what my colleagues have said.

First of all, and this is not my commentary, but CRS's commentary, that if we continue to go in the direction that we are going in with $1 billion, we are never going to get to full funding. I commend the CRS data and material to my colleagues.

Secondly, the fact of the matter is, as my colleagues have said before, the issue is about choices. It is not only about choices, but it is about priorities; and those priorities in terms of our budget are fundamentally determined by where our values are on these issues.

Mr. Speaker, I submit to my colleagues that when the choice, the most important and fundamental choice was made in this body about trillions of dollars of tax cuts, $93,000 a year to the 184,000 millionaires in this country, that was a choice. It is the choice, the fundamental choice which is starving the Federal Government of the resources that it needs to meet its public commitments; not willy-nilly commitments, but commitments where we have said we are going to put up so much money for special education, and, you, State of Connecticut, Minnesota, Ohio, Pennsylvania, you put up so much money.

We are reneging on those commitments because of the fundamental choice that was made by the Republican President of the United States, by the Republican House majority, by the Senate House majority to fund the tax cuts. That is the priority, not special education, not Pell grants, not let no child be left behind, not any of the education programs that we view as critical to the opportunities that young people have in this country.

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

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

Mr. Speaker, I just want to point out the facts: promises made by the Democrats, very little increase; promises delivered by the Republicans. The chart tells more eloquently than words what it is all about. I simply say that we believe in special education, and we have put the money there to back up our beliefs.

This motion to instruct is a sham because the Senate money is not there. They did something proposed, and I would again emphasize that the bill that came out of the Senate committee had less, less in IDEA than the House bill. They had a floor amendment that said we are going to raise taxes to pay for it. Unconstitutional. So let us get on with it.

I would point out one other fact, and that is that the Democrats voted against $1 billion for IDEA in the July bill for labor, health and human services.

So I submit to my colleagues that the record is clear. Republicans deliver; the Democrats promise.

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

Ms. DELAURO. Mr. Speaker, I yield myself the remaining time.

There is no doubt in my mind that tonight what we were going to hear from the other side of the aisle is about how much funding for special education has been increased in the past years. But there is no denying the fact that the Republicans broke their promises to the Nation's 6.7 million special needs children this year when they denied the promised $2.2 billion increase in the Republican fiscal year 2004 Labor-HHS bill.

Let me just say that it is true that promises for IDEA part B State grants, the main Federal program for which the Federal Government finances special education, have increased from $2.3 billion in fiscal year 1996 to $8.9 billion today, an increase of $6.6 billion. But it is equally true, equally true, and understand this, that if the Labor-HHS bills put forth by House Republicans over that period of time would have been enacted into law, the $6.6 billion increase actually provided for IDEA would have been cut nearly in half, because if House Republicans had had their way, they would have spent $2.8 billion less on special education between fiscal years 1996 and 2003.

I am going to briefly, briefly read my colleagues the facts in these years and the Republican activity on these issues.

In 2003, the majority failed to pass a Labor-HHS bill because they wanted to avoid voting on the Bush education cuts. However, the HHS bill, H.R. 246,

was introduced by the very fine chairman of the Subcommittee on Labor, Health and Human Services, Education and Related Agencies. The chairman offered the bill, and it was the House position for the purpose of the conference negotiations. That bill included $8 billion for IDEA part B State grants, $500 million less than the Bush IDEA request and $846 million less than the amount ultimately that was enacted into law.

In 2002, we had a bipartisan year. Democrats and Republicans supported a healthy increase for special education: $186 million over the final conference level of $7.5 billion.

In 2001, the House Republican Labor-HHS bill was a shocking $850 million below what was the $6.3 billion included in the grants and in the conference agreement.

In 2000, the House Republican bill was $179 million below the final conference level of $5 billion for special education.

In 1999, the House bill provided the same amount, $4.3 billion, which was ultimately enacted into law.

In 1998, another bipartisan year, House Republicans initially proposed $3.4 billion for IDEA grants, $375 million below the final amount secured by the Democrats in the Labor-HHS conference agreement, which provided a total of $3.8 billion.

In 1997, the House Republican bill would have frozen IDEA at $2.3 billion, $279 million below the request, and a whopping $784 million below the final conference agreement.

In fiscal year 1996, House Republicans proposed to freeze the special education grant at $2.3 billion. That was the amount ultimately enacted into law, a cut of $88 million below the Clinton request.

In summary, Mr. Speaker, a careful examination of the Republican record on IDEA funding paints a less rosy picture than my colleagues would like to portray. In 5 of the last 8 years, the House Republicans have provided less than the amount actually enacted into law for IDEA part B State grants.

Democrats insisted that we provide those increases. Democrats want to fulfill our commitments to the 6.7 million special needs children before we begin to provide super-sized tax cuts to the Nation's well-off and wealthiest citizens.

Under a funding scenario of $1 billion per year, as is in the Republican Labor-HHS bill, we will never, never meet the goal of fully funding for IDEA. It was the majority party, once again, that promised a $2.2 billion increase this year for IDEA. 216 Republicans voted for the increase in the 2004 budget resolution; 217 Republicans voted again for the increase in the IDEA reauthorization bill.

Democrats say this evening, on the issue of special education for our youngsters, a moral obligation which we have committed to, which we have committed our States to, what Democrats say this evening is keep your promises to those 6.7 million children who, without the proper funding, will not ever realize their dreams, their aspirations for opportunity for their future and a way in which they can hold on to the American Dream of education.

Mr. Speaker, I urge my colleagues to vote for this motion to instruct.

Mr. CASTLE. Mr. Speaker, it would be disingenuous, and plain false, for anyone to suggest that this Congress has not been dedicated to the needs of our nation's special education students. In the past year we have recognized the importance reform has on the program when we reauthorized IDEA. Rather than to throw money at IDEA this body passed a reauthorization bill that will enhance efficiencies ultimately resulting in increased services for special education students. In the past year we have also voted to increase funding for IDEA, at a record level. There should be no doubt that this Congress is consistently focused on the needs of these students.

In the past eight years we have more than tripled funding for special education. In 1975 the Congress said it would pay 40 percent of the per pupil cost to educate special education students. We are making great strides toward meeting the 40-percent goal. Since 1996 we have increased this contribution from 7.3 percent to almost 20 percent this year. We all deserve to be proud of this and we all should be dedicated to continuing this progress.

Having said that, we must not forget that we have also seen historic increases in funding for all of our education programs. Last week we passed a motion to support funding increases for programs under the No Child Left Behind Act and today we could potentially be taking those away. Look at the big picture. For fiscal year 2004, with the guidance of Chairman REGULA, this House is continuing our efforts in providing unprecedented increases for No Child Left Behind, Head Start, Higher Education and especially IDEA. This year's $1 billion increase for IDEA represents the single largest dollar increases in the bill and one of the largest funding increases for IDEA ever. This Congress and this Administration are without a doubt dedicated to all students.

I have always prioritized adequate funding for education programs as well as fiscal conservatism. Given other expenses we have across the country and the world, I believe the House Labor, Health and Human Services and Education Appropriations Act represents a delicate balance between increased funding for federal education programs and fiscal restraint. I encourage Members, on both sides of the aisle, to take an unbiased and honest look at what we are doing for students, and particularly our special education students.

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

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

There was no objection.

The SPEAKER pro tempore. The question is on the motion to instruct offered by the gentlewoman from Connecticut (Ms. DELAURO).

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

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

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, further proceedings on this motion will be postponed.

MOTION TO INSTRUCT CONFEREES ON H.R. 1308, TAX RELIEF, SIMPLIFICATION, AND EQUITY ACT OF 2003

Mr. BECERRA. Mr. Speaker, I offer a motion to instruct.

The SPEAKER pro tempore. The Clerk will report the motion.

The Clerk read as follows:

Mr. BECERRA moves that the managers on the part of the House in the conference on the disagreeing votes of the two Houses on the House amendment to the Senate amendment to H.R. 1308 be instructed as follows:

1. The House conferees shall be instructed to include in the conference report the provision of the Senate amendment (not included in the House amendment) that provides immediate payments to taxpayers receiving an additional credit by reason of the bill in the same manner as other taxpayers were entitled to immediate payments under the Jobs and Growth Tax Relief Reconciliation Act of 2003.

2. The House conferees shall be instructed to include in the conference report the provision of the Senate amendment (not included in the House amendment) that provides families of military personnel serving in Iraq, Afghanistan, and other combat zones a child credit based on the earnings of the individuals serving in the combat zone.

3. The House conferees shall be instructed to include in the conference report all of the other provisions of the Senate amendment and shall not report back a conference report that includes additional tax benefits not offset by other provisions.

4. To the maximum extent possible within the scope of conference, the House conferees shall be instructed to include in the conference report other tax benefits for military personnel and the families of the astronauts who died in the Columbia disaster.

5. The House conferees shall, as soon as practicable after the adoption of this motion, meet in open session with the Senate conferees and the House conferees shall file a conference report consistent with the preceding provisions of this instruction, not later than the second legislative day after adoption of this motion.

Mr. BECERRA (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

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

There was no objection.

The SPEAKER pro tempore. Pursuant to clause 7 of rule XXII, the gentleman from California (Mr. BECERRA) and the gentleman from Wisconsin (Mr. RYAN) each will control 30 minutes.

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

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

Mr. Speaker, let me give my colleagues a few numbers and see if we can find the connection in these numbers: 25, 161, 6.5 million, zero, and

93,500. If it does not seem readily apparent, let me connect the dots for my colleagues.

Twenty-five represents the number of times that this motion that we are about to debate has come before this House of Representatives in an effort to try to do what the Senate did months ago, which is to try to do what the President said he supported, which was to try to give a number of working, tax-paying families, many of them military families, the same type of child tax benefit that we gave to many other American families, those families having already received checks in the mail for that child tax credit. Twenty-five times. This is the twenty-fifth time we are trying to get the House to do what the Senate did on a vote of 98 to 2.

The number 161, that is how many days we have left out all of these American families with children from being able to benefit from the child tax credit that other American families, neighbors, in fact, of many of them, many of them right now, fathers and mothers in our military in Afghanistan and Iraq, 161 days they have gone without the benefit through the law that was passed 161 days ago, that many of their fellow Americans received in the mail.

□ 1930

Mr. Speaker, 6,500,000? That is the number of families in America that have been excluded. 6½ million. Among those 6½ million families you have 12 million children. So we are not talking about trying to help one or two of America's families because they were left out. When Congress passed and the President signed a tax cut bill that cost $350 billion, that excluded the 6½ million families and their 12 million children.

We are talking about quite a few American families throughout this country. Among those families, more than 262,000 of the people that I am talking about are children of our military personnel who were left out. And I should mention of our 200,000 or so men and women in uniform who are in Afghanistan and Iraq and throughout this world in combat zones, the result of not having extended the child tax credit expansion to them means that many of these men and women in uniform with kids are actually going to see a tax increase as a result of the action taken by this House in not moving forward to match the Senate on a 98 to 2 vote to provide the expanded child tax credit to these 6½ million families.

The number zero? I have already mentioned it. That is how much money the 6½ million families are getting at the same time that their neighbors and friends were receiving an average of about $600, $615 in a child tax credit. Zero.

The final number I mentioned, $93,500, that is the amount that this year many of America's millionaires will receive in reduced taxes as a result of the tax cut bill that passed in late May, 161 days ago, in tax breaks. Zero for 6½ million working families. And, by the way, these working families are not rich working families. We are talking about families that have incomes somewhere between $10,500, let me say that again, $10,500 annual salary to about $26,625 annual salary. We are not talking about wealthy families, but we are talking about working and tax paying and military families that are among those who earn between $10,500 and $26,625. 6½ million families. 12 million children within those 6½ million families.

The tax bill did give to millionaires in America an average tax cut this year of $93,500. In this child tax credit expansion provision, it gave zero to those 6½ million families.

What many of us have been trying to say in the 24 other times, including this, the 25th time we put this motion before the House is let us do what the President said we should, let us do what the Senate already did, in voting 98 to 2, and let us do what most American families thought we had done, until they realized that they did not get a check in the mail as well, including our military families.

Mr. Speaker, let us be just. They work, they pay taxes, and certainly for the several hundred thousand of our men and women in uniform who have kids, it is the right thing to do.

Now, it would not be so difficult to talk about this if it were not for the fact that within that tax cut bill and within additional legislation that has come before this House there have been measures to actually expand the scope of the child tax credit to more families. In fact, in this House my friends in the majority were willing to expand the number of families who could qualify for the tax credit by increasing the income limits, so that families with well over $150,000 could qualify for the child tax credit. Yet, in the same legislation, we cannot see how we can just do what we need to do for those families that are making somewhere between $10,500 and $26,500. It goes on and on and on in terms of the irony that we see here.

I look back at some of the Tax Code and I think to myself are we doing something that is unfair, something that these folks do not deserve? Some will say, well, they do not pay that much in income taxes. They are getting off and we should not give them money. Well, they pay taxes. They do not pay that much income taxes probably due to the fact that they do not earn very much income, but they pay payroll taxes, they pay sales taxes, they pay property taxes, they pay excise taxes. You name it, they pay it.

And, fortunately, we have a progressive tax structure that says in terms of income taxes if you are making $10,500 in a year, in a year, not in a month, because some of my colleagues may have misunderstood me, in a year, then, by God, I hope we are doing something to make sure that the $10,500 does not go to just pay taxes.

But to deny them, then, the expansion of the child tax credit simply because they do not pay enough of a certain type of tax I think is un-American. But that is where we are. Then I thought to myself, well, do we do some things that give others some kind of tax break? Then I realized, wait a minute, my father worked for about 40 years in road construction, he worked canning tomatoes at Campbells Soups, he worked cleaning the hulls of ships, and every day he worked, he ate lunch when he had time. As far as I know, he ate lunch with his colleagues, his coworkers.

Well, today if there is someone out in America in the business world who decides to go have lunch, and then follow that up with a nice dinner, and take out a business associate, and really try to cater to that business associate to try to, perhaps, gain some new business, and chauffeurs that business associate around in a limousine, and has a martini, then takes the associate to a nightclub to enjoy the evening and says, you know, we had a really rough night, maybe we should just stay at this hotel, all of that can be deducted to the tune of 50 percent. But somehow we could not find it in our powers within a $350 billion tax cut bill to give 6½ million Americans who work and earn about $10,500 to $26,500 a tax credit for their kids. The cost of doing that? $3½ billion. $350 billion tax cuts that went mostly to wealthy folks. $3½ billion, 1/100th of the cost of that tax bill would have corrected this problem for those 6½ million families. Could not do it.

We still can. We have not finished the section. That is why we are here today. I am hoping the 25th time is the charm and we will get to it.

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

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

Mr. BECERRA. Mr. Speaker, I yield 5 minutes to the gentleman from Texas (Mr. SANDLIN).

Mr. SANDLIN. Mr. Speaker, I thank my colleague from California (Mr. BECERRA) for bringing this to our attention.

Mr. Speaker, this is merely an issue of priorities. If we want to stand for our military, if we want to stand for our working families, if in this House we want to stand up for the children of America, if that is our priority, then we need to thank the gentleman from California (Mr. BECERRA) for advancing this motion, and we need to support and vote for the Becerra motion to instruct.

Let us accept the bipartisan, the bipartisan Senate-passed child tax credit bill, and let us just get this bill done once and for all. Let us tell America what is important to the U.S. House of Representatives and that is our working families and that is the children of those working families.

As Members know, Mr. Speaker, right now American working families are facing many challenges. We have

record job losses in the country, and the current administration will be only the second administration in the history of this country to show a net loss of jobs during the administration. The other administration being the Herbert Hoover administration, which certainly is not very comfortable company.

And those people in America that are lucky enough to have a job face challenges of their own. No health insurance, no prescription drugs, increasing education costs.

Now, Mr. Speaker, on the other hand if an American working family, if you can call them that, is comprised of millionaires, the current tax scheme of the Republican majority may be a benefit to them. But heaven help the American worker, Mr. Speaker, if he or she earns between $10,500 and $26,625. Because, Mr. Speaker, if you earn over a million a year, you will save $93,500 in taxes in 2003 alone, nearly 100 grand. But, if you earn between $10,500 and $26,625, you are the target, as my colleagues know, Mr. Speaker, of the Republican scheme because you were deliberately and purposely excluded from the $350 billion tax law of the Republicans. There is no child tax credit for you. That is the message.

Now, who does this affect? The Republicans, under their plan, say no child tax credit, no relief, no tax relief to the fighting men and women in Iraq, no relief for you, no relief to school teachers, no relief to policemen, no relief to firefighters, no relief to first responders, no relief to anyone making $10,500 to $26,625 a year. And, Mr. Speaker, that is a lot of people in this country. That is probably most of the people in my congressional district.

And it is funny, Mr. Speaker, in these times of challenge, fiscal challenges, we have plenty of money for millionaires but none for the clerk down at the drugstore. We can give $93,500 for 1 year to the millionaire but nothing to the man fighting in Iraq or the woman fighting in Iraq.

And what is funny, in a way, Mr. Speaker, is the administration has admitted this. You know Ari Fleischer, if you remember him, he was the White House Press Secretary when this went to conference initially, this is what he had to say: ''Everybody was aware in the conference of what was in and what was out. So that was all very well known to the conferees and the White House.''

Now, Mr. Speaker, Mr. Fleischer told the truth. No wonder he is out of the White House. They could not stand that candor anymore. Now, the chairman of the Committee on Ways and Means summarized the Republican attitude best when he said in response to a question regarding this matter, he said, quote, ''There are worse things than it not happening.'' Now, that charming statement was echoed by the majority leader when he stated bluntly in regard to the passage of the Senate child tax credit, ''Ain't gonna happen.'' Now, this was entirely consistent with his previous opinions, of course. Earlier he said there is a lot of things more important than that. There are a lot of things more important than that? Like what? I mean, like what, Mr. Leader?

Mr. Speaker, under the Republican plan, as you know, over 12 million children are left with no benefits, none; 178,000 of those kids are children in farming families; 567,000 are children of nurses and orderlies; 337,000 are children of school teachers charged with educating our kids.

And, Mr. Speaker, embarrassingly, the Republican plan hits minority children in particular by leaving out 2.4 million African American children and 4.1 million Hispanic children. Leaves them out.

So, Mr. Speaker, we need to get our priorities straight and decide who we are standing for. If we can help out millionaires, and that is not always a bad thing, but if we can help out millionaires and we have the $93,000 to give to a millionaire in 2003 alone, then we have enough money for a child tax credit to working men and women in this country, especially to our military.

Mr. Speaker, I urge my colleagues to vote for the Becerra motion to instruct.

Mr. BECERRA. Mr. Speaker, I yield 3 minutes to the gentleman from Ohio (Mr. BROWN).

Mr. BROWN of Ohio. Mr. Speaker, I thank the gentleman from California (Mr. BECERRA). And I just listened to the gentleman from Texas (Mr. SANDLIN) and the gentleman from California (Mr. BECERRA), and the gentleman from Wisconsin (Mr. RYAN) is going to speak later.

I was reminded, as I see what this House has continued to do, to deny the child tax credit to the working families, to the families who have children, but families who are working families, I thought a lot about a meeting I had about a month ago in Akron in my district, where I met with 25 families who had loved ones, sons, daughters, husbands, wives, nieces, nephews, whatever in Iraq. We talked a lot about shared sacrifice.

□ 1945

And I heard a lot from the President about sacrifice and shared sacrifices in this country. When you look at it with this war in Iraq tied to what the gentleman from California (Mr. BECERRA) is trying to do tonight, to help those children in working families who are not making a lot of money, but in working families get some piece of the pie, you realize that this shared sacrifice that the President is asking about is a very limited shared sacrifice. The sacrifice in this country, it is not in the ''leave no millionaires behind'' program. They are getting $93,000 back in their taxes.

The people making sacrifices in this country are the service men and women in Iraq; the families of the service men and women in Iraq; the veterans who are getting their veterans benefits, education and health care benefits cut because of the leave no millionaires behind program that George Bush has implemented; the students who are not getting the education funding; the seniors who are not getting the prescription drug benefit they should have; and now, ultimately, children in working-class families whose families are making 10 or 15 or $20,000. Those are the people who, unfortunately, are sacrificing in this shared sacrifice program of the President.

So we are subscribing to the leave no millionaire behind program where the average millionaire gets about $93,000 back in their taxes. Half of my constituents, half of Ohioans get zero back in their taxes. These children of working families who are not making a lot of money get zero. So when I hear the President talk about sacrifice, the men and women in Iraq, the families of the men and women in Iraq who are dealing with the anguish and their anxiety of having their loved ones in Iraq and are dealing with budget and financial problems as a result, and especially those children that President Bush just has somehow lost his focus on, makes this motion to instruct from the gentleman from California (Mr. BECERRA) so very, very important.

I ask my colleagues to support the Becerra motion to instruct.

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

Let me take a few moments to comment on the past speakers. First, I would like to fill in the gaps in the history that was rendered earlier here.

My information says that this is the 17th motion to instruct, not the 25th. We will see. We will have to look into the CONGRESSIONAL RECORD to find that out. Nevertheless, I get a great sense of déja vu right now. But all joking aside, Mr. Speaker, one thing that the speakers who just spoke failed to mention was that on June 12 of this year, the House did pass legislation making the child tax credit immediately refundable going back this year for these families in question.

So one gets the impression from having listened to these speakers that we did not do anything, that we did not pass anything. That is not true.

What this motion to instruct is encouraging is passage of an inferior tax bill from the Senate. What do I mean when I say inferior, Mr. Speaker? They want the child tax credit to go up to $1,000 for these families and then they want to take it away after the next election. It will go up for this year. It will go up for next year, and then the bill that they are advocating to take it away after the next election.

The bill we passed on this floor not only gives these families the full $1,000-per-child tax credit this year, next year but also for the rest of the decade. On top of that, Mr. Speaker, we also do

away with the marriage tax penalty, which the bill they are advocating does not address. So I just want to fill in the full story as to what is occurring here.

Now, the other issue that we are hearing about is that we are not doing anything for the military, the kids whose parent are in the military. Now, the most recent history on this issue goes back to about 1 hour ago when we just passed a bill unanimously off the floor of this House to give $1.2 billion in tax cuts to our men and women in uniform who are serving and fighting for us overseas. We just passed the Military Tax Fairness Act probably not even an hour ago off of this floor, and it is now going to the President's desk to be signed into law. So to suggest that the men and women in the military are all of the sudden being left out of tax relief is just not true, it is not accurate; and an hour ago we just fixed those problems. So that is an issue I just also thought would be important to fill in the gaps of the historical rendition that we have been hearing today.

Now, as to the issue of, and this is an accuracy that I think needs to be pointed out, as to the issue of whether or not these families are paying the taxes and they deserve the tax credit or not, these families, mind you, Mr. Speaker, do not pay Federal taxes. Their FICA taxes are offset by the earned income credit. They do not pay income taxes. Nevertheless, Mr. Speaker, the bill the House passed on June 12 did give these families, regardless of the fact that they do not pay FICA taxes which are offset by the EIC or income taxes, a cash benefit or bonus in the form of a refundable tax credit to the tune of $1,000. Again, not this year and next year, but for the rest of the decade.

Now, the other issues that have been brought to the floor were more general issues about the tax bills. You have heard the things about tax cuts for the wealthy and that tax cuts hurt the economy. Let us go back into the revision of history that we just heard about the tax law that passed earlier this summer.

Now, it is important to note that two-thirds of the top income tax bracket, the people who filed those taxes are not millionaires sitting on their yachts sipping champagne. Two-thirds of the top income tax bracket are small businesses who are the driving force of job creation in this economy. Seventy percent of the jobs we get out of this economy come from small businesses. Two-thirds of that tax bracket are small businesses. We were taxing small businesses at a tax rate higher than what we taxed large corporations in America. So before the last tax bill went into place on July 1, we taxed small businesses at a rate of about 40 percent, when we taxed IBM and General Motors and Chrysler and all these other companies at 35 percent. That was ridiculous.

Why should we be taxing small businesses in this country who are the engine of economic growth and jobs in this country at a higher tax rate than we are taxing the largest corporations in America? That is why we cut the tax across the board on individual income taxes. That was good. That is a good thing to do. It is not a tax cut for people who own yachts. It is a tax cut for people who have jobs and provide jobs in this economy.

Now, what has happened since that tax bill passed? Many of the speakers have been saying it is driving a hole in the deficit; it is actually hurting the economy. That tax bill passed on July 1. The third quarter of this economy started on July 1 and ended on September 30. What happened immediately after that tax bill passed? The economy grew at 7.2 percent. I repeat: during that period, the third quarter, the economy grew at 7.2 percent. That is the fastest economic growth quarter in this country in 19 years, in 19 years, Mr. Speaker.

Our economy grew right after this tax cut passed into law in the fastest quarterly growth in 19 years. That creates jobs. What happened to the deficit at that period, Mr. Speaker? The deficit went down by $80 billion. So what we see when that happened was when we cut taxes, not only did the economy grow, not only did a lot of wealth that was lost in the stock market come back because the stock market grew, but because the economy grew because people are going back to work because 72,000 people got jobs last month, people are paying taxes. The economy is growing and more remedies are coming into the Federal Government and the deficit is going down.

So just look at the facts and you can tell that tax relief works, that tax relief across the board, especially on small businesses, works; and the proof is in the statistics. The economy is growing. It is growing very fast. Jobs are being created. Jobs are coming back, and people are paying taxes who otherwise were not paying taxes and the deficit is going down.

Now, we have got to keep that going. And the last thing we want to do is roll back these tax cuts. What this motion to recommit is suggesting to do is pass these tax cuts and then yank them out from under the taxpayers after the election. The last thing we want to do in this economy is in the year 2005 raise taxes on people. Take the child tax credit down by $500 and stop that tax payment to all of these families.

Mr. Speaker, I think this is the 17th time we have had this motion. Whether it is the 17th time or the 25th time, what we are trying to accomplish is tax relief. We passed the bill. It is a better bill. That is the bill we are trying to get into law. I hope the gentleman who is a good guy, who is my friend on the Committee on Ways and Means, would join us. If we linked arms, we could get all of these things done and make a difference, and these families could have this tax cut for the rest of the decade, not just until the next election.

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

Mr. BECERRA. Mr. Speaker, how much time do I have remaining?

The SPEAKER pro tempore (Mr. PEARCE). The gentleman has 13 minutes remaining.

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

Mr. Speaker, there is a lot of what the gentleman from Wisconsin (Mr. RYAN) just said that I agree with, and I just say that he is one of those Members that I think does a very good job of crystallizing many of the issues. But I have to say we part company in a couple of areas.

First, there was a bill that was proposed in this House by the Republican majority to address the $3.5 billion exclusion of those 6½ million families that earn between $10,500 and $26,625. That is very true. But to get that $3.5 billion fix, what my friend from Wisconsin forgot to mention is we had to swallow an additional $79 billion in tax cuts that went unpaid for, that went principally to wealthy individuals. That I think is what makes it tough.

Mr. RYAN of Wisconsin. Mr. Speaker, will the gentleman yield?

Mr. BECERRA. I yield to the gentleman from Wisconsin.

Mr. RYAN of Wisconsin. Just a point of clarification. The reason that costs much more money is because we make those tax cuts permanent throughout the decade, and we do not yank them back at the end of the election. We actually put these tax cuts, like repealing the marriage penalty and the child tax credit, in place for 10 years. That is why the bill costs so much more money.

Mr. BECERRA. Reclaiming my time, I thank the gentleman for that point of clarification; but again, there was more to the bill than just that. It was not just an expansion of the types of tax cuts that would sound very appealing to America. There were tax cuts, again, unpaid for that went to folks that would benefit to the exclusion of the vast majority of Americans because they went principally to wealthy folks or to large corporations or to businesses that were not necessarily American-owned businesses.

As a result, it was very difficult for many Members, including Republicans, to swallow a tax cut of $82 billion unpaid for to try to correct the problem of $3.5 billion. At the time we were being told that the budget deficit might reach more than $400 billion. That is why the Senate did not take up the House version that would cost $82 billion and instead did the right thing, did what the President asked, passed a bill that provided tax relief to the folks, the 6½ million families that were excluded in the May tax bill, $350 billion tax bill that passed.

So do not put apples with oranges. It does not take $82 billion to correct the injustice, the injustice to the 6½ million families that were excluded from the expanded child tax credit. It takes

only $3.5 billion, which is quite a bit of money when you are running deficits.

It is true, there is better news. The budget deficit is $80 billion less than we expected a few months back. So today we are being told the budget deficit for fiscal year 2002 was only $370 billion, the largest deficit this country has ever had. And that is good because we were lucky. It was supposed to be $450 billion. Next year we are told it is going to be about 500 billion.

Whoopee, we should be really happy, I guess, that it is not $450 billion. So on top of the $350 billion that we have confirmed, that we have in budget deficit for the fiscal year, we should add another $82 billion to correct a $3.5 billion problem for folks that make $10,500 to $26,500, giving most of the benefits of the $82 billion in tax cuts to not those 6½ million families, because it only costs $3.5 billion to fix it for these 6½ million families.

That is not the kind of math that my 8-year-old is learning, and I hope she never learns that kind of math.

Now, the sunsetting of the $1,000 tax credit that my friend from Wisconsin mentioned, that is true. Our bill did sunset it because it was your bill that sunset it first. In fact, it was the Republican bill that became law that sunsets the child tax credit at $1,000 after 2 years.

□ 2000

That was not our doing. That was what the Republican majority chose to do. It was the decision of the majority to make it sunset, to close out, to be yanked away as the gentleman said after 2 years.

If we could find a way to pay for it, we are willing to extend it, but we are not going to continue to give someone today a child tax credit of $1,000 who makes over $150,000 and then put the burden of the deficit in the budget over the years and years to come on the shoulders of the people who did not get anything who are earning $20,000. That is unfair. It is, again, giving to Peter the rich at the expense of Paul of the modest income. That is not fair.

Military family tax relief, just about every one of us today, just as the gentleman mentioned, voted for that tax relief bill for our military families, but why did it not include this provision that we are debating right now on the child tax credit? It did a lot of good things. That is why a lot of us voted for it, and we have been waiting for months for that to get through because the military families have been waiting for some of those benefits that are in that bill that passed, but why did it exclude this provision which could have put money in the pockets of the spouses who are today waiting for their spouses to come back from combat in Iraq or Afghanistan? Probably no more than $600, $500 for families making $20,000 or less. Why could we not have put that in the bill? That again was excluded not by our choice.

I agree, small businessmen and -women do not typically go out on a yacht and sip champagne, and I would be willing to join with my colleague right now and say that all of those small businessmen and -women who do not have yachts and sip champagne on those yachts deserve to get some tax relief, absolutely, but that is not who we are talking about, because the tax relief that was given in the $350 billion tax bill of May of this year gives some of those millionaires enough to put a good down payment on a yacht. When a person gets $93,500 in tax cuts that is enough to put probably, I do not know, I am not sure how much a yacht costs, but it is probably enough for a sizeable down payment on a yacht.

Job numbers. Great to see that the economy may be getting better, may be getting better, but I hope this is not one of those economic recoveries without jobs. A jobless recovery will not do anyone any good. We have lost more than 3 million jobs in the last 3 years, and we have seen too many American workers lose all of their money through Enron-type scandals with their pension funds, and it is time for us to do something differently.

Mr. Speaker, with more than 146,000 jobs in the last quarter gone in our payrolls, it is hard for anyone to believe that America is today now turning the corner, and when we look at our States, whether it is my State of California, which has 880,000 families who were excluded from the child tax credit relief by this legislation, by the acts of the House majority leadership, or whether it was Wisconsin, which has 74,000 families that were excluded from relief, among those 143,000 Wisconsin children, about 11 percent of the families with children under 17 in Wisconsin excluded from child tax credit relief as a result of the inaction in the House to match the Senate.

We are seeing families continue to suffer. When we talk about 3 million people who have already lost their job in the last 3 years, and here we have 6½ million families that are willing to work rather than give it up, and say I am going to go on welfare, I can probably make just as much on welfare than the $10,500 I make on a yearly basis at this job, instead of trying to give them a reward, an incentive to continue that, we are saying no to them. Yes, to the guys that make over $150,000 to get a child tax credit expansion. Yes, to millionaires who get more than $93,500 in tax relief out of the $350 billion tax cut bill that went mostly to the wealthy, but no, to these 6½ million families. It just does not make sense.

Mr. Speaker, I could give my colleagues numbers for every one of the 50 States in America that has several hundreds of thousands of families who will not benefit, who did not benefit from the passage of the tax bill that excluded relief in the expansion of the child tax credit, for these working, tax paying and, in many cases, military families, but I would be repeating what has been said at least 24 other times.

I believe it is time, Mr. Speaker, that we move and match the Senate, and by the same numbers that the Senate did it, by a 98 percent margin vote in favor of giving a child tax credit to those 6½ million families, so those 12 million children know they are as wanted in America as the other children in America who did qualify for the child tax credit expansion, and we can do it without breaking the budget and do it in a way that relieves this economy of its doldrums and gets us back to work.

With that, Mr. Speaker, I would hope that we could reach across the aisle, work together, pass a bill that would cost only $3.5 billion, not $80 billion, match the Senate, get it passed, let the President sign what he said he wanted to sign, and then give those families what they deserve for a long time.

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

The SPEAKER pro tempore (Mr. PEARCE). Without objection, the previous question is ordered.

There was no objection.

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

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

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

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, further proceedings on this motion will be postponed.

MOTION TO INSTRUCT CONFEREES ON H.R. 1, MEDICARE PRESCRIPTION DRUG AND MODERNIZATION ACT OF 2003

Mrs. CAPPS. Mr. Speaker, I offer a motion to instruct.

The SPEAKER pro tempore. The Clerk will report the motion.

The Clerk read as follows:

Mrs. CAPPS of California moves that the managers on the part of the House at the conference on the disagreeing votes of the two Houses on the Senate amendment to the bill, H.R. 1, be instructed as follows:

1. To reject the provisions of Subtitle C of title II of the House bill.

2. To reject the provisions of section 231 of the Senate amendment.

3. Within the scope of the conference, to increase payments for physician services by an amount equal to the amount of savings attributable to the rejection of the aforementioned provisions.

4. To insist upon section 601 of the House bill.

Mrs. CAPPS (during the reading). Mr. Speaker, I ask unanimous consent that the motion to instruct be considered as read and printed in the RECORD.

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

There was no objection.

The SPEAKER pro tempore. Pursuant to clause 7 of rule XX, the gentlewoman from California (Mrs. CAPPS)

and the gentleman from Florida (Mr. BILIRAKIS) each will control 30 minutes.

The Chair recognizes the gentlewoman from California (Mrs. CAPPS).

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

Mr. Speaker, my motion would do three things. It would instruct conferees to drop privatization language from both the Senate and the House bills. It would direct any savings derived from dropping these provisions to pay for increased physician fees, and finally, the conferees on the Medicare bill would be instructed to protect the language in the House bill that provides for a small increase in Medicare payments to doctors for the next 2 years.

Essentially, this motion would tell the conferees to reject an untried proposal that would jeopardize Medicare and, instead, spend our precious resources to make sure that our doctors will be able to see their patients.

Mr. Speaker, in 1965, we established Medicare because the private insurance industry demonstrated that it could not provide affordable access to needed health care for seniors. I recognize the power of the market, but in trying to provide for the health care to senior citizens, this market falls short.

Our recent experience with Medicare+Choice just shows how true that is. Just 2 weeks ago in Ventura County, California, two private plans serving seniors pulled out, leaving these seniors with no more HMO service. Covering Medicare beneficiaries is too expensive for private plans to justify to their investors, and this is especially true in rural areas where the low population and the short number of providers has proved too high a hurdle for private plans, but in spite of this experience, proven now over many years, the House bill would turn Medicare into such a voucher program.

The Senate bill would simply pay HMOs more per beneficiary than traditional fee-for-service Medicare costs. Basically, it would bribe them to take care of these patients, but if these plans cannot provide the same care as Medicare for less, why would we want to pay them more? Why not just stick with traditional Medicare? This idea is a waste of money, and both approaches would drive premiums for Medicare beneficiaries way up.

The chief actuary of Medicare estimates that under the House bill, premiums would rise by 25 percent under this provision. This would force many beneficiaries to join HMOs and other plans since they could not afford to stay in traditional Medicare any longer, and so these provisions would end the Medicare program that has worked now for nearly 40 years, the Medicare program in which our seniors have such great faith.

Medicare under this plan will be replaced with the program where the health insurance industry itself decides how much a senior will pay and what kind of care they will get, and a senior's cost-sharing and premiums would no doubt change from one area to the next and perhaps from 1 year to the next.

Seniors have paid their payroll taxes all their lives. They were promised that Medicare would provide them with health care no matter where they lived, and now, they see that some in this place are trying to change the rules of the game on them.

AARP is strongly opposed to these kinds of changes, and so is the National Committee to Preserve Social Security and Medicare. These organizations are devoted to protecting America's seniors, and they believe that this is a mistake. They think these resources should be put to better use, and so do I.

I think instead of finding new and faster ways to funnel money to private health insurance plans, we should be shoring up the providers who actually treat and provide health care to our constituents, our physicians. In my District and all across this country, doctors were stunned to see a 4 percent cut announced for next year. This latest cut comes on top of the 5.4 percent cut in 2002. The net result of these cuts would put doctors' reimbursements at 8 percent below their 2001 levels, and it would represent the fifth reduction since 1991.

Payments between 1991 and 2004 will have fallen 19 percent behind inflation in practice costs even using Medicare's own conservative estimates.

These cuts are indefensible.

We are already having a hard time keeping enough doctors and other health care providers to care for the public in many areas of the country.

A number of surveys have indicated physicians increasingly are limiting how many Medicare patients they see and that more will be forced to do so if payments are cut again.

Medicare cuts have ripple effects into non-Medicare health care, because it makes it harder for health care institutions and for rural areas to attract and keep their doctors.

We simply cannot afford another round of cuts.

So this motion would also instruct the conferees to protect the language in the House bill that would give doctors a 1.5 increase in payments for the next 2 years. Though this is a small increase, it is much better than the cut physicians were facing.

The motion would also direct conferees to take the money that would have been spent on privatization to be spent on increasing these physician fees.

This motion is a very simple choice. Do we want to pay the HMOs more money so they may or may not cover our constituents, or would we rather put that money to use ensuring that there are enough doctors, the true professionals, who treat America's seniors and those with disabilities?

I urge my colleagues to choose our doctors and their patients over the insurance industry. I urge them to support this motion and make clear where they stand.

Finally, Mr. Speaker, I just want to note how unfair this entire conference process has been. The ranking members of the committees of jurisdiction, members of the conference and Representatives of hundreds of thousands of Americans are not even allowed in the room to be heard on this bill. The voice of the minority is a very important part of our public debate.

This exclusionary, undemocratic process that disenfranchises more than 100 million Americans is all too common up here.

Comprehensive and controversial changes like this bill cannot be sustained without the broad bipartisan support that this bill lacks.

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

Mr. BILIRAKIS. Mr. Speaker, I appear to be the only speaker on this side. I do not know how many speakers the gentlewoman has.

Mrs. CAPPS. Is the gentleman reserving the balance of his time at the moment?

Mr. BILIRAKIS. Mr. Speaker, what I would like to do is reserve the balance of our time and be the last speaker, just before the gentlewoman's closing.

Mrs. CAPPS. That is very fine.

Mr. Speaker, I yield 4 minutes to the gentleman from Ohio (Mr. BROWN), the ranking member of the Subcommittee on Health on the Committee on Energy and Commerce.

Mr. BROWN of Ohio. Mr. Speaker, I appreciate the work that my friend from California (Mrs. CAPPS) does on all kinds of Medicare issues, from what she has done today with the nursing shortage to intercity hospitals and everything in between.

I also support and appreciate the good work that the gentleman from Florida (Mr. BILIRAKIS) has done on a whole host of Medicare issues, and I know from working with the gentleman from Florida (Mr. BILIRAKIS) of his personal support for Medicare, his belief in Medicare. Unfortunately, though, the beliefs of my friend on the other side of the aisle does not always play out in support for Medicare by some other members of the Republican conference.

I remember hearing the gentleman from California (Mr. THOMAS), the chairman of Ways and Means, the principal player on this conference committee that the gentlewoman from California (Mrs. CAPPS) talked about, more than 50 percent of American people, Senate and House, are simply not allowed in the House. More than 50 percent of the Senate, 48 percent of the people represented by House Members, but the gentleman from California (Mr. THOMAS) has said he wants to end Medicare as we know it.

All we have got to do really is look back on the history of this program, and while the gentleman from Florida (Mr. BILIRAKIS) does indeed care about

Medicare, wants to continue to make it work, wants to preserve it, so many of his fellow Members, including people in the White House, simply do not.

The President, some months ago, said that he wants to do a prescription drug benefit, but he said if you want a prescription drug benefit, you have got to get out of Medicare, and you have got to let the insurance industry do it.

□ 2015

That has really been the thrust from President Bush to the gentleman from California (Mr. THOMAS) to Speaker Gingrich a few years ago, to back in 1965, Republicans really wanted this system turned over to the insurance companies. Privatize Medicare and give it to the insurance industry. Go back to 1965, out of roughly 200 Republican Members of the House and Senate, only 23 voted for the creation of Medicare. Gerald Ford in 1965, a future President, voted against it. Congressman Dole, future Senator Dole, Republican Presidential candidate, voted against it. Senator Strom Thurmond voted against the creation of Medicare. Congressman Donald Rumsfeld in 1965, later Secretary of Defense and the architect of this plan, I put in quotation marks, of the rebuilding of Iraq, voted against this creation of Medicare.

Then in 1995, the first time Republicans had an opportunity to do something about Medicare, the Republicans under Speaker Gingrich tried to cut it by $270 billion in order to give a tax cut to the most privileged Americans, the same old story. Speaker Gingrich said in October 1995 that he hoped Medicare would wither on the vine.

Senator Dole in October 1995 said, that I was in there fighting against the creation of Medicare because we did not believe in it. The next year he was a Republican candidate for President.

Dick Armey, sometime later, said about Medicare, in a free capitalist country, we would not have a socialist program like Medicare. And a Republican Congressman from Georgia recently said, I heard in the Committee on Rules, said that Medicare is a Soviet-style program.

They are free to think what they want about Medicare, and the more power to them. If they do not like Medicare, that is their business, but do not come on the floor like so many Republicans have, and I accept the gentleman from Florida (Mr. BILIRAKIS) because he believes in this program, but so many Republicans come to the floor and say I believe in Medicare. I have a mother and father, and I care about them, and I care about Medicare. Sure, they care about their mother and father, but they simply do not much like Medicare. They want to privatize it and end it as we know it. They want to turn it over to the insurance companies.

Mr. Speaker, that is why the motion to instruct by the gentlewoman from California (Mrs. CAPPS) is so important to send a message to the conference committee and to send a message to the American people that Medicare works and we do not want it turned over to the private insurance industry.

Mrs. CAPPS. Mr. Speaker, I yield 3 minutes to the gentleman from California (Mr. CARDOZA).

Mr. CARDOZA. Mr. Speaker, I rise in support of this motion by the gentlewoman from California (Mrs. CAPPS), who has done fantastic work in this area.

This motion instructs the Medicare conference committee to reject the controversial and risky privatization scheme of premium support and reallocate that money to increase the payment to physicians who care for Medicare beneficiaries.

Let me first discuss the issue of premium support and why I am concerned that this scheme could potentially dismantle the program of Medicare. I am concerned about subjecting a proven health care delivery system like Medicare to the uncertainty of the private market. I am especially hesitant about the system that relies on HMOs to provide this service to our seniors.

In my home area of Merced County, there is not one Medicare+Choice plan that my constituents can participate in. HMOs have made it abundantly clear that serving the rural areas and serving rural America is not profitable; and, therefore, they have pulled out of those regions in a mass exodus. Now the House bill relies on these private plans to provide services for Medicare beneficiaries. It just does not make sense.

Additionally, since its inception, Medicare has been a defined benefit system for which seniors pay a guaranteed premium each month and receive a guaranteed benefit.

In the House Medicare proposal, seniors' health care costs would be subsidized in the form of a voucher which they could then use to buy coverage in the private market. Their benefits can vary widely. Their choice of doctors can be restricted. Some services may not be covered, and so and so forth.

In theory, this system is supposed to cut costs by introducing competition into a Federal entitlement program. Unfortunately, all this plan really does is pass the costs of health care on to our constituents.

The basic foundation of Medicare is that we are all in this together and that everyone shares the risk. With premium support, the risk stays in the Medicare pool while healthy beneficiaries are picked off by private insurance companies in order to make a profit.

Seniors do not want this. They do want their choice of doctor, they do want a choice of hospital, and most importantly, they want to be able to afford their health care. So let us not take a gamble with our seniors. Let us use the money that we will save by striking this provision and put it toward something more tangible. If we increase payments to doctors who see Medicare patients, we will ensure that they continue to offer the highest quality care and not be forced to drop Medicare patients because the system cannot cover the basic cost of their treatment.

Mr. Speaker, physicians are being forced out of providing services to Medicare patients at an alarming rate. In fact, CMS just announced they would be imposing a 4.5 percent reduction in physicians' Medicare reimbursements effective January 2004. This is a disservice to our Nation's doctors and to our seniors. I urge a ''yes'' vote on this motion.

Mrs. CAPPS. Mr. Speaker, I yield 4 minutes to the gentleman from Oregon (Mr. DEFAZIO), whose rural district has faced the experience of having insurance companies up and leave.

Mr. DEFAZIO. Mr. Speaker, I thank the gentlewoman for her leadership on this issue.

It is a funny thing here, we are being told that the Republicans want to inject competition into the insurance market. Well, if they really want to do that, why do they not support my bill to lift the antitrust exemption from the insurance industry? The only industries in America exempt from antitrust law who can and do get together in private resorts on an annual basis to collude, to fix prices and red line out a whole bunch of potential clients is the insurance industry and, of course, professional sports. These are the only industries in America in a country of capitalism and competition who are exempt from any restriction on collusion.

Now we are going to throw our seniors onto the tender mercies of this collusive, anticompetitive industry. Oh, that is great. My seniors already had this experience. We had Medicare+Choice, HMOs. Oh, this is going to be great. You are going to get more benefits than under fee-for-service. Well, the companies were not able to collude and set the prices quite high enough to satisfy their profits, so they up and left with very little notice. My seniors were left in the cold.

Now what we are going to do is not only recreate that structure which has already failed the seniors of America once, to throw them on the mercies of an anticompetitive and collusive industry that does not give a darn about them, but now we are going to jigger it even a little more so it can destroy the Medicare fee-for-service plan, to which my seniors returned when they were screwed by the insurance industry. That is right; they were screwed. Suddenly you do not have an HMO plan any more, tough luck, we do not care. They could at least go back to Medicare fee-for-service.

But under this plan, it is beautiful. They are not going to have that option anymore because it is going to undermine the fee-for-service plans. It is a little thing called adverse selection. We are going to let the private, anticompetitive, collusive insurance industry cherry-pick the people they want

to cover for as long as they might want to cover them. You can get a policy for a year; but if you get sick, next year we are not going to renew your policy. That is the way this industry works.

Mr. Speaker, Members need to talk to their constituents. It is happening to people who are young, people with small businesses. Someone gets sick, we cannot renew your policy. Or we can renew your policy, only there is a 400 percent increase in premiums. That is what they are going to do to seniors because this thing is even more dastardly because it is going to destroy the core problem because we will leave the oldest, the sickest, and the ones that the collusive insurance industry does not want to cover over here in the Medicare fee-for-service, and make them pay more for it. We are going to make them pay more for it.

So this is a great option for seniors. Either the collusive industry that does not want to cover people who are sick or incurring costs will offer you a deal, or you can go back over here to Medicare which we have undermined and jacked the premiums up dramatically. That is the so-called choice in competition that the Republicans are offering the seniors of America.

Mr. Speaker, this is just an incredible travesty for this House and for the people's Representatives to even pretend that this somehow is going to improve coverage for our seniors.

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

Mrs. CAPPS. Mr. Speaker, I yield 3 minutes to the gentleman from Maine (Mr. ALLEN).

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

I come here tonight in order to urge the House to support the gentlewoman's motion. It is absolutely clear that the Republican bills, both in the House and the Senate, do encourage people to move away from traditional fee-for-service Medicare. As the gentleman from Ohio (Mr. BROWN) said earlier, when asked on a television program about the damage that these proposals might do to traditional Medicare, the gentleman from California (Mr. THOMAS), the Chair of the Committee on Ways and Means said, ''I certainly hope so'' when asked if it would destroy Medicare as we know it.

But let us look back at what is happening in the State of Maine. In Maine today there is no private sector health insurance for people on Medicare. It is all Medicare fee-for-service. So when people in Washington say we are going to change your health care system, we are going to move people out of traditional fee-for-service into insurance company coverage, well, they are going to have trouble persuading people from Maine that makes any sense.

I speak from personal experience. Both of my parents passed away in the last couple of years. But before they did, in their mid-to-late eighties, they spent 1 year on a plan called Golden Care, a wraparound private insurance plan that included Medicare. It was not golden; it was a nightmare because the insurance company did what insurance companies do: deny coverage. My mother would go to the doctor. She thought she had authorization, and it would come back and the claim would be denied. That is what insurance companies do. We cannot let that happen to seniors on Medicare.

My chief of staff has a father who spent most of the last 10 days in the hospital. He had a very serious heart problem. He was in for one test after another test. He was in overnight. His situation on more than one night was extremely grave. At one point, finally, after a week in the hospital with round-the-clock care, he looked up at his wife and he said, thank God for Medicare. Thank God for Medicare.

What the Republican bills are doing is making sure that Medicare as we know it gradually withers on the vine and that it is replaced by your friendly insurance company.

I do not have a single constituent in Maine who has ever come to me and said I am ready to give up the choice of doctors and hospitals under Medicare, but what I really want is a choice of insurance plans. Send me those brochures, those insurance plans, that is what seniors want at 85 years old. I do not think so. Save Medicare, support the motion.

□ 2030

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

Mr. Speaker, I thank the gentleman from Ohio, particularly for his kind remarks. I rise in opposition to the motion to instruct offered by the gentlewoman from California (Mrs. CAPPS). This is just the latest, I think, in a long line of motions to instruct that hurt our ability to finish our Medicare bill and provide prescription drugs to seniors. I am going to focus my remarks principally on the comments made of saving money from taking money away from the H.R. 1 program, if you will, and putting it into providers.

I have been a tireless advocate of fixing the formula that the Centers for Medicare and Medicaid Services uses to annually update Medicare payments to physicians. In fact, I introduced a bill in late 2001 that would have prevented that 5.4 percent cut in physician reimbursements under Medicare that went into effect in 2002. I believe the gentlewoman was supportive as were others. Physicians were slated to receive another cut, this time of 4.4 percent, were it not for congressional action that corrected flawed data in the update formula and provided physicians with a 1.6 percent update for 2003.

However, persistent flaws in the update formula mean that physicians are looking at negative updates next year and through 2007, and this motion to instruct does not fix that. It makes no sense, and the others have said it, it makes no sense that we would be cutting payments to our Nation's doctors at the same time that their costs are rising.

That is why the House bill contains provisions, and if this bill goes down, those provisions will not be applicable and the increases that we are all talking about would not take place.

That is why the House bill contains provisions that will ensure that physicians will see their reimbursements under Medicare, rather than cut by 4.4 percent, would be increased by 1.5 percent in fiscal years 2004 and 2005. This will provide Congress with the time that it needs to make long-term reforms to the Medicare physician payment update formula so that physicians can count on predictable, rational payments from Medicare. It will also avoid a major physician access problem for Medicare beneficiaries.

I would note, Mr. Speaker, that a number of organizations representing America's physicians, including the American Medical Association, the American Osteopathic Association and the Alliance of Specialty Medicine all strongly support the House bill. I would quote from an October 30, 2003, letter from the American Medical Association. I believe the minority is aware of this. The last few lines basically say:

Pending Medicare payment cuts must be addressed now, not in 2010, which is basically what the instructions go to, and the flawed payment formula must be addressed through replacement of the formula. Simply attempting to transfer dollars from patients to physicians through some ambiguous, unspecified mechanism, as is intended under the Capps motion to instruct, would not change the flawed Medicare payment formula, and thus would not ensure long-term access for Medicare patients.

I received another letter dated the same date, October 30, from the American Osteopathic Association. It starts out:

On behalf of the 52,000 osteopathic physicians represented by the American Osteopathic Association, I write to thank you for your efforts to reform and improve the Medicare program. The AOA applauds the consistent effort by the committee and their staffs to finalize a legislative compromise that will improve the health care of millions of Medicare beneficiaries. We encourage the committee to complete work on the pending conference report, enabling both Chambers to approve the legislation before the end of the year.

In the next paragraph it finishes up by saying:

Additionally, section 601 of the bill includes reforms that reduce the future economic volatility of the physician payment formula. These provisions have strong bipartisan, bicameral support. We urge their inclusion in the final conference report.

It goes on the next page:

Given budget constraints, the AOA understands that a long-term solution

for the physician payment issue could not be included in this legislation, and I add to that my own comment, unfortunately. However, we believe strongly that section 601 provides short-term relief that will allow physicians to continue participating in the Medicare program, preventing an increase in access problems for Medicare beneficiaries. Furthermore it provides Congress ample time to develop and implement long-term reforms of the Medicare physician payment. I would add parenthetically, in my own words, that I would hope we could work together with the minority to fix that terrible, terrible, unfair formula.

We received another letter from the Alliance of Specialty Medicine basically saying the same sort of thing in a different way. It is signed by the American Academy of Dermatology Association, American Association of Neurological Surgeons/Congress of Neurological Surgeons, American Association of Orthopedic Surgeons, American College of Cardiology, American College of Emergency Physicians, American College of Radiology Association, American Gastroenterological Association, American Society for Clinical Pathology, American Society for Therapeutic Radiology and Oncology. American Society for Cataract and Refractive Surgery, American Urological Association, National Association of Spine Specialists, Society of Thoracic Surgeons.

Mr. Speaker, I would also note, and I hate to put it this way, but if my friends really would like to help America's physicians and, yes, I appreciate the fact that they are on our side in terms of trying to have an increase rather than that great, terrible decrease, then I would recommend that they support, or at least favorably, objectively, open-mindedly look at the balanced liability reform like H.R. 5, which is the HEALTH Act. The gentlewoman from California voted against this legislation. I do not question that she wants to help the providers. I certainly do not. But those people who voted against this legislation, I would like to think they basically did so with a closed mind which America's doctors so desperately, desperately need.

I have heard a number of charges that Congress is considering handing Medicare over to the HMOs. That is not what the House did at all in the Medicare reform bill that we passed.

What the House did do was to improve the Medicare+Choice program and set up a new system. It has been said that people have been dealt unfairly by virtue of losing their HMO because they moved out. That has happened in my district in Florida, too. I have reprimanded and I have admonished as far as that is concerned but, my gosh, if that is the case, then those programs apparently were liked. They were liked by the particular patients. They are distressed because they have been taken away. Their Representatives are standing on the floor of the House here and complaining that they have been taken away. So there must be some good to them. I am not sure that I would have recommended any of them to my parents, but that is my personal choice.

What the House did do was to improve the Medicare+Choice program and set up a new system that will encourage regional plans to offer seniors another choice besides traditional Medicare. It is my hope that this will extend new choices to folks in rural areas who have not had a choice in Medicare before.

I talked to the gentlewoman from Florida (Ms. CORRINE BROWN) on the floor of the House during our last series of votes. We talked about this. I said, what we're basically saying is let's be open-minded. Let's be objective. Let's take a look at new ideas. They may not be any good. There may be some good to them, there may be some bad to them, but let's be open-minded. That is basically what I was pleading. That is what we are trying to do in the conference. We are going back and forth. It is a bipartisan thing.

I remember one of the most important gentlemen, the longest in seniority in the House basically calling a particular piece of legislation he introduced bipartisan when there was one Republican who cosponsored that legislation. So he called it bipartisan. We have two Senators in these gatherings. That is pretty darn bipartisan, I would say even more so bipartisan. But what the House did not do, and I would never support, and I very much appreciate the gentleman from Ohio making those comments, is force seniors to leave traditional Medicare. I feel very strongly about that. There are a lot of lengthy, sometimes heated discussions taking place regarding that. Any statements that characterize the House bill in any other way are, I say without any hesitation, 100 percent false.

I would have voted, Mr. Speaker, in the mid-sixties, I like to think I would have if I had been in the House at that time, to establish the concept of Medicare. My parents, along with so many others, took advantage of it. They are both gone now. I certainly look forward to retiring one of these days and taking advantage of it. I am concerned that it be a viable system, it is a system that is hurting right now, but be a viable system.

The reality that we are all facing and that many folks here in Congress seem to not want to address is that reforms must be made to ensure that Medicare continues to exist. It is a great program. There is no question about it. In my opinion it is. I say that. I do not hesitate. There are faults in it. It has got to be reformed. Anything that has been in effect for something like 40 years has got to be looked at again and possibly some changes made. We have got to ensure that Medicare continues to exist for future generations. As we add a $400 billion benefit, a $400 billion drug benefit to a program that already has, we forget this, do we not, $13 trillion in unfunded liabilities, we have got to take a serious look at how we can place the program on a sound financial footing for the future.

The House and the Senate did take different approaches in trying to meet this goal. We are currently working through those differences, but I want to emphasize and what I do want to emphasize, and really emphasize, is that none of those options involve forcing any senior to ever leave traditional Medicare.

Conferees are working around the clock, almost literally around the clock. We meet again tomorrow. We will meet Monday and Tuesday, on Veterans Day. My veterans back home will not be happy to hear that, but we will be up here meeting Monday, and we will be meeting on Tuesday and there is a possibility, a very strong probability, we may not have any votes in the House next week, but the conferees will be here as we were during the last few days when we did not have any votes for 3 days during the particular week.

We are trying to reach a compromise on this issue. I am hopeful that we will emerge with a conference report that will add a new prescription drug benefit that will be available to all Medicare beneficiaries but be voluntary, provide seniors with new choices under Medicare and reimburse our health care providers, including physicians, fairly, so that beneficiaries will continue to have access to high quality care.

Mr. Speaker, the gentlewoman means well, and we have worked well together in the past, but I submit that this motion to instruct will not help us to meet that goal. I urge my colleagues to oppose it.

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

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

I want to thank my colleague from Florida. I do appreciate his discussion about the importance of supporting our physicians and our Medicare providers. I have noticed his leadership in the past of restoring the cuts that have been coming with a steady drumbeat since 1997, really, and have gone to the bone in terms of their ability to stay, delivering Medicare to our seniors and our citizens with disabilities. I support his efforts to do that as well.

That is what this motion to instruct conferees is all about. It is about the ability to keep that 1.5 percent that is already in the underlying bill and to perfect the bill, to make it something that we can support in a bipartisan fashion, by taking the funding that would be used for the privatization that would be used to subsidize the insurance companies to deliver Medicare services, amounting to $6 billion, and put that funding right away instead to the providers who need this kind of support.

Mr. BILIRAKIS. Mr. Speaker, will the gentlewoman yield?

Mrs. CAPPS. I yield to the gentleman from Florida.

Mr. BILIRAKIS. That $6 billion, as I understand it, is in the Senate version. There is no money contemplated in terms of a cost in the House version. But in any case I do not disagree with her on this $6 billion.

Mrs. CAPPS. We are assuming the Senate bill will have some play in the discussion that is perhaps going on in the conference committee at the moment, and that is where we would urge the attention of the conferees to be put, that there is funding that has been set aside in the Senate bill that would make quite a difference in Medicare providers being able to stay, particularly in rural areas to continue to deliver the service.

I have seen the statement of the AMA and the osteopaths on this motion to instruct, and I need to say clearly for the RECORD that these letters do not describe correctly my motion to instruct. My motion to instruct supports the AMA position on physician fees. This motion explicitly supports the provision in the House bill that provides immediate assistance to doctors. In no way does it delay or support a delay in fixing the physician fee problem. Despite what the AMA and other groups have said, this motion does not delay permanent actions on fixing the sustainable growth rate. This motion does not address a long-term fix, but neither does the House bill.

The reason the House bill does not have a long-term fix is because it is very expensive. My motion would prevent the conference from spending money on risky privatization schemes when that money should be used to help finance a long-term solution to the physician fee problem. I believe the AMA must have been reading a different motion. Their statement says we are taking money from patients to give it to physicians. It could not be further from the truth.

□ 2045

Section 231 of the Senate bill has the Federal Government paying private plans, not patients. I frankly think that patients would be better served if that money went to their own doctor than to bribe some private plan to pay for their services or to play in the field.

I am disappointed that the AMA has so inaccurately described my motion, and I hope this is an inadvertent mistake. I have work very closely with the AMA and other professional groups on the problem of physician fees; and recently I brought Tom Scully, the administrator of Medicare, to a meeting of doctors in my district. The motion I am offering today is designed to respond to the concerns that they raised in that meeting with Administrator Scully. The AMA is wrong about what my motion does, and their position does not reflect the position of doctors in my district.

In addition, I wanted to address the gentleman's comments about leaving traditional Medicare in place. This House bill, which we have dealt with in the House before, will lead to rising Medicare part B costs because it would leave the sicker patients in traditional Medicare, while healthier seniors will go to HMOs. We have seen this in the Medicare+Choice plans, and we will certainly see it in a plan such as is proposed in this underlying bill. This is going to lead to much higher premiums for those who remain in Medicare. Seniors who do not want to join an HMO will be forced to because their premiums will be to expensive.

Mr. Speaker, this is a clear and very simple choice. On the one hand, we have HMOs and the insurance industry. On the other hand, we have the doctors who administer care, who know how to do this every day under Medicare, and their patients. The House and Senate bills seek to impose an untried and unnecessary privatization scheme onto Medicare. They will overpay HMOs in a bribe to get them to cover beneficiaries. These provisions would force seniors into private plans and drive up the premiums on those who stay in traditional Medicare. It would mean that seniors in different parts of the country would be paying different amounts for the same care. Instead of jeopardizing the Medicare system in this way, we could be ensuring that Medicare beneficiaries could see their doctors by making sure that they are reimbursed appropriately.

Support this motion to instruct to be sure that conferees support doctors over HMOs and protect our constituents from ill conceived changes.

So that is the motion to instruct conferees that we have proposed and that we hope will be passed in this House of Representatives so that the conferees will take seriously these recommendations to improve the underlying Medicare bill and make it something that could receive bipartisan support in the House of Representatives.

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

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

There was no objection.

The SPEAKER pro tempore. The question is on the motion to instruct offered by the gentlewoman from California (Mrs. CAPPS).

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

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

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, further proceedings on this motion are postponed.

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 2003, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

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

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

THE WAR IN IRAQ AND SUPPORTING OUR TROOPS

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

Mr. BROWN of Ohio. Mr. Speaker, since July I have come to the floor of this House night after night sharing letters from constituents and raising concerns about our policy in Iraq, raising concerns about the administration's failure to supply and to protect the troops, raising concerns about the $1 billion a week, now an increase to $87 billion a year for this Iraq reconstruction effort, raising concerns about the fact that there is no plan from the administration on how to deal with the problems for our troops and how to deal with an exit strategy in Iraq, letters expressing concern about the corruption in our government in Iraq where we are spending $1 billion a week and 30 percent of that $1 billion is going to private contractors, most of them friends of the President, Bechtel, Halliburton, other large corporations, most of them contributors to the President to the tune of hundreds of thousands of dollars, and one of them, Halliburton, particular concerns have been raised about from my constituents. Halliburton, the company that the vice President, when he was a private citizen, was CEO of, that company still pays Vice President CHENEY $13,000 a month.

Tonight, rather than reading letters from constituents, I thought I would read something else that I think is equally interesting. It was from a book that George Bush, Sr., the first President Bush, wrote with Brent Scowcroft in 1998. The name of the book was ''A World Transformed.'' On Page 489, the first President Bush tells us his views about Iraq and what he thought. This is President Bush the first speaking:

''Trying to eliminate Saddam'' Hussein, ''extending the ground war into an occupation of Iraq, would have violated our guideline about not changing objectives in midstream, engaging in 'mission creep,' and would have incurred incalculable human and political costs.'' This is President Bush, Sr. writing in 1998: ''Apprehending him,'' Saddam Hussein, ''was probably impossible. We had been unable to find Noriega in Panama, which we knew intimately. We would have been forced to occupy Baghdad and, in effect, rule Iraq. The coalition,'' President Bush wrote in 1998, ''would instantly have collapsed, the Arabs deserting it in anger and other allies pulling out as well. Under those circumstances there

was no viable 'exit strategy' we could see, violating another of our principles. Furthermore, we had been self-consciously trying to set a pattern for handling aggression in the post-Cold War world. Going in and occupying Iraq, thus unilaterally exceeding the United Nations' mandate, would have destroyed the precedent of international response to aggression that we hoped to establish,'' President Bush the first wrote in 1998.

''Had we gone the invasion route, the United States would conceivably still be an occupying power in a bitterly hostile land. It would have been a dramatically different, and perhaps barren, outcome.'' Those are the words that President Bush, Sr. wrote only 5 years ago, 4 years before his son led an attack on Iraq.

Mr. Speaker, those letters from constituents that I have discussed night after night here were particularly compelling, especially some letters I got from the families of men and women who are serving in Iraq. And a couple of weeks ago I met in Akron, the largest city in my district, with 25 families who have loved ones in Iraq; and they talked about our failure, the Bush administration's failure, to support the troops, to supply the troops, to protect the troops: not enough safe drinking water, either bottled water or purification facilities, not enough antibiotics. Soldiers and sailors had to pay for their trips home, pay for their airfare. Some soldiers were actually charged by the hospital, had to pay the hospital for their food when they were recovering. And some soldiers, about one fourth of them, we are told, do not have the body armor which will protect their lives.

So on the one hand, these families said to me, our letters from constituents said to me, we have $300 million a week going to private contractors to do work that is not really very well accounted for. On the other hand, we have our soldiers simply not being protected, not enough safe drinking water, not enough body armor, not enough antibiotics. And I would hope that President Bush would have listened to his father, which he clearly did not, from his father's words, but would begin to listen to some of my constituents and other constituents who beg him to focus on protecting and supplying the troops with a little less focus on all these unbid contracts and the corruption that this has brought and the waste of hundreds of millions of taxpayer dollars that we are seeing literally every week in Iraq.

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

(Mr. MCCOTTER addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

SUPPORTING THE VETERANS

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

Mr. DEFAZIO. Mr. Speaker, next week is November 11. And often, I believe, in this Chamber we pay lip service to our veterans; and we fail to deliver on solid votes and programs that would better demonstrate our recognition of their sacrifice and service. And this year, unfortunately with the budget and the appropriations passed, is no exception.

I was astonished earlier today when a colleague from the Republican majority stood up to pretend to document how great things are for our veterans, all these new services and things we are providing. I am hearing a very different assessment from my veterans and their dependents. And facts are stubborn things.

Here are some real facts, unlike what we heard earlier today: 150,000 veterans are waiting 6 months or longer for appointments; 14,000 veterans have been waiting 15 months or longer for their ''expedited'' disability claims; 560,000 disabled veterans are subject to the disabled veterans tax, something we have tried to rectify.

We have 373 cosponsors. There are only 435 people here. If 373 people want something, we should be able to do it, should we not? That is a super, super, super majority. But guess what. The Republican leadership, under urging from the President and Secretary Rumsfeld and threats of veto from the President, are refusing to bring up a repeal of the disabled veterans tax.

We can have tax breaks for people who do not work for a living, the investor class. We can have tax breaks for whole hosts of people and things. But we cannot have tax relief for disabled veterans. Is that not extraordinary? President Bush refused to spend $275 million in emergency money for veterans health care provided by Congress in the fiscal year 2002 supplemental appropriations bill. But of course he wants to do everything he can to recognize the service of our veterans and our young men and women.

January 8 of this year, the Bush administration cut off VA health care for 164,000 veterans. They put them in a new category called Category 8. They are wealthy veterans just like the wealthy people they are giving tax breaks to. Well, not quite. The wealthy people the Bush administration is raining tax breaks on earn over $311,000 a year. But these vets are wealthy. They do not deserve that veterans health care, according to the Bush administration. They earn $25,000 a year. They should pay for their own health care.

The President's budget also proposed doubling the prescription drug copayment from $7 to $15 for veterans, the ones who are still able to qualify, and a $250 enrollment fee on another category, Category 7 and 8. These could be people with low incomes, distinguished service, but under the Bush administration, we just cannot quite afford to give them the service we promised when they enlisted.

Now we either believe in the all-volunteer military or we do not. And we are either going to recognize the sacrifice and service of veterans or we will not. And if we do not, probably the next generation is not going to want to enlist for what is a very tough and today very bloody and dangerous job because they are not quite sure of the promise that we will take care of them and we will take care of their families and their dependents.

A few other problems. Rather than funding the VA, the Bush administration sent a memo to regional VA facilities that forbid Veterans Administration employees from proactively informing veterans about the services available to them in order to reduce the number of veterans using VA facilities.

□ 2100

That is supportive. Is that not great?

In March, House Republicans voted in favor of their budget resolution that cut $14 billion, ''B'' billion dollars, from mandatory veterans benefits over 10 years, including veterans pensions, education and other benefits. That was an hour after we voted to support the troops in Iraq.

Maybe it would have been a better message if we just had not bothered with the words, but had duly voted for the money. But, no, the Republican majority, pushed by President Bush, could not vote for that money, and that budget passed by one vote.

The House Republican budget resolution also cut $14 billion from veterans health care and other discretionary veterans programs. The Republican budget also included the President's proposal to impose a $250 enrollment fee on our veterans for the free health care that they were promised.

The Republican budget also included the President's proposal to double the prescription drug copayment from $7 to $15. The President had already raised it from $2 to $7, but, hey, we need money. We have got to send a lot of money over to Iraq, and we cannot ask them to pay any of it back, so we have to double the prescription drug benefit fee for our veterans.

Now, the House VA–HUD appropriations bill funded VA at the level requested by the President, which was $1.8 billion below the House Republicans' own budget, and it was $3.3 billion below the level requested by national veterans organizations in their independent budget proposal.

Let us really celebrate Veterans' Day, and give them the services they earned and need, and pay for them.

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

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

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

(Mr. SCHIFF addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

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

(Mr. KING addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

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

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

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

(Mr. MURPHY addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

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

(Mr. EDWARDS addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

IN HONOR OF SERGEANT SEAN DRISCOLL, 101ST AIRBORNE DIVISION, UNITED STATES ARMY

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

Mr. GINGREY. Mr. Speaker, I rise today to share with the Members of the House and the American people my experiences visiting Walter Reed Army Medical Center yesterday. I had the pleasure and the honor of visiting some true American patriots who were severely injured in Operation Iraqi Freedom and are currently recuperating at Walter Reed. I was especially pleased to meet with Sergeant Terry Jones, a reservist, from Columbus, Georgia, Fort Benning, who served bravely in Operation Iraqi Freedom.

Mr. Speaker, my visit to Walter Reed was one of the most moving things I have done since coming to Congress in January. I felt it was important to let these heroes of Operation Iraqi Freedom know how much we in Congress appreciate their sacrifices. I wanted to relay to them my belief that through their heroic deeds, they have made the United States a safer place for all Americans and brought precious freedom and democracy to the people of Iraq.

Mr. Speaker, yesterday I also had the pleasure to meet with Sergeant Sean Driscoll of Clarksville, Tennessee, and his wife Georgette. Sergeant Driscoll was recently wounded in Iraq as part of his operations serving in the Army's 101 Airborne Division.

Mr. Speaker, I could talk at great length about Sergeant Driscoll's dedication and sacrifice to his Nation during a 15-year career in the Army, as well as about my immense gratitude for all that he has done to advance freedom across the world. But I think that his 18-year-old daughter, Antoinette, has paid tribute to her father much better than my words could.

Therefore, Mr. Speaker, I would like to read the following testimonial written by Antoinette Driscoll about her father, Sergeant Sean Driscoll, so that it can be placed into the CONGRESSIONAL RECORD.

It is titled ''Hero.''

''Words cannot express how proud I am to be able to say that my Dad is a HERO. There are people who have parents that are doctors that save and rehabilitate people everyday, but my Dad is far greater. Some parents save others from fiery buildings or patrol the streets at night, but my Dad is far more dignified. Those people may be heroes in their own way, but my Dad is far more superior than they. For my Dad is a soldier, defending our wonderful nation, putting in countless hours of sweat, tears, and selfless sacrifice and service for those who live in the United States.

''My Dad is the one who fights and risks his own life for us privileged Americans. He makes sure that doctors have a place to educate themselves and practice. He makes sure that everyone has the opportunity to find a job, and has a home and an education, and makes sure everyone can sleep safely at night. I can't think of any other who is greater than he. I am proud and honored to be able to love someone like this.

''I can only hope that I will one day follow in his footsteps and defend my country. He has taught me a couple of things which I feel every American should know. One, freedom is not free, and there is no greater Nation than the United States of America. He has served many years and has shed blood for my freedom. I could never thank him enough for all that he has done. Not just for me, but for my family, friends, and people who he doesn't even know. I hope that one day I'll be able to fight for him, so he can live safely and rest when he comes home. I love him for these reasons and many more.''

Mr. Speaker, I think this statement from Antoinette Driscoll poignantly demonstrates her love and admiration for her father. It is also important to note that Antoinette will soon enter the United States Air Force herself, and her younger 16-year-old brother will join the service in a few years as well.

The Driscoll family has demonstrated to me great resolve in the face of difficult circumstances. Even though Sergeant Sean Driscoll was severely wounded in Operation Iraqi Freedom and he has spent many months away from home, his family remains undaunted in its commitment to serving our Nation. They can teach all of us a valuable lesson in sacrifice and dedication to the American ideal.

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

(Ms. CORRINE BROWN of Florida addressed the House. Her remarks will appear hereafter in the Extensions of Remarks.)

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

(Mr. BEREUTER addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

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

(Mr. DAVIS of Illinois addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

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

(Mr. MILLER of Florida addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

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

(Mr. GEORGE MILLER of California addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

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

(Mr. PENCE addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

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

(Mr. HENSARLING addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

TAX CUTS BRING ABOUT ECONOMIC RECOVERY

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 2003, the gentleman from Florida (Mr. MARIO DIAZ-BALART) is recognized for 60 minutes as the designee of the majority leader.

Mr. MARIO DIAZ-BALART of Florida. Mr. Speaker, I am here today to speak about an issue that is a huge priority for the Republican majority in this House, and also, Mr. Speaker, a huge priority for the President of the United States, and that is the United States of America's economy and where we are with our economy right now.

Ever since I got elected, which, as you know, Mr. Speaker, has not been a long time, time and time again I have heard from our dear friends in the Democratic Party how the tax cuts that the President of the United States was pushing for and that this Congress approved were not working, and they were not going to work, Mr. Speaker. They were impossibilities. They could never work. They were not based on any sound policy. And the quotes go on and on and on, how again there is just no way that it was going to work, because it was irresponsible, because it was ludicrous, because it did not make sense, because, I even heard some people say, because you hurt government when you take government's money away.

Think about that. I actually heard that. I am paraphrasing it, but I heard a statement just like that on the floor of the House. It is going to hurt government to take that money, government's money, away, by giving it in tax cuts, by giving away government's money in tax cuts, Mr. Speaker.

We clearly have some serious differences with our friends in the other party. One of the main differences, Mr. Speaker, is a pretty basic realization, and that is this, that every single dollar that we are dealing with here, every single dollar that we debate on this floor, every single dollar that this government spends, Mr. Speaker, is not the government's money; it is money that the government takes from the hard-working American taxpayer. It is their money. It is their money that we are spending. It is not the government's money.

Yet, when the President and this Congress said we have to incentivize this economy, because the President was not happy with how the economy is going, he felt and we felt, the majority, that we had to do better, we had to do a better job to make sure that more Americans had jobs, Mr. Speaker, that every American that wants a job should be able to find one, so this President had a very ambitious program to incentivize the economy, I repeat, we heard every single possible statement that you could possibly hear as to how it was not going to work.

Let me read a couple of quotes. I am not going to bore you with all the quotes, you have heard them before.

For example, the gentleman from Hawaii (Mr. CASE) said, ''This is not reasonable. This is haphazard and this is reckless.''

I love this one. The gentleman from Maryland (Mr. WYNN) stated, ''The tax cut program did not work.''

Mr. Speaker, let me just see if I understood this. He said that the tax cut program, i.e., taking less money from the taxpayer, the government taking a little bit less of the taxpayer's hard-earned money, he said would not work and did not work to incentivize this economy.

But you know what happened, Mr. Speaker. After all the rhetoric was stated on the floor of this House and in committee and in the Committee on the Budget and many other committees, after all that rhetoric, something very interesting happened, Mr. Speaker. The economic numbers came in, and what did those economic numbers show? Did they show that the tax cuts that the President proposed and that the majority of this Congress worked so hard to pass, did those economic numbers show that the tax cuts did not work?

Oh, no, Mr. Speaker. Let me say, and I know the American people have heard a lot about this recently, because even some friends in the press have had to admit now that it is working, that the tax cuts are working, that taking less money from the hard-working American taxpayer is doing what the President said it was going to do, and it was going to incentivize the economy.

Let me just read you some numbers. Gross domestic product, the GDP, increased from an annual rate of 3.3 percent in the second quarter due to the tax cuts to a rate of 7.2 percent in the third quarter, the highest rate of growth in almost two decades.

There has been, Mr. Speaker, and I do not know if you have heard it, a lot of chewing, a lot of good friends on the Democratic side chewing their words, eating their words, because the facts are here. It is working.

Let me give you a couple other statistics. Spending on big ticket items like cars and the such increased by an unbelievable 26.9 percent in the third quarter; 26.9 percent in the third quarter. If you listen carefully, you will hear it; more chewing, more chewing of their words, because, remember, these were the tax cuts that were not going to work. These were the tax cuts that were not going to incentivize the economy. 26.9 percent on big ticket items in this quarter.

Consumer spending, Mr. Speaker, on nondurables, like food and clothing, increased by 7.9 percent, the best since 1976. And the chewing continues. The chewing by the Members of that side of the aisle continues, eating those words when they said no, taking more money from the people is what we need to do; raising taxes is what we need to do to incentivize the economy, and, again, doing what this President said we needed to do and what the majority of this Congress wanted to do and got passed was not going to work. But the numbers, Mr. Speaker, do not lie. Here they are.

Mr. Speaker, business spending on equipment and software increased by 15.4 percent, the largest increase since the first quarter of the Year 2000. Listen to the chewing. Listen to the chewing, more words on that side of the aisle being eaten, because they said it was not going to work. Again, I repeat, what they said we had to do was increase taxes on the American people. As a matter of fact, the members of the Democratic Party proposed 25 increases in taxes this year alone.

□ 2115

Between this Chamber and the other Chamber, 25 times they proposed increasing the American taxpayers' burden. They proposed raising the taxes on the hard-working Americans, to send it up to D.C., because tax cuts were not going to work, were not going to incentivize the economy.

Mr. Speaker, homeownership rates, which is something that I think is so crucial, was up to 68.4 percent in the third quarter, the largest ever, the largest homeownership rate ever. And the initial weekly jobless claims data continues to improve, Mr. Speaker. Look, one does not have to be a rocket scientist to understand that one needs to have a better economy to get more jobs. If we do not have a better economy, we are not going to get more jobs. So it is not rocket science that we are starting to see that the weekly jobless claim data continues to improve. For the past 4 weeks, jobless claims have been below 400,000. Still too many, but again, because of this President's leadership, because of the leadership of the majority of this House, Mr. Speaker, because this House, along with the President, decided to take less money from the hard-working American taxpayers, the economy is starting to rebound, and it is doing so in a way that many people said was impossible. Many people, Mr. Speaker, I repeat, who are now, I can hear it, I can almost hear in the background, eating their words.

Consumer confidence is up 4.1 points from previous months. Again, Mr. Speaker, this is the issue; and the crux of the issue is twofold. Number one, it is not the government's money; it is the people's money. When we let the people keep a little bit more of their money, Mr. Speaker, that is not a gift. Government is not giving those people anything, Mr. Speaker; government is taking a little bit less of the people's money so that they can spend it on their children, on their kids' education, on savings, on whatever they want, because it is their money. It is their money to start with. And on top of that, what happens is that the economy begins to grow and the GDP begins to grow.

So, Mr. Speaker, I have a number of dear friends and colleagues who are joining me here today, and if I could, I

would like to yield to the gentleman from Texas (Mr. HENSARLING). He has done an incredible job in the time that he has been elected as one of the founding members of the Washington Waste Watchers, a man who has shown incredible leadership fighting waste, fraud, and abuse.

Mr. HENSARLING. Mr. Speaker, I thank the gentleman for yielding, and I especially thank the gentleman for his part in helping bring about this great economic growth plan of President Bush, and especially for his leadership in helping fight waste, fraud, and abuse within the Federal Government that is so hurting our family budget.

Mr. Speaker, thanks to President Bush, we have had some of the best economic news that we have heard since the recession occurred in March of 2001. As my colleagues heard earlier, the economy grew at a whopping 7.2 percent, the best in almost 20 years. Again, let me repeat that. The economy has grown at 7.2 percent, the best in 20 years.

Now, while economic cycles, with their peaks and valleys, have occurred over the history of America, the events of the past 3 years have been especially challenging to our economy and our financial markets. The burst of the high-tech bubble; 9–11, which cost the economy close to $2 trillion, along with the corporate scandals that we saw with Enron and WorldCom, all of these were significant factors in contributing to a downward economy. But thanks to President Bush and the Republican leadership in Congress, we have had an extremely shallow recession, and we have moved from negative economic growth to positive economic growth, and we have moved to it in a most dramatic way.

Now, earlier this year, the President offered his progrowth positive economic growth plan that I was happy to cosponsor. It included tax relief for families and tax relief for small businesses. It was designed to spur economic growth by allowing Americans to keep more of what they earn, giving them more money to spend and save and invest in our economy. The fact is, Mr. Speaker, that plan is working.

The growth of America's gross domestic product is the strongest it has been in 20 years. The third quarter economic growth of 7.2 percent is the best since 1984. The third quarter spending on big-ticket items like cars have increased by an astounding 26.9 percent. Consumer spending on nondurables like food and clothes increased by 7.9 percent in the third quarter. This is the best in almost a quarter of a century. This is good economic news.

Consumer confidence is up. Business spending on equipment and software increased by 15.4 percent, the largest increase since the first quarter of 2000. Productivity has increased 3.9 percent during the first 2½ years of this administration. This is the fastest start, the fastest pace of any Presidency since JFK. Productivity is what makes us competitive, more good economic news resulting from President Bush's progrowth economic plan.

Exports rose for the first time in four quarters to over $1 trillion. Inflation, once the scourge of the elderly and those on fixed incomes, continues to be almost nonexistent. And this is an important one, Mr. Speaker: shareholder wealth is up $2.9 trillion, trillion with a T, an increase of 22 percent since October of 2002.

Now, 50 percent of this increase in the stock market wealth has occurred since the economic growth agreement was reached in May. This is so important because half of all American families own stock, most of which or much of which is in 401(k) retirement plans; and half of those stock-owning families, Mr. Speaker, make less than $50,000 a year. These shareholders are families investing in their future. They are parents saving for their children's education. They are seniors who are dependent upon investment income for retirement. They are Americans making $50,000 a year.

The President's progrowth economic plan is helping Americans rebuild their nest egg. This is great news.

But, Mr. Speaker, there is even more great news, and that is that homeownership in the third quarter was 68.4 percent, the highest level ever in the history of America. Let me repeat that, the highest level of homeownership in the history of America, thanks to President Bush and the Republicans in Congress passing this economic growth package.

Now, homeownership has been a time-honored American tradition and a central part of the American Dream since the founding of our Nation. And because of the President's leadership, because of the tax relief that we fought so hard for for the American people, more young couples, more families are realizing that dream of homeownership. This is indeed great news.

Now, just a few months ago, as my colleague said, Democrats were saying that the economic growth tax relief program did not work. They called it unreasonable, haphazard, reckless, and fiscally irresponsible. I am not sure what is unreasonable about having the highest rate of homeownership in the history of America. I do not know what is haphazard about the stock market going up 22 percent and helping American families build a nest egg. I am not sure what is reckless about productivity gains. But they called President Bush's blueprint for the economy a failed policy that would hurt long-term economic growth.

But, Mr. Speaker, as usual, their rhetoric was wrong, their reasoning was wrong, their economics were wrong, their predictions were wrong. In the end, they were just flat wrong.

The success of the Bush jobs and growth plan and the positive economic news that we have heard comes as no surprise to economists. The chairman of the Federal Reserve back in June, Alan Greenspan, stated, ''Fortuitously, this particular cut in taxes is happening at the right time.'' He said that the fiscal boost created by President Bush's tax relief plan would ''create a fairly marked increase in after-tax income in the third quarter,'' and that is what we have seen.

Now, although we have had some great economic news, Mr. Speaker, we still have much work to do. Unemployment is still too high; but the good news is, it is improving. In the month of September alone, the U.S. economy created 57,000 net new jobs, the first time in 9 months that we have added jobs to our economy. Since the 2003 economic growth plan, initial claims for unemployment insurance have declined by more than 10 percent. And if history is our guide, historically, employment is the last economic indicator to come in line.

Now, Democrats continue to criticize our President for 6 percent unemployment. Frankly, compared to the unemployment rates of much of the Western world, many still envy us. European nations such as France and Germany report unemployment rates of almost 10 percent. Spain's unemployment rate is almost double that of ours at 11.4 percent. Frankly, inheriting a recession, coupled with 9–11, corporate scandals, fighting the war on terror, I believe this President deserves credit for keeping 94 percent of the American workforce employed. Without his plan, let there be no doubt: we would still be in recession and millions more would be unemployed, but we will not rest until every American that wants a job has a job.

Our economic growth plan is working, but the Democrats want to roll it back. Today's Wall Street Journal included a column on″Demo-nomics,'' explaining how all nine of the Democrat candidates for President are proposing to raise taxes. Now, I am not sure what is news about that, but it further explained how the gentleman from Missouri (Mr. GEPHARDT) and Howard Dean are proposing to repeal every single dime of the President's progrowth tax relief, regardless of income.

Mr. Speaker, permit me to quote from the Wall Street Journal: ''Dr. Dean then goes further and proposes lifting the income cap on payroll taxes, a huge marginal rate increase on anyone making more than $87,000 a year. All of this plays well with liberal primary voters who loathe all things Bush, but it would amount to the largest tax increase in history if they prevail.''

Once again, the leaders of the Democrat Party are proposing the single largest tax increase in the history of America.

Mr. Speaker, I do not know, do Democrats have a problem with families who make $50,000 a year getting a better return on their investments? Do Democrats have a problem with more homeownership? Do Democrats have a

problem with economic growth? Do Democrats have a problem with productivity gains? Do Democrats have a problem with 401(k) gains?

The Democrats have fought us on tax relief; they have fought us on lawsuit reform. Most recently they have even fought us on trying to get rid of only 1 percent, 1 percent of the waste, fraud, and abuse that is so rampant within our Federal budget.

Mr. Speaker, the simple truth is that the Democrats' vision is about growing government. The Republican vision is about growing the economy. We want to grow the family budget. They want to grow the Federal budget. And the plan the House Democrats put forward would have raised taxes yet again and increased government spending by almost $1 trillion for new programs. That is their plan for America's future.

Mr. Speaker, the latest economic news proves, once again, that the Democrats are wrong. The answer to promoting more economic growth is not to raise taxes; it is not to take more money away from hardworking American families. The answer is to continue to promote small business, to promote entrepreneurship, to promote more freedom, to make the Bush tax relief permanent, to let more Americans keep more of what they earn. Because, Mr. Speaker, if we will only preserve freedom and all of its essentials, there is no limit to what we, the people, can achieve.

Mr. MARIO DIAZ-BALART of Florida. Mr. Speaker, the gentleman brought up really, really good points. One of the things that he mentioned, and I think it is true, and I think when we think about it, it is amazing. The gentleman mentioned how some of these very high-profile Democratic leaders want to repeal all of the tax cuts, the Bush tax cuts; and then they call it all sorts of different things. We have seen it: they say, cutting taxes on the rich.

But let me read what some of those tax cuts they want to repeal are, because one of the things that some of our colleagues hate is when we speak with the facts in hand.

Some of those are, if they were to be successful, that means that we would reinstate 9 million low-income Americans back on the tax rolls. These are Americans, low-income Americans that are now not paying Federal income tax because of the Bush tax plan. And what the Democrats are saying, if they were to succeed on that, that those high-profile leaders the gentleman mentioned, that those 9 million low-income Americans would get back on the tax rolls and would have to start paying taxes, low-income Americans. Are those the rich who they say that we should not cut their taxes?

□ 2130

It would reinstate the marriage penalty, the marriage penalty. Is that for the rich? Do only rich people get married in this country? I mean, I do not know. Maybe I am learning something. No. No. It would reinstate the marriage penalty. It would cut in half the $1,000 per child tax credit. Do only rich people have children in this country?

So they would then cut in half that tax cut, $1,000 tax cut. And do they insinuate? No. They say that the tax cuts, the Bush tax cuts are tax cuts on the wealthy. Excuse me? Cut in half the $1,000 per child tax credit? Maybe it is news to the Democrats, but not only rich people have children.

It would raise taxes on education savings by 75 percent; by 75 percent. Dealing with rich people here? No. It would eliminate the income tax deduction for paying for college tuition. I know that it sounds hard to believe, but it would eliminate the income tax deduction for paying for college tuition. That is what they want to eliminate.

Those are the tax cuts that they say are for the rich? No. No. No. Get real. They would increase a double tax on dividends by as much as 62 percent. They would reinstate the death tax. I do not know. Maybe only the rich die. Maybe they think that only the rich die. No. They would reinstate the death tax.

They would eliminate the emergency tax relief to areas affected by the attacks of September 11, 2001. They would also do that. They can claim, they can say, they can state whatever they want to.

These are the facts. The facts are that the President's tax cut proposal is working, that this Congress's leadership, making sure that that passed, has made, has created serious economic growth. And the reality is when they talk about eliminating all of Bush's tax cuts, they are not talking about eliminating tax cuts for the rich, they are talking about these tax cuts. And the hardworking Americans paid a lot of money. They sent a lot of money up to Washington. It is their money.

My colleagues know what the President believes and what we believe, Mr. Speaker, that if you allow the American people to keep some of their money, good things happen. He was right. He was proven right. The leadership in this House was proven right.

Mr. Speaker, I yield such time as he may consume to the gentleman from Minnesota (Mr. KLINE), who not only is a Congressman, but I think we also have to thank him for his previous service to this country. As Members know he was a colonel in the United States Marines. He makes us proud. I think all of us feel proud to have him as a colleague here in Congress.

Mr. KLINE. Mr. Speaker, I thank the gentleman from Florida (Mr. MARIO DIAZ-BALART), my distinguished colleague, for yielding, and more importantly, most importantly, for his leadership on this issue and so many issues. It is such a pleasure to serve with such a fine gentleman.

Mr. Speaker, I rise today, of course, to join he and my other colleagues in sharing the really great news what we are seeing in the United States economy. As you heard from the gentleman from Florida (Mr. MARIO DIAZ-BALART) and the gentleman from Texas (Mr. HENSARLING), the United States economy grew at the astonishing rate of 7.2 percent in the third quarter. The highest rate since 1984. That warrants the repetition that we are giving it this evening.

It is a sign that the President's Jobs and Growth Package is doing exactly what it was supposed to do. And I am so pleased to have been a part of this Congress to help make this a reality. That package that we passed this year helped to generate our growth spurt by bringing economic activity to a higher level. That was exactly the purpose. This, in turn, increased the incomes and the living standards, the living standards for American workers. Not just the living standards for the rich, the living standards for American workers. And, in addition to this incredible, astonishing growth, we have seen other important indicators of a reviving, in fact, a rapidly growing economy.

My colleague, the gentleman from Texas (Mr. HENSARLING), mentioned that home ownership has reached the highest level ever, the highest level ever. And since the beginning of this year, the value of the United States stock markets has increased $2 trillion. Two trillion dollars. That is money in retirement accounts and 401(k)s and IRAs and mutual funds. That is real wealth to Americans. Disposable income is up 5.8 percent.

And, just as predicted, when you let the American workers, businesses, and families and individuals keep more of their own money, when you tax it less, and disposable income goes up, other good things happen. Manufacturing goods are up. Shipments of durable goods are up. Consumer confidence is, you guessed it, up. Things are looking up and there is more to come.

Mr. Speaker, the point has been raised that jobs are not as high as we would like them to be, but I am here to tell you that they are on their way. This economic indicator always lags, and we are already starting to see signs that the labor market is beginning to improve. Claims for unemployment insurance are down.

My colleague from Texas mentioned that 57,000 new jobs are were created in September. Progress is evident. We have more work to do. And the good news is that the President and the leadership in this house never planned to rest on its laurels.

The President, the administration, the House, has a plan to further strengthen the economy and create more jobs. Six easy points that the President has articulated, and it bears repeating tonight for our discussion. We want to ensure an affordable and reliable energy supply, and we are working on passing an energy bill; we want to reduce the burden of frivolous

lawsuits on our economy; streamline regulations and reporting requirements; make health care costs more affordable and more predictable; open new markets for American products; enable families and businesses to plan for the future with confidence by bringing consistency and predictability to the system.

Mr. Speaker, this Congress and this President recognized a need and responded. We are already seeing signs of success and more to come. I am so pleased to be here with you tonight and to be part of this Congress and this team working for a better, stronger America.

Mr. MARIO DIAZ-BALART of Florida. Mr. Speaker, you know the numbers do not lie. Here they are. My colleague mentioned them, the gentleman from Texas (Mr. HENSARLING) mentioned them, 7.2 GDP increase, the highest rate of growth in 19 years. By the way, I never heard our good friends from the other side of the aisle say we were wrong, we were wrong in suggesting and proposing tax increases as a solution, we were wrong in proposing legislation that would have increased the deficit by almost $1 trillion. And yet they say that they are concerned about the deficit. All of us are concerned about the deficit. And we believe that one of the ways to lower the deficit, clearly, is to create economic growth and to incentivize the private sector to create economic growth.

Our good friends on the other side, the Democrats, let me quote the gentleman from Hawaii (Mr. CASE), he said, quote, ''I see public debt climbing through the roof,'' end of quote. The gentleman from New Jersey (Mr. PALLONE) said, quote, ''The Bush economic blueprint, the House GOP plan is also fiscally irresponsible,'' we have talked about that a little while ago, ''because the debt it would create, saddling our children with debt and hurting long-term economic growth.'' And, yet, that party proposed increasing the debt that they are saying is high.

We would all agree that we want to control that debt, the deficit, but they say that this, what the leadership of that party proposes, this year alone increases to the deficit of almost $1 trillion. You know, they may get upset at me because I am bringing up some of these facts, but I think one cannot deny the facts. One cannot deny that the President's tax cut proposal package, that this House, because of the leadership of this House, the majority leadership, is working. And they cannot deny that they propose amendments to increase the deficit by almost $1 trillion.

Mr. HENSARLING. Mr. Speaker, would the gentleman yield?

Mr. Speaker, he brings up an excellent point about the Federal budget deficit. And what many people may not realize is that, and he and I serve on the Committee on the Budget, so we know this, but the pro-growth economic tax relief that President Bush proposed was $350 billion over a 10-year period contrasted to $28.3 trillion, trillion with a ''T'', worth of spending over that same time period. So if you do the math, what you discover is that the pro-growth tax relief was 1.2 percent of the spending. And so as those on the other side of the aisle continue to attack us for a Federal budget deficit, one, tax relief is part of the solution, not part of the problem. That is how we have the highest rate of home ownership in the history of America. That is how we have the productivity gains. That is how we have an increase of 22 percent in the stock market, helping Americans go back and rebuild those nest eggs.

Tax relief is part of the solution, not part of the problem. That is how we have economic growth. That is how we have the most, the greatest increase in economic growth in 20 years.

If you care about the deficit, do not look to 1.2 percent of tax relief, look to the 98.8 percent of the spending which, as we well know, Democrats refuse to do. When we proposed finding 1 percent, a mere 1 percent of waste, fraud, and abuse that is so widespread in this Federal budget, the Democrats fought us every step of the way.

And as my esteemed colleague has pointed out, on top of the Democrats fighting the tax relief, not focusing on the spending, they actually proposed almost $1 trillion more spending over and above the budget we passed. That is their vision for America, and their vision fails.

Mr. MARIO DIAZ-BALART of Florida. Well, I think the facts bear that out. That is why, again, if you listen carefully you might even hear, you might hear that crunching of people's mouths because they are eating their words. They are chewing those words.

And one person who has been a leader and an inspiration to a lot of us here, trying to bring fiscal sanity to this, and obviously the President has been leading that charge, and the leadership here, but one of the Members in this freshman class that has done an incredible job is the gentleman from New Mexico (Mr. PEARCE), the person who understands the importance of controlling spending, who understands the importance of controlling the size of the deficit, and who understands that the way to increase the economy, to make this economy grow, is not by taking more and more money from the American taxpayer. And I thank him for joining us here. I would yield to the gentleman now.

Mr. PEARCE. Madam Speaker, I thank the gentleman from Florida (Mr. MARIO DIAZ-BALART) for leading this important discussion.

Madam Speaker, I began these economic discussions in my district early in my term. About February or March we began to talk about the potential tax cut. And good, well-meaning people ask why would we give a tax cut in the face of deficits. And it is a fair question. It is one that I addressed at the time, and it is one that is worth revisiting the answers.

First of all, to know why we would approach a deficit situation offering a tax cut, one needs to understand the problem with our economy. Our economy first received its first shock back in March of 2000 when the dot-com collapse occurred. Everyone will recall that those dot-com stocks had escalated from no value to some selling at $200 and $300 per share. They had no revenue. They had no product. They had no sales. They just had optimism and euphoria about the potential.

It was right and necessary that the price of those stocks collapsed down because it was unwarranted to have such a high price. But while the prices were up, people were cashing in their stock and the capital gains created the illusion of an economy that had grown and had improved.

Now, what that did is it caused us all in the Federal Government and in almost every State government to reorient our spending for those perceived surpluses. Now, when the dot-com collapse occurred, it took us back to about the 3 percent growth rate which we had experienced.

□ 2145

So the economy was basically at the same point before and after the dot-com ramp up, but we had reoriented our spending patterns at both State and national levels. State began to have difficulties balancing their budgets. The Federal Government began to run in a deficit situation. We were just about to come out from underneath that problem when 9–11 hit. That was a $2 trillion problem, $2 trillion taken out of the lives of people, the actual loss of lives, also the economic impact that it had on the lives of people.

After 9–11 we were still just about to come out of the recession when the companies that under President Clinton's term had cooked the books and no one had called the bluff, WorldCom, Global Crossing, Enron, those stocks began to collapse under this President. Someone was willing to take those problems into account. And at that time, then, the consumers lost confidence in the stock market and began to pull their money out. That is where our problem arrived at this year.

So when I looked at the potential, we had one of two choices, one to cut spending like the gentleman from Texas (Mr. HENSARLING) said, a notion that was rejected outright by the Democrats; the other choice that we had was to reinvest.

My wife and I have owned a business for the last 14 years. We hate debt. Almost always we are out of debt. We operate simply on cash; but occasionally when it is time to expand, we will take on additional debt. We create an expansion. We grow the size of the company. We pay the debt off and we are back on solid ground. That is the way the tax cut was.

We are taking some of the money back, putting it into the pockets of the

people, offering incentives to businesses in order that they might grow.

People ask, exactly how does it work? I will tell you, in my district, in my hometown there is a small manufacturer. They make oil field equipment that sells for about $750,000 per unit. Before the tax cut, they were completely out of back orders. They were just at the point of laying off people. They were producing their last piece of equipment that had been ordered.

The day the President signed the bill, they got more back orders in one day than they had gotten the previous entire life of their company. They went to 2 years' worth of back orders. They brought on new people. For each new unit that was produced, they hired four people and sometimes five.

Mr. MARIO DIAZ-BALART of Florida. Let me, if I may, the gentleman is reminding us and me of what the situation was. It was absolutely right. That is why it is even more remarkable what the President and the majority in this Congress were able to do. More remarkable because we are dealing with the effects of 9–11, the effects of 9–11 when we all know what a travesty and a tragedy that was.

We are dealing with the dot-com crash, as the gentleman mentioned. We are dealing with the scandals in Wall Street. And yet, despite all those things, because the President had a plan, a fiscally responsible plan, the economy is picking up. Despite all of these things, despite the fact that we are at war, and I know that some people do not believe we are at war. The esteemed Democratic leader whom I respect and I am going to paraphrase it, I do not have the quote with me on the floor, she said something to the effect of, I do not feel that we are at war.

She has the right to not feel that we are at war, but the reality is that we are at war, that we were attacked. And despite the fact that we are at war, because of the efforts of the President, because of his sound leadership, because of his truly sound leadership, because the leadership in this House and the majority party of this House and the majority of the Members, this House voted for that stimulus package that, again, our good friend on the Democratic side said, it is not going to work.

I think maybe thinking the economy has taken such a huge hit because of 9–11, because of the crash of dot-coms that no way, nothing can work. This President had a sound policy. It was approved by this House, by this Congress; and it is working. And without that tax relief, without those tax relief packages of 2001 and 2003, 1.5 million Americans would be out of work right now. Right now. Those are people that would not be working. Was it worthwhile taking all the heat, taking all the political heat to make sure that we produced, that the economy grew to produce those 1.5 million jobs? Ask those 1.5 million Americans if it was worthwhile.

The tax relief package of 2001 contributed nearly $400 billion in growth in 2002, again, despite our dear friends on the Democratic side claiming that the tax program did not work, quote/unquote as the gentleman from Maryland (Mr. WYNN) said. And again, since 2003 the tax relief plan, initial claims for employment insurance have declined by more than 10 percent since then.

It is real. It works. We knew it was going to work; and we also knew, we clearly also knew that the Democrats' answer to the problem, which was massive tax increases and massive additions to the deficit, would have been a total disaster. And so I for one am not apologetic. I for one am not apologetic when I say I am proud that I was part of a small part of making sure that the Federal Government took just a little bit less of the American hardearned taxpayers' dollars.

Mr. KLINE. I just want to follow up on the comments that the gentleman from Florida (Mr. MARIO DIAZ-BALART) and the distinguished gentleman from New Mexico (Mr. PEARCE) were making about the resilience of our economy and the power that you get when you let the American people keep their own hardearned money.

We have talked about the dot-com bubble, well-described, the terrible corporate scandals that would have rocked any economy to its heels, the horrific attacks on 9–11. We are conducting major military actions in Afghanistan and Iraq. We are conducting a global war on terrorism. We have had the largest reconstruction, reconfiguration of the Federal Government since 1947. And still the American economy grew. And as we have talked about this evening, because of the leadership and the trust of the President and the leadership in this Congress and letting the American people and letting American businesses spend their money in the way they saw fit, we have seen the largest growth in gross domestic product in 19 years.

I just think it says remarkable things not only about the President and about the leadership in this House, but about the wonderful American people and the strength of our economy.

I thank the gentleman for yielding to me.

Mr. MARIO DIAZ-BALART of Florida. When the gentleman was speaking right now, one thing that hit me and it hits me every time I listen to the gentleman and other colleagues on the Republican side, and I listen to our colleagues on the Democratic side, the gentleman just said that it is the people's money. And yet when we listen to the Democrats, they say we are giving, that the government is giving to the people. A gift. We are giving tax cuts. We are giving away this money.

In other words, government, we, being government, is giving away this money. Wait a second. Since when did government create it? Did government produce it? Where does that money come from?

The gentleman from Texas (Mr. HENSARLING) and I have had those conversations time and time again. We share a frustration when we hear those debates. That may be one of the reasons that when we are sitting on the Committee on the Budget and the gentleman from Iowa (Chairman NUSSLE) had a proposal to cut just 1 percent in waste, fraud and abuse, we can recall that not one single Democrat, not one, could even make the mistake of voting to cut 1 percent of waste, fraud and abuse. Of course not. Because it is not the people's money in their eyes. It is government's money. So if we waste it, if we throw it away on credit cards, whatever we do, it does not matter. There is more where that comes from.

That is why they proposed between the House and the other Chamber, 25 times they proposed increasing taxes. Why? Because it is the government's money. The people are here, it seems they believe, to serve government. The people are like a cow that we milk, that government milks. That is the only purpose. And that is a frustrating thing I hear all the time. And that is why I love to hear what I just heard from the three gentlemen that no, it is not. It is not government's money. It is the people's money. And that is why I am not ashamed, I am not embarrassed when we support initiatives to allow the people to keep a little bit more of their money.

The gentleman from Texas (Mr. HENSARLING) mentioned that it is a tiny percent of the budget that we are dealing with, but that tiny percent allows the American people to creat economic growth in a way that we have not seen in many, many years. And I do not know if the gentleman share those frustrations that I do.

Mr. HENSARLING. I obviously do share those frustrations, and I think they are basic tenets of economics that people on the other sides on the aisle forget. It has been a number of years, but I actually have a degree in economics from Texas A&M University.

I can state that, number one, government is not in the business of creating wealth. Government is in the business of redistributing wealth. People, hardworking American people who go out and save and risk and take chances and work hard and build businesses, those are the people who create wealth in our society. Those are the people who create jobs in our society.

Once again, it has been a few years since I have been in college, but I actually took a course in world economic history and in American economic history. I am unaware of any society that has ever taxed itself into prosperity. So apparently folks from the other side of the aisle must be reading different economic history text than I am. You cannot tax yourself into prosperity. And I might add for the benefit of those on the other side of the aisle, you cannot sue your way into prosperity either. That is their plan for America. It is a failed plan. It does not work.

Mr. PEARCE. The idea that you must know what you are trying to achieve from any set of taxes that you take is really obvious here. We were taking somewhat of a chance to go out and do the tax decreases, but it is working out the way that economists have said it would work out.

Our State, New Mexico, is leading the Nation, number two in job growth because our State legislature this year gave a tax cut, the Democrat Governor said we all know it, tax cuts cause jobs, tax cuts cause economic growth. But it also has taken some discipline. I do not know how many people are aware of it, but as we look at the corporate scandals, the President and the Justice Department have taken a leadership role. There are seven executives currently awaiting trial. There are four more who are already spending time in jail, including the ex-treasurer from Enron. The founder of ImClone is spending 7 years in jail, and 12 former executives from HealthSouth. The American people respond when government acts properly, when they request and require accountability on the part of not only their elected officials but also those people in business leadership positions.

So I salute the President in his plan for the economic recovery for this country. I salute the President in his willingness to ensure discipline in our corporate executives. I salute the gentleman from Florida (Mr. MARIO DIAZ-BALART) for hosting this discussion tonight.

Mr. MARIO DIAZ-BALART of Florida. I thank the gentleman from New Mexico (Mr. PEARCE) for again his leadership. I think it is worth restating. We hear it time and time again all the rhetoric that, I hear it every day, Republicans are cutting taxes on the rich.

I think it is worth restating and the gentleman from Texas (Mr. HENSARLING) mentioned that some of the high-profile Democratic leaders around this country, some of them said they want to get rid of all the tax cuts they propose. I want to talk about what those were, what those are, what are some of those so-called rich people that the Democrats want to raise taxes on. And, again, if that were to happen, if they were to succeed, it would reinstate nine million low-income Americans back on the tax rolls. Those are low-income Americans that are now not paying Federal income taxes at all because of the previous tax cuts. It would reinstate the marriage penalty.

Again, I repeat, I guess they think only rich people get married. It is a wakeup call. Not only rich people get married.

□ 2200

It would cut in half the $1,000 per child tax credit. I am not going to comment on that.

It would raise taxes on education savings by 75 percent. It would eliminate the income tax deduction for paying for college tuition.

It would increase a double tax of dividends by as much as 62 percent. It would eliminate the small, I emphasize it would eliminate the small business expense again for small businesses.

It would reinstate the death tax, and it would eliminate the emergency tax relief to areas affected by the attacks of September 11, 2001.

That is what is at stake here. That is what we are talking about. Those are the tax cuts that before I got elected a majority of this Congress, Republicans, fought for, the President fought for and successfully got. That is why we have seen the economic growth. Those are the tax cuts that we better believe that I think the American people deserve, again, because I believe it is their money. It is their money. They have the right to keep a little bit more of their money, and if somebody thinks that those 9 million low income Americans who are now not paying Federal income tax are rich, they have the right to think so.

Like I repeat, the gentlewoman from California (Ms. PELOSI), who I respect, has the right to feel that we are not at war. I just respectfully say that they are wrong.

We do not have a lot of time, but I know that the gentleman from Texas (Mr. HENSARLING) wants to leave us with some last remarks.

Mr. HENSARLING. Madam Speaker, I thank the gentleman for yielding, but I think it is again important for the American people to know that President Bush's pro-growth economic policies are working. It is absolutely incredible to think that we have just had the greatest economic growth, the greatest quarterly economic growth in almost 20 years, to think that productivity has increased precipitously, to think that consumer spending on nondurables is up 7.9 percent, the best in a quarter century, that, as I said, productivity increased almost 4 percent during the first two-and-a-half years of this administration, the fastest pace of any presidency since JFK.

It is important that the American people know that shareholder wealth is up almost $3 trillion, an increase of 22 percent since October 2, where we are helping to rebuild nest eggs. There is so much great economic news that is out there, totally in contrast to what we heard from people on the other side of the aisle, who said that these were failed economic policies.

We need to do more work to create jobs, but the question is where do we go from here? I often feel as my colleagues follow the debate and I follow the debate, that Democrats seem to love jobs. They just hate the people who create them. They want to tax job creators. They want to regulate job creators. They want to sue job creators, and then they wonder where are all the jobs, and then they continue to want to engage in this class warfare which I just believe is so uncharacteristic of the American people.

I have held a lot of jobs in my life. I used to clean out chicken houses for a living. I used to bus tables for a living. I used to tote luggage at a hotel. I worked as an officer in a small business before. I have run my own company. Actually, for a short period, I actually practiced law, though I am trying to live that one down, but my point is, in all the jobs I have ever had, no poor person ever hired me. It was somebody who might have been poor once, but they went out and they worked hard, and they were allowed to accumulate capital. They were allowed to keep their earnings, and so they went out and they took a risk and they put a hamburger stand over here or a transmission shop over there or a new software company over here. That is the way that we grow the economy. That is the way that we are going to create jobs.

I am a former small businessman, and I know that one of the great challenges we face as small businesspeople is how do we acquire capital. We do not acquire capital from the Federal Government. When they take our money, we do not have capital to go out and create new businesses.

Another great challenge small business faces is in health care costs, and yet as we work to try to improve the quality of health care and bring the cost of health care down, the folks on the other side of the aisle have fought us every step of the way, particularly in reforming medical liability insurance. Lawsuit abuse is adding 15 percent to the cost of welfare, and we care about doctors and patients, and they care about trial lawyers, but every single step of the way, trying to create an energy practice to bring down the cost of energy, to help the economy move further and create more jobs, they have fought us every step of the way.

So I appreciate what the gentleman has done tonight to bring the facts to this great body and to the American people, and I thank my colleague for the opportunity to be a part of that.

Mr. MARIO DIAZ-BALART of Florida. Madam Speaker, I thank the gentleman. Again, he is absolutely right. The bottom line, the tax cuts are working. It is doing what our esteemed colleagues on the Democratic side said time and time again it would not happen, it would not work. It is working. Those tax cuts are working.

We mentioned who are receiving those tax cuts that so many want to repeal, and I also want to mention one last time their alternatives. Their alternative to the tax cut, their alternative to letting the American people keep a little more money that is working, their alternatives are what they propose, as I mentioned it before, to raise taxes 25 times. If we combine this chamber and the other chamber, 25 times to raise taxes. That is their alternative, and they also proposed alternatives to major legislation this year alone that would have added $890 billion to the deficit.

The good thing is, thank God in a democracy we have alternatives, and the majority of this House went along with the President's alternative. Cut taxes on the American people, cut taxes on small business, cut taxes on the hard-working taxpayer of the country. The results, alas, no big surprise, economy is rebounding. It is rebounding strongly.

So I am very grateful for the President's leadership.

INADEQUATE TREATMENT OUR TROOPS AND VETERANS ARE RECEIVING FROM THE ADMINISTRATION

The SPEAKER pro tempore (Mr. PEARCE). Under the Speaker's announced policy of January 7, 2003, the gentlewoman from California (Ms. WATERS) is recognized for 60 minutes as the designee of the minority leader.

Ms. WATERS. Mr. Speaker, I rise tonight to highlight the inadequate treatment our troops and our veterans are receiving from this administration.

In all there are 1.4 million men and women serving in the United States Armed Forces. Tens of thousands of these soldiers are serving overseas, 130,000 troops in Iraq, 8,500 troops in Afghanistan, 37,000 in South Korea and the list goes on and on.

Throughout their deployment, the men and women who serve in the United States Armed Forces have done so with honor and distinction. However, the Republican Congress and this administration often have not lived up to their part of the bargain.

While the Congress has approved massive increases in funding for the Department of Defense, our soldiers are deployed to Iraq without life-saving protective body armor, and many humvees were also poorly equipped, leaving our soldiers vulnerable to rocket-propelled grenades and other explosive devices. It was not until our soldiers began writing home asking their families to send them ceramic tiles so that they could make their own protective armor that the Pentagon finally woke up and said they would provide each soldier with Kevlar bulletproof vests.

It should never have come to this. If we are going to send our troops into battle, we must ensure that they have all the equipment they need. Unfortunately, the Republicans' record is grossly inadequate when it comes to helping our soldiers when they return from the battlefield.

While they have taken the long overdue step of providing funding in the emergency supplemental appropriations bill to cover the costs our soldiers have traveling home on rest and recuperation, they still leave many military families vulnerable by only extending the higher rates of imminent danger pay and family separation allowance for 1 year, no matter how long they serve. While the Republicans heeded the demands of Democrats and ended the shameful practice of requiring wounded soldiers to pay subsistence charges for each day they were in the hospital recovering from a combat injury, they continued to refuse to provide other essential relief to our veterans.

The Republicans still refuse to end the disabled veterans tax which prevents thousands of disabled veterans from receiving full retirement and disabled benefits.

In short, the Republicans believe that by waving the United States flag and making a few cosmetic changes, they can dress up a second rate record on issues that are important to our veterans and our troops.

Mr. Speaker, we have to acknowledge the existence of a problem before we can fix it. One news organization reported earlier this week that soldiers are being housed in outdated barracks, some even without indoor toilets, and forced to wait days, weeks or even months for treatment of medical problems, including injuries suffered in Iraq. Yet this administration seems unable to acknowledge the existence of the problem.

Mr. Speaker, the clearest illustration of the Republicans' poor record on veterans issue is when we examine the inadequate funding the Republicans have provided for the Department of Veterans Affairs. Every veteran has earned the health care, educational, disability and other benefits he or she was promised when they signed up for military service. However, they are rarely receiving these benefits in a timely manner.

The statistics are dreadful. There are approximately 60,000 veterans waiting 6 months or more to see a doctor. Some veterans die from their conditions before they are able to see a doctor, and for the past 2 years, an average of 14,000 disabled veterans have been waiting more than 15 months for their so-called expedited disability claims to be finalized.

This log jam will only get worse as those troops currently serving overseas return home. Yet instead of providing the necessary funding to alleviate these backlogs and help those who need it most, the Republicans are passing massive tax cuts to benefit those who need it least.

Mr. Speaker, the Republican record on veterans issues is not one that I would be happy to call my own. I am certainly grateful that I do not have to defend it.

During the fiscal year 2004 budget debate, the Republicans attempted to cut funding over the next 10 years for medical care and other appropriated veterans programs by $14.2 billion below current service levels and cut funding for mandatory veterans programs by $14.2 billion over 10 years. Later, despite publicity promising to include $3.2 billion for veterans health care, Republicans have only appropriated $1.4 billion for veterans health care, leaving a shortfall of $1.8 billion and thousands of veterans without necessary health care.

The Republicans have prevented Members from voting their conscience on the disabled veterans tax which unfairly taxes disabled veterans, $1 in retirement benefits for every $1 they receive in disability benefits. The Republicans even propose to increase prescription drug copayments and impose enrollment fees on veterans seeking to access health care, and despite there being an estimated 299,321 veterans who are homeless on any given night, funding which helps provide housing and job training for veterans is woefully short.

This record is in no way to repay the sacrifice our veterans have made on behalf of us.

Mr. Speaker, the Democrats have another way. We have crafted a bill that will not only honor the men and women serving in the Armed Forces today but also provide the benefits that veterans have earned and deserve.

H.R. 2569, the Democratic bill, would increase funding for VA health care by $10 billion over the next 10 years, expand access to health care for the National Guard and Reserves. It would completely and immediately end the disabled veterans tax. It would pay our veterans $500 a month when his or her disability claim has been left pending for longer than 6 months. For our troops currently fighting in Iraq and Afghanistan, our bill would give a $1,000 bonus for those soldiers returning home from Iraq and Afghanistan. Lastly, the Democrats would extend the child tax credit to the hundreds of thousands of military families left behind by the Bush tax cut.

Mr. Speaker, H.R. 2569 is a comprehensive bill that not only acknowledges the sacrifice our men and women in uniform make but also ensures that they are properly taken care of after they stop wearing the uniform.

□ 2215

This recognition is long overdue. Democrats are committed to doing all that we can to pass H.R. 2569. We will continue to put a spotlight on the enormous gap between Republican words and deeds on veterans and troop-support issues. Our troops and our veterans deserve no less.

Mr. Speaker, I know that it is not popular with this administration to talk about these issues. As a matter of fact, I am fully aware that the President of the United States basically tried to intimidate the news media by saying to them you are not reporting enough good news. And to prove that he was prepared to deal with them if they do not do it his way, he started to exclude the national media and go around them and deal with the regional media in order to teach them a lesson.

Well, Mr. Speaker, this President and this administration may not like the fact that some of us talk about what is really happening in Iraq and Afghanistan. He may not like the fact that the

news media is reporting the deaths of our soldiers, not only those deaths that are taking place in Iraq, but those deaths that are taking place in Afghanistan. And while there are those who do not want to have us talk about the fact that 15 of our soldiers were killed this past weekend, and in excess of 20 of them were wounded, and each day we continue to lose soldiers, one, two, three a day, they are being attacked and they are being picked off. Of course we are raising a lot of questions about the postwar planning, or lack thereof. We are asking this administration what were you thinking about.

Our soldiers are now in a situation that they have not been trained for. They do not know anything about Shiites and Sunnis. They do not understand the ethnic warfare between Shiites, Sunnis, and Kurds. They do not know the language; they do not understand the cultures. They were not trained to be involved in guerrilla warfare. We have to continue to talk about this because we have to force the protection that is needed.

I am not going to talk about Afghanistan; they just killed two of our CIA agents there. The poppy fields are flowing; the warlords are in control. Mr. Karzai, who we hand picked and sat down in Kabul, is not running anything. It is a joke, and we are paying a terrible price for the way we have not done our homework and done our planning in these two places alone.

Hopefully, even those wounded will return home. Hopefully, this administration will get its act together and they will provide the protection and do the strategic planning; they will do what they did not do, even when the President posted the sign ''Mission Accomplished.''

It is time for the untruths and the distortions to stop. I was shocked when the President, whom we saw under the banner of mission impossible when asked by the press denied that the White House had anything to do with it. Certainly the White House planned the entire event, but that is typical of the kind of untruths and misinformation coming out of this administration.

What is going to happen to those soldiers returning home, those soldiers who are wounded, those soldiers who have been separated from their families, those soldiers and reservists who will return without employment? Some will not even have homes to live in. We are talking about not only what is going on in Afghanistan and Iraq at this time, but we want to let you know, and hopefully they will be veterans returning to their respective towns and their cities, what will be there for them? Will they, too, have to wait in long lines to get the health care that they need? Many of them will need follow-up health care as a result of the wounds that they are receiving now in Iraq. What is going to happen to them when they discover that they will not get the retirement benefits they thought were coming to them because of the way this administration refused to fund it?

Well, we raise these questions no matter how unpopular they are. It is our duty and our responsibility as representatives elected to represent all of the people to be in the forefront of the issues for our veterans. If we cannot stand up for our veterans, we cannot stand up for anybody or anything.

Mr. Speaker, I yield to the gentlewoman from Georgia (Ms. MAJETTE) as she continues our discussion in support of our veterans.

Ms. MAJETTE. Mr. Speaker, I thank the gentlewoman for yielding.

As we approach Veterans' Day, we pause to recall the noble service and the high sacrifices of those who have worn the uniform of our Nation. On this day of remembrance, we will rededicate ourselves to those who have dedicated themselves to us. I thank each and every man and woman who has served in every branch of our military. I thank you soldiers for your courage, your character, your strength, and the enduring power of your example.

Threatened by terrorists who seek to destroy our way of life, Americans are appreciating anew the blessings of liberty we cherish as well as the heroes who fight, and often die, so we can live in freedom.

None have paid a higher price and sacrifice more for our freedom than have our veterans. It is time for us in Congress to learn from them. We must now stand in solidarity like our brave protectors and act to end the lamentable neglect that is our crisis in veterans health care. Every American owes them a debt of gratitude that words cannot repay. And yet our veterans have received more good words than good deeds from this administration.

In January, our President stated that the medical care received by our troops is comforting to him. He stated that our troops deserve only the best care, and yet that same day the administration announced that it was cutting off health care access for approximately 164,000 veterans.

The President has said that he wants only the best housing for our military families, yet this administration's 2004 budget proposes a $1.5 billion reduction in funds for military housing, a 14 percent cut that affects family housing, barracks, child care centers, schools, hangars, and office buildings.

The President vowed to pass fair, balanced historic tax relief for the American people. Instead, the administration's tax cut denies child tax credits for 1 million children in military and veteran families. According to the Children's Defense Fund, more than 260,000 of these children have parents on active military duty.

House Republicans promised increased veterans funding for 2004. We have now passed all 13 appropriations bills in the House, and the actual funding provided for veterans programs in the House-passed appropriations bills is $28.1 billion, the same level contained in the President's budget. So far the House Republicans have not delivered one dime of the $1.8 billion increase above the President's budget that they called for in their budget resolution.

In a time of war, as we take care of those who defend our country today, we must fulfill our debt to those who have defended us in the past. In my State of Georgia alone, we have over 752,000 veterans who have sacrificed for our State and country. I refuse to merely say I appreciate their sacrifice. Congress must back up our words with deeds. It is our obligation.

The politicians will be eager on Veterans' Day to stand on podiums with decorated soldiers, veterans who have given of themselves for our Nation, and they will give honor to those soldiers. These public figures will declare solidarity with them and speak of the great appreciation for their willingness to sacrifice for the freedom of others. But on those other days, on those days that are not Veterans' Day, what will happen then?

As a Nation, we have a sacred pact with all of those who served in uniform. Veterans and their families have taken care of us. In return, we must take care of them.

They understand that freedom is not free. And so, Mr. Speaker, must we.

Ms. WATERS. Mr. Speaker, I thank the gentlewoman for taking time from her schedule and being here at this hour to talk about her commitment for our veterans and the way that all Americans should feel about our veterans. Certainly the manner in which she has spoken really should give those on the opposite side of the aisle cause to revisit the way in which they can represent our veterans.

I would like to take a moment and reiterate, H.R. 2569, the Democratic bill, would increase funding for VA health care by $10 billion over the next 10 years, expand access to health care for the National Guard and Reserves. It would completely and immediately end the disabled veterans tax; it would pay a veteran $500 a month when his or her disability claim has been left pending for longer than 6 months. For our troops currently fighting in Iraq and Afghanistan, our bill would give a $1,000 bonus for those soldiers returning home from Iraq and Afghanistan. Lastly, the Democrats would extend the child tax credit to the hundreds of thousands of military families left behind by the Bush tax cut. I repeat that because I think it is important for the American people to know there is an alternative. No one can say that they did not have something that they could vote for to correct the inadequacies of the funding for our veterans.

Mr. Speaker, this past weekend when 15 soldiers were killed and over 20 were wounded, I watched as Mr. Rumsfeld and others attempted to respond to the press's questions about what had happened and what did they plan to do. I

sat in horror as I watched Mr. Rumsfeld say, I am sorry about what happened; I think this is a critical time for our American families who have soldiers who have been killed, but this is war and we should expect that people are going to lose their lives in war. We are going to be in Iraq for a long time, and I am paraphrasing what he said, and we are not going to cut and run. These are the words that Mr. Rumsfeld and the President of the United States were using: we are not going to cut and run.

Mr. Speaker, it is easy to talk about making sacrifices when it is somebody else's child. I guess it is pretty easy to talk about we should expect that people are going to die. I am never comfortable with that kind of talk. I am never comfortable with the fact that any leader would try and sanitize the trauma of the death of our soldiers and speak about it in such a way.

Mr. Speaker, we are aware that we do not see our soldiers' bodies being brought home. There are those who are saying that we do not see the bodies coming in because there is a plot and a plan by this administration to keep it out of public view, to not have the body bags returning in a way that Americans will focus on it.

□ 2230

Mr. Speaker, I am here to say that this administration can attempt to hide or to deny, to not allow the ceremonies to take place in honor of our soldiers as we have done in the past, but that is only going to anger the American public. Americans will not take kindly to dismissing the deaths of our soldiers. They will not take kindly to any attempts to change the protocol that we had gotten used to when we could, for a moment, stop and focus on the fact that lives had been lost and provide a ceremony in honor of them for all of the American public to see.

Mr. Speaker, while I am here talking about veterans, and I am trying to make the connection between how we can do better by those in Iraq than we are doing by those who have already served long before them, whether it was in the Vietnam War, whether it was in Desert Storm, whether it was in World War II, I am anxious to send a message this evening, and that message is that the people of this country want to see this administration and the Members of this Congress do better by our soldiers and our veterans. I am hopeful that we will not have to see our American people become so angry that they embarrass this administration and this President by demanding that we get the truth, that we understand exactly what is happening, that our soldiers are taken care of, that they are brought back in the traditional ceremonies that we have gotten used to. I want Mr. Rumsfeld and the President of the United States to look the press in the eye and show that they are truly sorry for the deaths that are being caused. I do not wish our leaders, whether it is the President or Mr. Rumsfeld, to just say in so many words: Get used to it. The sacrifices have to be made, that this is what war is all about and this is what we are going to be experiencing for some time to come.

Again, these are not the kind of words that people want to hear. This is not the kind of truth that the administration would like to confront. But as a Member of Congress, elected by the people to represent, I take this time leading up to Veterans Day to not only talk about our soldiers in Iraq but to say over and over again, we can do better by our veterans. We must do better by our veterans. Again, as it was said by the gentlewoman from Georgia, on Veterans Day, Members of Congress and leaders all across this country will be going to ceremonies. They will be at the veterans hospitals. They will be at the various VFW posts. They will be in places where veterans are. And they will talk about how they honor the sacrifices that our veterans have made. But what they will not talk about is what are we going to do to get the homeless veterans off the street? What are we going to do to create more cemetery space for our veterans? What are we going to do to reduce the long waiting times and the long waiting periods that our veterans are experiencing at our VA hospitals?

But, Mr. Speaker, I am hopeful because of the Democrats, because of our bill, because we are saying what is possible, and we have laid it out in a very clear and concise way, that the veterans themselves in the middle of these ceremonies will look the Members of Congress and others in the eye and instead of allowing them to get away with the ceremonial side of this, will ask about the substantive side of the public policy issues and say: What are you doing to protect us or to provide services for us, to make sure that you respect the investments that we have made.

Mr. BISHOP of Georgia. Mr. Speaker, when the Nation observes Veterans' Day, our collective purpose is to thank the men and women who have faithfully worn the uniform of the country's armed services for the service and sacrifice that has kept us strong and free.

But I think we should thank veterans for something else, as well.

In addition to their service in the military, we should also express the Nation's gratitude for the unshakeable foundation of patriotic citizenship that veterans have always provided in civilian life—and that the country cannot do without, especially during times of peril such as these.

Veterans never stop fighting for a free and secure country.

They have fought for a strong defense and strong foreign policy. They have fought for integrity and responsibility in government. They have fought to protect the U.S. flag and all it represents, including the respect we owe to those who have paid the price for freedom. They have fought for the benefits veterans have earned and deserve, including disability benefits for those who have suffered permanent injuries in military service. They have fought for the American ideal of freedom and justice for all.

Those of us who serve in Congress should thank veterans not only by making speeches, but also by rolling up our sleeves and addressing the critical unmet needs of our veterans' population.

We need to act on long-pending ''concurrent receipt'' legislation so that we no longer deny disability payments to military retirees. Last year, Congress provided some new benefits to disabled retirees in lieu of concurrent receipt. But many disabled veterans still do not believe equity has been achieved. There is nothing that justifies a denial of these benefits to any eligible veteran, and Congress should correct this wrong right now.

We need to improve the veterans' health care system so that we no longer have a backlog of more than 100,000 veterans who are waiting six months or more to receive the care they need. Some veterans are waiting up to a year or more. This means many are getting sicker while they wait, and I fear some are not making it. This is intolerable.

We need the most cost-effective system possible, and I have no quarrel with the concept of the Veterans' Administration's Capital Asset Realignment for Enhanced Services program. But we need to make sure that any reorganization does not end up downsizing or eliminating facilities that veterans need, thereby reducing access even more.

We need a VA budget that meets the needs—not one that falls below the new fiscal year's authorization by $1.8 billion and barely keeps pace with inflation. I believe we need to cut taxes to stimulate the economy and provide relief to middle and lower income working Americans, but we do not need to provide an average tax cut of $88,326 to Americans earnings more than $1 million a year when we could trim that amount by just a few thousand dollars and save enough revenue to take care of some of our critical needs.

We need to fulfill the country's promise to our fellow Americans who have devoted a substantial part of their lives in defense of the country, many putting their lives on the line.

We live in difficult and dangerous times.

But we should be confident about the country'a ability to meet the grave challenges we face.

As long as we have people in our country who stand ready to make whatever effort and sacrifice is necessary, we should be confident that our Nation has what it takes to defeat the forces that would do us harm and that we will succeed in advancing the cause of freedom for our generation and for generations to come.

As our veterans demonstrate every day, patriotism is alive and well.

And that should give us all hope for the future.

As we celebrate Veterans' Day, 2003, let us say to all of the Nation's 25.1 million veterans: ''We thank you, we support you, we need you, and may God bless you for keeping the country free and strong.''

GENERAL LEAVE

Ms. WATERS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the subject of my special order.

The SPEAKER pro tempore (Mr. PEARCE). Is there objection to the request of the gentlewoman from California?

There was no objection.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. FATTAH (at the request of Ms. PELOSI) for today on account of personal reasons.

Mr. REYES (at the request of Ms. PELOSI) for today and the balance of the week on account of official business in the district.

Mr. TURNER of Texas (at the request of Ms. PELOSI) for today on account of attending a funeral.

Mr. BOEHLERT (at the request of Mr. DELAY) for today on account of personal reasons.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. BROWN of Ohio) to revise and extend their remarks and include extraneous material:)

Mr. BROWN of Ohio, for 5 minutes, today.

Mr. DEFAZIO, for 5 minutes, today.

Mr. SCHIFF, for 5 minutes, today.

Ms. NORTON, for 5 minutes, today.

Mr. EDWARDS, for 5 minutes, today.

Ms. CORRINE BROWN of Florida, for 5 minutes, today.

Mr. DAVIS of Illinois, for 5 minutes, today.

Mr. GEORGE MILLER of California, for 5 minutes, today.

(The following Members (at the request of Mr. MARIO DIAZ-BALART of Florida) to revise and extend their remarks and include extraneous material:)

Mr. MURPHY, for 5 minutes, today.

Mr. GINGREY, for 5 minutes, today.

Mr. BEREUTER, for 5 minutes, today.

Mr. MILLER of Florida, for 5 minutes, today.

Mr. PENCE, for 5 minutes, today.

Mr. GUTKNECHT, for 5 minutes, November 6.

Mr. MCCOTTER, for 5 minutes, November 6.

SENATE BILLS REFERRED

Bills of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 1132. An act to amend title 38, United States Code, to improve and enhance certain benefits for survivors of veterans, and for other purposes; to the Committee on Veterans' Affairs; in addition to the Committee on Armed Services for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

S. 1720. An act to provide for Federal court proceedings in Plano, Texas; to the Committee on the Judiciary.

ADJOURNMENT

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

The motion was agreed to; accordingly (at 10 o'clock and 35 minutes p.m.), the House adjourned until tomorrow, Thursday, November 6, 2003, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

5061. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; General Electric Company CF6-6 Series Turbofan Engines [Docket No. 2002-NE-24-AD; Amendment 39-13144; AD 2003-10-01] (RIN: 2120-AA64) received October 30, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5062. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Eurocopter France Model AS 350B3, SA-365N, N1, AS-365N3, and EC 155B Helicopters [Docket No. 2002-SW-17-AD; Amendment 39-13330; AD 2003-20-12] (RIN: 2120-AA64) received October 30, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5063. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Modification of Class E Airspace; Beatrice, NE [Docket No. FAA-2003-15461; Airspace Docket No. 03-ACE-59] received October 30, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5064. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Modification of Class E Airspace; Wayne, NE [Docket No. FAA-2003-15718; Airspace Docket No. 03-ACE-60] received October 30, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5065. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Eurocopter Deutschland GmbH Model EC135P1, P2, T1, and T2 Helicopters [Docket No. 2003-SW-08-AD; Amendment 39-13329; AD 2003-20-11] (RIN: 2120-AA64) received October 30, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5066. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Modification of Class E Airspace; Lee's Summit, MO [Docket No. FAA-2003-15722; Airspace Docket No. 03-ACE-64] received October 30, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5067. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Dornier Model 328-300 Series Airplanes Equipped With Certain Pratt & Whitney PW306B Engines Nacelles [Docket No. 2001-NM-319-AD; Amendment 39-13320; AD 2003-20-02] (RIN: 2120-AA64) received October 30, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5068. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Modification of Class E Airspace; Aurora, MO [Docket No. FAA-2003-15460; Airspace Docket No. 03-ACE-58] received October 30, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5069. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; General Electric Company CF34-3A1, -3B, and -3B1 Turbofan Engines [Docket No. 2001-NE-21-AD; Amendment 39-13337; AD 2003-05-10R1] (RIN: 2120-AA64) received October 30, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5070. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Modification of Class E Airspace; Meade, KS [Docket No. FAA-2003-15723; Airspace Docket No. 03-ACE-65] received October 30, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5071. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Modification of Class E Airspace; Sullivan, MO [Docket No. FAA-2003-15721; Airspace Docket No. 03-ACE-63] received October 30, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5072. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; PILATUS Aircraft Ltd. Model PC-7 Airplanes [Docket No. 2003-CE-29-AD; Amendment 39-13323; AD 2003-20-05] (RIN: 2120-AA64) received October 30, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5073. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Modification of Class E Airspace; Centerville, IA [Docket No. FAA-2003-15724; Airspace Docket No. 03-ACE-66] received October 30, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5074. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Pratt & Whitney Canada Models PW118, PW120, PW120A, and PW121 Turboprop Engines [Docket No. 2003-NE-11-AD; Amendment 39-13338; AD 2003-21-03] (RIN: 2120-AA64) received October 30, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5075. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Empresa Brasileira de Aeronautica S.A. (EMBRAER) Model EMB-135 and -145 Series Airplanes [Docket No. 2003-NM-64-AD; Amendment 39-13132; AD 2003-09-03] (RIN: 2120-AA64) received October 30, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5076. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Univair Aircraft Corporation Models Alon A-2 and A2-A; ERCO 415-C, 415-CD, 415-D, 415-E, and 415-G; Forney F-1 and F-1A; and Mooney M10 Airplanes [Docket No. 2002-CE-58-AD; Amendment 39-13335; AD 2003-21-01] (RIN: 2120-AA64)

received October 30, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5077. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Raytheon Aircraft Company 90, 100, and 200 Series Airplanes [Docket No. 2002-CE-45-AD; Amendment 39-13218; AD 2003-13-16] (RIN: 2120-AA64) received October 30, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5078. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Standard Instrument Approach Procedures; Miscellaneous Amendments [Docket No. 30379; Amdt. No. 3068] received October 30, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5079. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Standard Instrument Approach Procedures; Miscellaneous Amendments [Docket No. 30378; Amdt. No. 3067] received October 30, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5080. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Bombadier Model CL-600-2B19 (Regional Jet Series 100 & 440) Airplanes [Docket No. 2003-NM-143AD; Amendment 39-13321; AD 2003-20-03] (RIN: 2120-AA64) received October 30, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5081. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Saab Model SAAB 2000 Series Airplanes [Docket No. 2001-NM-372-AD; Amendment 39-13322; AD 2003-20-04] (RIN: 2120-AA64) received October 30, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5082. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Boeing Model 737-400, -500, -600, -700, and -800 Series Airplanes [Docket No. 2001-NM-326-AD; Amendment 39-13331; AD 2003-20-13] (RIN: 2120-AA64) received October 30, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5083. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Boeing Model 747SP, 747SR, 747-100, 747-200, and 747-300 Series Airplanes; Equipped with Pratt & Whitney Model JT9D-3, -7, and -7Q Series Engines and Model JT9D-7R4G2 Engines [Docket No. 99-NM-67-AD; Amendment 39-13334; AD 2003-20-16] (RIN: 2120-AA64) received October 30, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5084. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Establishment of Class E Airspace; Igiugig, AK [Docket No. FAA-2003-14856; Airspace Docket No. 03-AAL-06] received October 30, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5085. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Establishment of Class E Airspace; Nelson Lagoon, AK [Docket No. FAA-2003-14854; Airspace Docket No. 03-AAL-05] received October 30, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5086. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Establishment of Class E Airspace; Pilot Point, AK [Docket No. FAA-2003-14855; Airspace Docket No. 03-AAL-04] received October 30, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5087. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Modification of Class E Airspace; Seward, NE [Docket No. FAA-2003-15719; Airspace Docket No. 03-ACE-61] received October 30, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5088. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Revision of Jet Routes; Baton Rouge, LA [Docket No. FAA-2003-14368; Airspace Docket No. ASD-02-ASW-4] (RIN: 2120-AA66) received October 30, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5089. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Minor Revision of the Legal Description of VOR Federal Airway V-167 in the Vicinity of Hyannis, MA [Docket No. FAA-2003-15492; Airspace Docket No. 03-ANE-102] (RIN: 2120-AA66) received October 30, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5090. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; McDonnell Douglas Model DC-8-11, DC-8-12, DC-8-21, DC-8-31, DC-8-32, DC-8-33, DC-8-41, DC-8-42, and DC-8-43 Airplanes; Model DC-8-50 Series Airplanes; Model DC-8F-54 and DC-8F-55 Airplanes; Model DC-8-60 Series Airplanes; Model DC-8-70 Series Airplanes; and Model DC-8-70F Series Airplanes [Docket No. 2001-NM-184-AD; Amendment 39-13336; AD 2003-21-02] (RIN: 2120-AA64) received October 30, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5091. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Modification of Class E Airspace; Cedar Rapids, IA [Docket No. FAA-2003-15074; Airspace Docket No. 03-ACE-42] received October 30, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5092. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Revision of VOR Federal Airways in the Vicinity of Tuscaloosa, AL [Docket No. FAA-2002-13849; Airspace Docket No. 02-ASO-24] (RIN: 2120-AA66) received October 30, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5093. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Pratt & Whitney PW4000 Series Turbofan Engines; Correction [Docket No. 2000-NE-47-AD; Amendment 39-13318; AD 2003-19-15] (RIN: 2120-AA64) received October 30, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5094. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airspace Designations; Incorporation By Reference [Docket No. 29334; Amendment No. 71-35] received October 30, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5095. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Boeing Model 727-200 Series Airplanes [Docket No. 2003-NM-48-AD; Amendment 39-13332; AD 2003-20-14] (RIN: 2120-AA64) received October 30, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5096. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Standard Instrument Approach Procedures; Miscellaneous Amendments [Docket No. 30367; Amdt. No. 3057] received October 30, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5097. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Standard Instrument Approach Procedures; Miscellaneous Amendments [Docket No. 30368; Amdt. No. 3058] received October 30, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5098. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Standard Instrument Approach Procedures; Miscellaneous Amendments [Docket No. 30386; Amdt. No. 3074] received October 30, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5099. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Modification of Class E Airspace; Cedar Rapids, IA [Docket No. FAA-2003-15074; Airspace Docket No. 03-ACE-42] received October 30, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5100. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Modification of Class E Airspace; Fort Leonard Wood, MO [Docket No. FAA-2003-14658; Airspace Docket No. 03-ACE-27] received October 30, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. JOHN:

H.R. 3440. A bill to prohibit the Secretary of Veterans Affairs from taking any action to implement any recommendation of the Department of Veterans Affairs Capital Asset Realignment for Enhanced Services (CARES) Commission during the one-year period beginning on the date of the submission of the commission's recommendations to the Secretary; to the Committee on Veterans' Affairs.

By Mr. SHAYS (for himself and Mrs. EMERSON):

H.R. 3441. A bill to amend the Richard B. Russell National School Lunch Act to phase out reduced price lunches and breakfasts by phasing in an increase in the income eligibility guidelines for free lunches and breakfasts; to the Committee on Education and the Workforce.

By Mrs. NAPOLITANO (for herself and Mr. MURPHY):

H.R. 3442. A bill to amend title 38, United States Code, to enhance the rehabilitative services provided by the Department of Veterans Affairs to veterans with mental illnesses and other veterans, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. DELAHUNT:

H.R. 3443. A bill to amend the Adams National Historical Park Act of 1998 to include the Quincy Homestead within the boundary of the Adams National Historical Park, and for other purposes; to the Committee on Resources.

By Ms. DELAURO (for herself, Mr. WAXMAN, Mr. BROWN of Ohio, Ms. ESHOO, Mr. EMANUEL, Mr. THOMPSON of Mississippi, Mrs. JONES of Ohio, and Mr. OWENS):

H.R. 3444. A bill to amend the Federal Food, Drug, and Cosmetic Act to ensure that consumers receive information about the nutritional content of restaurant foods; to the Committee on Energy and Commerce.

By Mr. GIBBONS:

H.R. 3445. A bill to direct the Secretary of the Interior to convey certain land in Washoe County, Nevada, to the Board of Regents of the University and Community College System of Nevada; to the Committee on Resources.

By Mr. HINCHEY (for himself and Mr. BASS):

H.R. 3446. A bill to provide for the protection of the last remaining herd of wild and genetically pure American buffalo; to the Committee on Resources.

By Mr. MENENDEZ (for himself, Mr. BALLENGER, Mr. DELAHUNT, Ms. ROS-LEHTINEN, Mr. LANTOS, Mr. WELLER, Mr. ACKERMAN, Ms. HARRIS, Mr. FALEOMAVAEGA, Mr. PAYNE, Mr. CROWLEY, Mrs. NAPOLITANO, Mr. RODRIGUEZ, Mr. REYES, Mr. GUTIERREZ, Mr. ORTIZ, Ms. ROYBAL-ALLARD, Mr. GONZALEZ, Ms. SOLIS, Mr. ACEVEDO-VILA, Mr. BERMAN, and Mr. HASTINGS of Florida):

H.R. 3447. A bill to authorize the establishment of a Social Investment and Economic Development Fund for the Americas to provide assistance to reduce poverty and foster increased economic opportunity in the countries of the Western Hemisphere, and for other purposes; to the Committee on International Relations, and in addition to the Committee on Financial Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. MICHAUD:

H.R. 3448. A bill to modify the boundaries for a certain empowerment zone designation; to the Committee on Ways and Means.

By Ms. NORTON:

H.R. 3449. A bill to provide reliable officers, technology, education, community prosecutors, and training in our neighborhoods; to the Committee on the Judiciary.

By Mr. WU (for himself, Ms. LINDA T. SANCHEZ of California, Mr. MCDERMOTT, Mr. GREEN of Texas, Mr. PASTOR, Mr. PASCRELL, Ms. MILLENDER-MCDONALD, Mr. ETHERIDGE, Mr. WAXMAN, Mr. FALEOMAVAEGA, Mr. FROST, Mr. WEXLER, Ms. MCCOLLUM, Ms. NORTON, Mr. SERRANO, Mr. BROWN of Ohio, Mr. STARK, Mr. PAYNE, Mr. MEEKS of New York, Mr. OWENS, and Mr. KUCINICH):

H.R. 3450. A bill to amend the Elementary and Secondary Education Act of 1965 to reduce class size through the use of fully qualified teachers, and for other purposes; to the Committee on Education and the Workforce.

By Ms. WATERS (for herself, Mr. GEORGE MILLER of California, Mr. WAXMAN, Mr. RANGEL, Mrs. CHRISTENSEN, Mr. ACEVEDO-VILA, Mr. TOWNS, Ms. CORRINE BROWN of Florida, Mr. MCNULTY, Mr. ABERCROMBIE, Mr. DEUTSCH, Mr. FROST, Mr. PAYNE, Ms. NORTON, Mrs. JONES of Ohio, Mr. CLYBURN, Mr. LEWIS of Georgia, Mr. GREEN of Texas, Mr. OWENS, and Mr. BERMAN):

H.R. 3451. A bill to amend the Public Health Service Act to authorize grants for treatment and support services for Alzheimer's patients and their families; to the Committee on Energy and Commerce.

By Mr. SERRANO (for himself, Mr. GUTIERREZ, Ms. VELAZQUEZ, and Mr. ACEVEDO-VILA):

H. Res. 433. A resolution honoring the life and legacy of Luis A. Ferre; to the Committee on Government Reform.

ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to the public bills and resolutions as follows:

H.R. 207: Mr. HEFLEY.
H.R. 303: Ms. HARMAN.
H.R. 333: Mr. FRANK of Massachusetts.
H.R. 348: Mr. BALLANCE.
H.R. 486: Mr. CANTOR, Mrs. MYRICK, Mr. FERGUSON, and Mr. BARRETT of South Carolina.
H.R. 627: Mr. BALLANCE.
H.R. 713: Mr. UDALL of Colorado.
H.R. 737: Mr. PETERSON of Minnesota.
H.R. 742: Ms. SLAUGHTER.
H.R. 785: Mr. WAMP and Ms. MILLENDER-MCDONALD.
H.R. 792: Mrs. LOWEY.
H.R. 819: Mr. PAYNE.
H.R. 834: Mr. CRAMER and Mr. BERRY.
H.R. 852: Mr. JACKSON of Illinois and Ms. MCCOLLUM.
H.R. 876: Mr. SMITH of Michigan, Mr. SIMMONS, Mr. TERRY, Mr. HOEKSTRA, and Mr. STRICKLAND.
H.R. 882: Mr. PAYNE and Mr. SHUSTER.
H.R. 927: Mr. KING of Iowa.
H.R. 936: Mr. RODRIGUEZ.
H.R. 970: Mr. FRANK of Massachusetts.
H.R. 977: Mr. KIND.
H.R. 992: Mr. WELDON of Florida.
H.R. 993: Mr. WELDON of Florida.
H.R. 994: Mr. WELDON of Florida.
H.R. 998: Ms. WATERS.
H.R. 1031: Ms. HARRIS and Mr. JEFFERSON.
H.R. 1083: Mr. KIND.
H.R. 1117: Mr. ISTOOK, Mr. BURGESS, Mr. BOOZMAN, and Mr. DUNCAN.
H.R. 1125: Mr. BISHOP of Georgia and Mr. MEEK of Florida.
H.R. 1155: Mr. MCINNIS and Mr. COSTELLO.
H.R. 1212: Mr. PETERSON of Minnesota.
H.R. 1229: Mr. BRADY of Texas.
H.R. 1267: Mrs. TAUSCHER.
H.R. 1279: Mr. KING of Iowa.
H.R. 1322: Mr. LAMPSON, Mrs. NAPOLITANO, and Ms. PELOSI.
H.R. 1374: Mr. PETERSON of Minnesota.
H.R. 1434: Mrs. JONES of Ohio, Mr. GRIJALVA, Ms. NORTON, Mr. ACEVEDO-VILA, Mr. DAVIS of Illinois, Mr. PAYNE, Mrs. CHRISTENSEN, Mr. MCNULTY, Mr. FRANK of Massachusetts, Mr. CUMMINGS, Ms. WATSON, Mr. CAPUANO, Mr. DAVIS of Alabama, Mr. KUCINICH, Mr. GONZALEZ, and Mr. FILNER.
H.R. 1532: Mr. FRANKS of Arizona, Mr. HASTINGS of Florida, Mrs. DAVIS of California, and Mr. PALLONE.
H.R. 1534: Mr. SERRANO and Mr. SANDERS.
H.R. 1634: Mr. DICKS.
H.R. 1653: Mr. WELDON of Florida.
H.R. 1676: Mrs. BIGGERT.
H.R. 1700: Mr. CAPUANO and Ms. MILLENDER-MCDONALD.
H.R. 1708: Mr. VITTER and Mr. PETERSON of Minnesota.
H.R. 1713: Mr. PETERSON of Minnesota.
H.R. 1746: Mr. BISHOP of Georgia.
H.R. 1824: Mr. HOEKSTRA, Mr. HYDE, and Mr. FOLEY.
H.R. 1910: Ms. WATSON.
H.R. 1914: Mr. BURR, Mr. COBLE, Ms. DUNN, Mr. GIBBONS, Ms. GRANGER, Mr. HOUGHTON, Mr. LEACH, and Mr. SMITH of New Jersey.
H.R. 1919: Mr. GUTIERREZ and Ms. WATERS.
H.R. 1958: Mr. WU.
H.R. 2068: Mr. STRICKLAND, Mr. JACKSON of Illinois, Mr. GORDON, and Mr. TOWNS.
H.R. 2069: Ms. HOOLEY of Oregon, Mr. JACKSON of Illinois, Mr. GORDON, and Mr. TOWNS.
H.R. 2154: Mr. DEFAZIO.
H.R. 2239: Mr. LARSEN of Washington, Mr. BOUCHER, Mr. STARK, and Mr. JEFFERSON.
H.R. 2262: Mr. BRADY of Pennsylvania, Mr. SERRANO, and Mr. EMANUEL.
H.R. 2347: Mr. EHLERS.
H.R. 2365: Mr. STUPAK.
H.R. 2490: Mrs. TAUSCHER.
H.R. 2491: Mr. SMITH of Michigan.
H.R. 2527: Mr. ANDREWS.
H.R. 2635: Mr. BAKER.
H.R. 2674: Mr. LANTOS.
H.R. 2702: Mr. DEFAZIO.
H.R. 2704: Mr. FOSSELLA.
H.R. 2707: Mrs. CUBIN.
H.R. 2711: Mr. HEFLEY and Mr. EMANUEL.
H.R. 2719: Mr. KUCINICH, Mr. BOEHLERT, Mr. LUCAS of Kentucky, and Mr. MURPHY.
H.R. 2720: Mr. CAMP, Mr. ACKERMAN, Mr. MEEKS of New York, Mr. HILL, and Mr. HINCHEY.
H.R. 2727: Ms. ROYBAL-ALLARD, Mrs. DAVIS of California, Mr. KENNEDY of Rhode Island, Mr. SERRANO, Mr. ALLEN, Mr. MENENDEZ, Mr. EMANUEL, Mr. UDALL of Colorado, Mrs. MCCARTHY of New York, Mr. RUSH, Mr. CLAY, Mr. EVANS, Ms. BERKLEY, and Ms. CARSON of Indiana.
H.R. 2787: Ms. SLAUGHTER.
H.R. 2807: Mr. RODRIGUEZ.
H.R. 2823: Mrs. JOHNSON of Connecticut.
H.R. 2824: Mr. GERLACH.
H.R. 2833: Mr. JACKSON of Illinois, Mr. DUNCAN, Mr. WATT, Mr. SCOTT of Georgia, Ms. BORDALLO, Ms. MCCOLLUM, Ms. ROYBAL-ALLARD, and Ms. DELAURO.
H.R. 2839: Ms. ROS-LEHTINEN and Mr. BOEHLERT.
H.R. 2849: Mr. DEFAZIO.
H.R. 2853: Mr. KUCINICH.
H.R. 2864: Mrs. MUSGRAVE and Mr. CULBERSON.
H.R. 2890: Mr. NETHERCUTT.
H.R. 2924: Mr. REHBERG.
H.R. 2932: Mr. RYAN of Ohio.
H.R. 2945: Mr. NEAL of Massachusetts.
H.R. 2949: Mr. WOLF, Mr. TOWNS, Mr. PITTS, and Mr. WEXLER.
H.R. 2957: Mr. WALDEN of Oregon.
H.R. 3003: Mr. KING of New York.
H.R. 3057: Mr. OWENS.
H.R. 3058: Mr. QUINN.
H.R. 3063: Mr. RYAN of Ohio.
H.R. 3079: Mr. GREEN of Wisconsin and Mr. GOSS.
H.R. 3109: Mr. SHAW, Mr. GUTIERREZ, Ms. DUNN, Ms. HARRIS, Mr. MCINNIS, and Mr. TOWNS.
H.R. 3119: Mrs. BLACKBURN, Ms. BERKLEY, Mr. LIPINSKI, Mr. GILCHREST, and Mr. KING of Iowa.
H.R. 3122: Mr. SHIMKUS.
H.R. 3123: Mr. KUCINICH and Mr. GUTIERREZ.
H.R. 3125: Mr. SANDLIN.
H.R. 3127: Mr. MCNULTY, Mr. HOBSON, Mrs. JOHNSON of Connecticut, Ms. ROS-LEHTINEN, and Mr. SCHIFF.
H.R. 3178: Mr. FORBES, Mr. SHAW, Mr. KUCINICH, Mr. UDALL of Colorado, Mr. BARTON of Texas, Mr. OLVER, Mr. MCINTYRE, Mr. TURNER of Texas, and Mr. JACKSON of Illinois.

H.R. 3184: Mr. PUTNAM.
H.R. 3204: Mr. KUCINICH, Mr. MARKEY, Mr. MURPHY, and Mr. PETERSON of Pennsylvania.
H.R. 3225: Mr. LUCAS of Kentucky.
H.R. 3226: Mr. KUCINICH.
H.R. 3242: Ms. WOOLSEY, Mr. LEWIS of Kentucky, Ms. MCCOLLUM, Mrs. MUSGRAVE, Mr. BEAUPREZ, and Mr. UDALL of Colorado.
H.R. 3244: Mrs. LOWEY and Mr. BALLANCE.
H.R. 3251: Mr. KUCINICH.
H.R. 3257: Mrs. JONES of Ohio, Ms. KAPTUR, Mr. KUCINICH, and Mr. GILLMOR.
H.R. 3266: Mr. BRADY of Texas.
H.R. 3271: Mr. OWENS.
H.R. 3276: Mr. OWENS.
H.R. 3277: Mr. HAYWORTH, Mr. STARK, Ms. ROS-LEHTINEN, Mr. JEFFERSON, and Mr. RODRIGUEZ.
H.R. 3281: Mr. KUCINICH, Mr. VAN HOLLEN, and Ms. WOOLSEY.
H.R. 3292: Ms. HARRIS, Mr. WAXMAN, and Mr. SHIMKUS.
H.R. 3318: Mr. NEUGEBAUER.
H.R. 3323: Ms. ESHOO.
H.R. 3344: Mr. GUTIERREZ, Mr. HOLDEN, Mr. GREEN of Wisconsin, Mrs. JONES of Ohio, Mr. KIND, and Ms. JACKSON-LEE of Texas.
H.R. 3352: Ms. WOOLSEY, Mr. TIERNEY, and Ms. HOOLEY of Oregon.
H.R. 3369: Mr. REHBERG.
H.R. 3371: Mr. GRIJALVA and Mr. KUCINICH.
H.R. 3385: Mr. GARRETT of New Jersey, Mr. FEENEY, Ms. ROS-LEHTINEN, Mr. JENKINS, and Ms. GINNY BROWN-WAITE of Florida.
H.R. 3386: Mr. CLYBURN, Ms. WATERS, Mr. KUCINICH, Mr. SERRANO, and Mr. MEEK of Florida.
H.R. 3403: Mr. MORAN of Kansas and Mr. BILIRAKIS.
H.R. 3416: Ms. NORTON.
H.R. 3422: Mr. CLYBURN, Mr. KUCINICH, Ms. WATERS, and Mr. MATSUI.
H.J. Res. 22: Mrs. JO ANN DAVIS of Virginia.
H. Con. Res. 83: Mr. LANTOS.
H. Con. Res. 247: Ms. WOOLSEY.
H. Con. Res. 285: Mr. SCHIFF.
H. Con. Res. 298: Mr. SCOTT of Georgia, Mr. COLE, and Mr. MARSHALL.
H. Con. Res. 299: Mr. DREIER, Mr. HONDA, Mr. FROST, Mr. HASTINGS of Florida, Mr. RUPPERSBERGER, Mr. CARDIN, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. THOMPSON of California, Mr. LEWIS of California, Mr. MCDERMOTT, Mr. KENNEDY of Rhode Island, Mr. BERMAN, Mr. SCHIFF, Mr. UPTON, Mr. MCNULTY, Mr. CALVERT, Mr. TOWNS, Mrs. MALONEY, Mr. VAN HOLLEN, Mr. CUMMINGS, Mr. MCGOVERN, Ms. NORTON, Mrs. CHRISTENSEN, Mr. WYNN, Mr. BISHOP of New York, Mr. MARKEY, Mr. BISHOP of Georgia, Ms. WATSON, Mr. WAXMAN, Mr. GREENWOOD, Mr. KOLBE, Ms. DUNN, Mr. EHLERS, Ms. PELOSI, Mr. CASTLE, Mr. LINDER, Ms. LEE, Mr. SOUDER, Mr. GEORGE MILLER of California, and Mr. EMANUEL.
H. Con. Res. 307: Mr. SCHROCK, Mr. SCHIFF, Mr. LAHOOD, and Mr. NUNES.
H. Con. Res. 310: Mr. ROGERS of Alabama and Mr. BONNER.
H. Con. Res. 311: Mr. WILSON of South Carolina and Mr. BERMAN.
H. Con. Res. 312: Mr. FILNER, Mr. MCHUGH, and Mr. FROST.
H. Con. Res. 315: Ms. KAPTUR and Mr. ENGEL.
H. Res. 261: Mrs. CHRISTENSEN.
H. Res. 268: Mr. ROHRABACHER, Mr. RANGEL, Mr. BERMAN, and Ms. BORDALLO.
H. Res. 313: Mr. RANGEL.
H. Res. 320: Mr. SCHIFF.
H. Res. 371: Mr. PITTS, Ms. MCCOLLUM, and Mrs. JO ANN DAVIS of Virginia.
H. Res. 389: Mrs. MCCARTHY of New York, Mr. MOORE, Ms. LEE, Ms. CARSON of Indiana, Mr. MCDERMOTT, Mr. SHIMKUS, Mr. FROST, Mr. BAIRD, Mr. CUMMINGS, Mr. RANGEL, Ms. NORTON, Mr. WYNN, Mr. BISHOP of Georgia, Ms. KILPATRICK, Mr. TOWNS, Mr. MEEKS of New York, Ms. MILLENDER-MCDONALD, Ms. CORRINE BROWN of Florida, Mr. MEEK of Florida, Mr. THOMPSON of Mississippi, Mr. CLAY, Mrs. JONES of Ohio, Mrs. CHRISTENSEN, Mr. PAYNE, Ms. WATERS, Mr. SCOTT of Georgia, Mr. SCOTT of Virginia, Ms. KAPTUR, Mr. CRAMER, Mr. BONNER, Mr. LEWIS of Georgia, Mr. FRANK of Massachusetts, Mr. BALLANCE, Mr. UPTON, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. OWENS, Mr. CLYBURN, Ms. JACKSON-LEE of Texas, Mr. CONYERS, Mr. RUSH, Ms. MAJETTE, Mr. FORD, Ms. WATSON, Ms. SLAUGHTER, Mr. ROGERS of Alabama, Mr. WATT, and Mr. DAVIS of Illinois.
H. Res. 390: Mr. REYNOLDS, Mr. GALLEGLY, and Ms. LEE.
H. Res. 410: Mr. PAYNE.
H. Res. 420: Mr. HASTINGS of Florida, Mr. MCDERMOTT, Mr. FRANK of Massachusetts, Ms. CARSON of Indiana, Mr. MEEKS of New York, Mr. MORAN of Virginia, Mr. SERRANO, Mr. OBERSTAR, and Mr. GRIJALVA.
H. Res. 423: Mr. GOODLATTE, Mr. SNYDER, Mr. TAYLOR of North Carolina, Mr. HOSTETTLER, Mr. GALLEGLY, Mr. FORBES, Mr. GARRETT of New Jersey, Mr. ETHERIDGE, and Mr. BARRETT of South Carolina.
H. Res. 425: Mr. GIBBONS.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under Clause 7 of rule XII, sponsors were deleted from public bills and resolutions as follows:

H.R. 2366: Mr. DOOLEY of California.
H.R. 3308: Mr. RODRIGUEZ.

AMENDMENTS

Under clause 8 of rule XVIII, proposed amendments were submitted as follows:

H.R. 1829

OFFERED BY: MR. GREEN OF WISCONSIN

AMENDMENT NO. 7: Page 21, strike line 21 and all that follows through page 22, line 3, and insert the following:

(3) If the Attorney General finds a significant risk of adverse effects on either safe prison management or public safety, he shall so advise the Congress before the end of the fiscal year in which the finding is made, and such finding shall serve to postpone for one year any further percentage limitation under subsection (e)(1).

(4) Any percentage limitation postponed under paragraph (3) shall take effect in the fiscal year immediately following the fiscal year for which it is postponed, if not later than 60 days before the first day of such following fiscal year the Attorney General makes a determination under paragraph (2)—

(A) that such limitation is not likely to result in a substantial reduction in inmate industrial employment; or

(B) that any such reduction will not present a significant risk of adverse effects on safe prison operation or public safety.

H.R. 1829

OFFERED BY: MR. GREEN OF WISCONSIN

AMENDMENT NO. 8: Strike all after the enacting clause and insert the following:

SECTION 1. GENERAL ACCOUNTING OFFICE STUDY ON FEDERAL PRISON INDUSTRIES.

(a) REQUIREMENT.—The Comptroller General shall conduct a study of the effects of eliminating the mandatory source requirements for Federal Prison Industries (as specified in section 4124 of title 18, United States Code). The study shall consider the effects on prison operations, public safety, inmate employment, public and private sector employment, and any other matters the Comptroller General considers relevant.

(b) REPORT.—Not later than April 30, 2004, the Comptroller General shall submit to the Committees on the Judiciary of the House of Representatives and the Senate a report on the results of the study required by subsection (a).

United States
of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 108th CONGRESS, FIRST SESSION

Vol. 149 WASHINGTON, WEDNESDAY, NOVEMBER 5, 2003 *No. 159*

Senate

The Senate met at 9:30 a.m. and was called to order by the Honorable SAM BROWNBACK, a Senator from the State of Kansas.

PRAYER

The guest Chaplain, Bishop Sharon A. Brown Christopher, United Methodist Church of Illinois, offered the following prayer:

Let us pray.

O God, our foundation that anchors us in stormy times, our hope when all doors seem to close around us, and our light that awakens within us courage to move compassionately toward our neighbor, we give You thanks for Your abiding presence in our lives.

Amid the complexities and anxieties of these days, we ask that You open our ears to hear with clarity the cries of Your human family, especially the children. Open our eyes to see Your vision of life's unity in rich diversity. Open our hearts so that we may in our actions transcend all that keeps us from living lives of generosity, trusting and following You, the source of all life.

May our work today and every day reflect Your intentions for our world. We pray this in Your name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable SAM BROWNBACK led the Pledge of Allegiance, as follows:

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

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. STEVENS).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, November 5, 2003.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable SAM BROWNBACK, a Senator from the State of Kansas, to perform the duties of the Chair.

TED STEVENS,
President pro tempore.

Mr. BROWNBACK thereupon assumed the Chair as Acting President pro tempore.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, leadership time is reserved.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will be a period for the transaction of morning business for 60 minutes, with the first 30 minutes under the control of the Senator from Kansas, Mr. ROBERTS, or his designee, and the second 30 minutes under the control of the Democratic leader, or his designee.

The Senator from Nevada is recognized.

Mr. REID. Mr. President, so that Democratic Senators will have some knowledge of what is going to happen in the time we have, we have three Senators who have asked to speak—Senators AKAKA, HARKIN, and BEN NELSON. That should use up our 30 minutes.

The ACTING PRESIDENT pro tempore. The Senator from Kansas is recognized.

SCHEDULE

Mr. ROBERTS. Mr. President, as the Acting President pro tempore has indicated, there will be 60 minutes of morning business. Following that, the Senate will begin the consideration of H.R. 2673, the Agriculture appropriations bill. It is the majority leader's intention to complete action on that measure during today's session. The Senate will begin working through amendments to the bill this morning. Senators who have amendments are asked to contact the bill managers as soon as possible.

NOTICE

Effective January 1, 2004, the subscription price of the Congressional Record will be $503 per year or $252 for six months. Individual issues may be purchased at the following costs: Less than 200 pages, $10.50; Between 200 and 400 pages, $21.00; Greater than 400 pages, $31.50. Subscriptions in microfiche format will be $146 per year with single copies priced at $3.00. This price increase is necessary based upon the cost of printing and distribution.

BRUCE R. JAMES, *Public Printer.*

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Printed on recycled paper.

In addition to the Agriculture appropriations bill, the Senate will also vote on passage of S. 1753, the Fair Credit Reporting legislation.

We also have a short time agreement for the consideration of H.R. 1828, the Syria accountability bill. It is the leader's intention to complete action on this bill today as well.

I inform my colleagues, on behalf of the leader, that it will be a very busy day and rollcall votes will occur throughout the day.

It is my understanding that during morning business I have 30 minutes of time.

The ACTING PRESIDENT pro tempore. The Senator is correct.

The Senator is recognized for up to 30 minutes.

Mr. ROBERTS. I yield 5 minutes to the distinguished Senator from Georgia.

The ACTING PRESIDENT pro tempore. The Senator from Georgia is recognized.

SENATE INTELLIGENCE COMMITTEE

Mr. CHAMBLISS. Mr. President, I thank the Senator from Kansas for conducting this time for morning business.

I rise in a very different mood today—different from any other mood I have been in since I had the privilege of becoming a Member of this body. I had the privilege of serving for 8 years in the House of Representatives, and now for a year in my first term in the Senate. During my last 2 years in the House, I served on the House Intelligence Committee. For the past year now, I have served on the Senate Intelligence Committee, under the strong leadership of the Senator from Kansas, Senator ROBERTS, as well as his vice chairman, Senator ROCKEFELLER of West Virginia. We operate in a very bipartisan way in both the House and Senate Intelligence Committees.

I was privileged to serve alongside of the now-ranking member of the House Intelligence Committee in conducting a very thorough and detailed review of the intelligence community leading up to September 11 and particularly concluding with a report detailing the failures in the intelligence community leading up to September 11, 2001. All of this oversight work has been done in a very bipartisan way since I have been in the Senate. Again, we have operated within the Intelligence Committee in a very bipartisan way. We can have our differences, and we have had them; but it has been a very healthy debate up to this point in time.

Unfortunately, yesterday, the Republicans on the Senate side of the Intelligence Committee came into possession of a two-page memorandum that details a systematic way in which the other side of the aisle intends to undermine and attack the President of the United States on the intelligence information not only leading up to the conflict in Iraq, but also moving beyond that, into the policy area—again, trying to undermine the policy of the President of the United States with respect to the conflict in Iraq.

This is a different road than the Intelligence Committees on the House and Senate sides have been down before. It is not the kind of road an Intelligence Committee should be traveling down. I rise to say that I don't know where this memo came from. I have seen a copy of it. I don't know whether it was staff driven or member driven. I have great respect for the members of the Intelligence Committee on both sides of the aisle, and I don't think anyone on the other side of the aisle would intentionally try to undermine the operation of our troops in Iraq today. Yet, as I looked at this memorandum and read through it, there was a very clear and definite outline of undermining the policy of the President of the United States, the Department of Defense, the intelligence community, and anybody involved in the current conflict with Iraq.

If that particular outline were followed, it would be devastating not only to this body—the bipartisan integrity of this body—but it would have the potential effect of truly undermining the operation in Iraq.

I hope my colleagues on the other side of the aisle will rethink the position if it is one in which they are moving toward. I hope they will certainly disavow any knowledge of the position or intent to undermine the operation in Iraq from an intelligence or oversight standpoint within the Senate Intelligence Committee with respect to a report we are going to be concluding and preparing within a matter of days or weeks.

I truly hope we can move forward in a positive way, with a strong, positive attitude toward ensuring the operation in Iraq is concluded in a satisfactory manner, and that the intelligence community can move forward knowing they have the support, in a bipartisan way, of the Senate Intelligence Committee, and the matter-of-fact ideas and plans laid out in this memorandum will certainly not be carried out.

I thank the chairman for his leadership and position on this. I yield the floor.

Mr. ROBERTS. Mr. President, I yield 10 minutes to the Senator from Missouri, Senator BOND.

Mr. BOND. Mr. President, I thank the chairman of the Intelligence Committee, who I believe is doing a very fine job under very difficult circumstances, leading a bipartisan inquiry, which is the legitimate scope of the Intelligence Committee on how we can improve our intelligence system.

When we are fighting the battle against terrorism, there is no question that intelligence is the coin of the realm. There is no way we can deter terrorist attacks by threatening to retaliate or administer retributive justice to those who make terrorist strikes against us. When you are dealing with suicide bombers, there is not going to be anything left for us to retaliate against or take retribution against.

Finding the holes in our intelligence system, and how we can do a better job, is a major challenge. I joined the Intelligence Committee this year because I realized how important it is to the future of peace and security in the world and to our own security. I know from personal experience that we and our staffs—and particularly our staffs—have been engaged in an exhaustive examination of what the intelligence was prior to declaring Operation Iraqi Freedom. This was a major effort.

As those in the Chamber may know, I have supported the President. I supported the Iraqi supplemental, and I thank our colleagues for passing that bill to defend our troops and also to make sure we build Iraq so we can move our troops out.

But when the revelation came out yesterday of a memorandum apparently from Democratic staff, minority staff on the Intelligence Committee, indicating there was a different agenda, I was very much concerned. The key element in the Intelligence Committee, unlike any other committee, is that we have to do our work in confidence. We have to be able to maintain the confidence of the intelligence community that comes before us. We must protect intelligence sources, and we cannot get engaged in partisan battles.

Yet the memorandum that came out yesterday has such interesting quotes such as:

> Pull the majority along as far as we can on issues that may lead to major new disclosures regarding improper or questionable conduct by administration officials.

They are not looking at the Intelligence Committee; they are looking at the administration. They say:

> We need to look at activities of the Office of the Secretary of Defense and the State Department.

They talk about preparing additional views. And they say:

> Among other things, we will castigate the majority for seeking to limit the scope of the inquiry.

They talk about an independent investigation, and they say:

> We can pull the trigger on an independent investigation on the administration's use of intelligence at any time.

When you talk about what goes on and how intelligence is used, that is a topic of debate in the political realm, and there is no shortage of that debate in particularly the Democratic primaries right now. We see many of the candidates who are arguing very forcefully about it. I am disappointed that the discussion in the Presidential primary has totally ignored or forgotten the old adage that politics stops at the water's edge; that we should not be getting into political battles when we have troops in harm's way, and there is no question we have troops in harm's way.

It appears this memo suggests there is, at least at the staff level, a Democratic game plan to make the Intelligence Committee a focal point for the 2004 Presidential debates. This memorandum said:

Yet, we have an important role to play in revealing the misleading, if not flagrantly dishonest, methods and motives of the senior administration officials who made the case for a unilaterally preemptive war.

Those are pretty harsh words. Those are the words of a political attack.

Unfortunately, it is not just the staff who has been talking about them. There is an article in the Sunday Telegraph of London quoting a Democratic member of the Intelligence Committee:

We want to know whether the administration put pressure on the agencies to come up with certain kinds of information. It's a question that's been explored at great length in Britain. If the Republican leadership of the Senate Intelligence Committee is determined to protect the administration at any cost, we'll do the investigative job on our own.

I can assure you that this inquiry goes into every area that we can find in the intelligence operation, in many intelligence agencies, how that information is developed. There are suggestions that there is improper influence. This is something we are exploring assiduously. The committee staff has interviewed many members of the Intelligence Committee, anybody who might have information. They have been asked: Were they pressured? Was the information tainted or changed or pressured? And absolutely not. If there is evidence of pressure, that will undoubtedly be included in the chairman and vice chairman's report.

Moreover, I tell you regrettably, it will be leaked almost immediately because the committee has a tendency right now to leak like a sieve. There was one person who said he had a problem, and I turned to my colleague on the Intelligence Committee and said: Let's take bets on how long before it is on the national news wire. It was less than an hour. It turns out that the analyst did not have any problem with the intelligence related to the operations of Iraq, but it came out immediately.

The question that is being raised that some of our Democratic colleagues want to address in the Intelligence Committee is: Can we find a way to undercut the President, the Vice President and the administration? That, I submit, is not the role of the Intelligence Committee. The Intelligence Committee has a very important responsibility. We need to determine how to improve our intelligence system to win the war on terrorism, not to win the war for the White House.

What is the job of the Intelligence Committee? Is it to determine and argue with the policy or is it to find out if the intelligence-gathering information is appropriate? The people in the intelligence community have to deal with information that is fragmentary. We criticized them as a result of 9/11 for not having connected all the dots and come together to forecast and perhaps forestall the attacks of 9/11. Now we are saying they didn't have enough information, but this information has been available and has been supplied by the Intelligence Committee for some time.

I quote a statement by the President. The President said:

Heavy as they are, the cost of action must be weighed against the price of inaction. If Saddam defies the world and we fail to respond, we will face a far greater threat in the future. Saddam will strike again at his neighbors. He will make war on his own people. And mark my words, he will develop weapons of mass destruction, he will deploy them, and he will use them.

Those are the words of the President talking about intelligence that he received. And by the way, that was a speech on December 16, 1998, by President Bill Clinton. That was based on the information he was receiving at the time.

If that intelligence was grossly inaccurate or inadequate, then we in the Intelligence Committee need to fix it. I happen to think there were some major mistakes made 7 or 8 years ago in the intelligence community when they decided to restrict severely the number of human intelligence sources they could use by refusing to take intelligence sources from people who didn't meet the highest moral and ethical standards. Frankly, those people often don't deal with terrorists and provide us the information we need.

We need to do a better job. We are making improvements in intelligence, but I don't think anybody will say we have an intelligence system that is as good as it should be. I can tell you, the battle over how intelligence is used is a broader political battle.

Leaving aside the question of whether it should be carried on while we have troops in harm's way in Iraq, it is not a question, in any case, to be fought out in the Intelligence Committee by trying to change or develop information that is not there.

The ACTING PRESIDENT pro tempore. The Senator's time has expired.

Mr. BOND. I thank the Chair, and I urge our colleagues to remember that the battle of the Intelligence Committee is to win the war against terrorism, not to win the White House.

Mr. ROBERTS. Mr. President, how much time do we have remaining?

The ACTING PRESIDENT pro tempore. The Senator retains 15 minutes.

Mr. ROBERTS. I yield 5 minutes to the distinguished Senator from Arizona.

The ACTING PRESIDENT pro tempore. The Senator from Arizona is recognized for up to 5 minutes.

Mr. KYL. Mr. President, I thank the distinguished chairman of the Intelligence Committee and applaud him for the work he has been doing and commiserate with him today. Having served on that committee for 8 years, I know how difficult it is to keep focused on the important intelligence issues that confront our country, especially in this time of war, and do that in a way that maintains the traditional bipartisan relationship that has heretofore characterized the members of the Intelligence Committee.

Having served there for 8 years, I never saw the kind of blatant, partisan politics emerge that has apparently emerged as revealed in this memorandum that has been discussed this morning. It is a disgusting possibility that Members of the Senate would actually try to politicize intelligence, especially at a time of war, even apparently reaching conclusions before investigations have been performed.

This memo refers to the fact that, for example, if we carry this plan out that has been discussed already, we will identify additional views and castigate—well, I will quote it exactly:

Our additional views will, among other things, castigate the majority for seeking to limit the scope of the inquiry.

In other words, before something is even done, the plan has already been devised about how they are going to criticize the majority about something it has not even done yet. This is blatant partisan politics.

Now, our Democratic colleagues have denied that this memorandum represents their plan. One of two things is true. It either is or it is not. If it is, it is reprehensible. If it is not, there is a sure way to prove it and that is to repudiate the memorandum and to ensure that this plan of action is never carried out. So we shall see.

Are the denials of the Democrats going to result in this plan being repudiated and not carried out? That will be the test of whether this is really the plan of the Democrats.

I note that parts of the plan appear already to have been set in motion. The first item of the plan:

Pull the majority along as far as we can on issues that may lead to new disclosures. . . . We are having some success in that regard.

I mean, this is being done. This is not a plan that somebody had, an idea that is out in the future someplace. It is part of what is currently a Democratic process in the committee.

Secondly, the suggestion that there should be an independent commission, well, while there is some confusion in the memo about when to ''pull the trigger'' on that, the ranking member on the committee has already called for an independent commission. So there appears to be some elements of a plan that are already in play, but I am willing to accept the denials of my Democratic colleagues that this represents their proposed course of action. As I said, the sure way to prove that is for them to repudiate it and to ensure that, in fact, that plan does not go forward.

I note one other thing. There is much in this memo that deals with how the Republican position will be characterized. We are talking about a Republican Senate position. I urge my Democratic colleagues to consider this. It is

unethical and improper under the rules of the Senate to characterize the motives of fellow Senators. We all know that. We do not do that. That begins the breakdown of the comity that must exist in this body.

I do not question my colleagues' motives and clearly they should not question mine, but there is an opportunity in this memorandum for questioning motives. I want to bring this to the attention of people because clearly this should not be a part of anything we do in this body.

In the summary, the memorandum itself says:

> Yet we have an important role to play in revealing the misleading, if not flagrantly dishonest, methods and motives of senior administration officials who made the case for unilateral preemptive war.

I think it may be inappropriate to question the motives of senior administration officials, as well as Senators. In any event, as I say, there is much in here that goes to the questioning of the report that they presume will be prepared by the majority. That would be a breach of ethics, and I urge my colleagues to strongly consider what that would result in and to repudiate this memorandum because of language like that.

We do not need more reviews. We have already had the review that was conducted when I was on the Intelligence Committee that resulted in a lengthy report. The Kean Commission is doing its work right now; and, third, we have the Intelligence Committee doing its work. So I think that enough review has occurred. We certainly should not let partisan politics intrude into the important work of the Intelligence Committee.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. ROBERTS. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator from Kansas retains 10 minutes.

Mr. ROBERTS. I yield 4 minutes to the distinguished Senator from Mississippi.

Mr. LOTT. Mr. President, I thank the distinguished chairman of the Intelligence Committee for yielding me this time. I will adhere to the 4 minutes because I know that he wants to wrap this up, too.

First, I want to thank the chairman for his diligence in trying to make sure the Intelligence Committee does its job and does its job in a nonpartisan, bipartisan way. I went on the Intelligence Committee this year because I believe it was one of the most important committees in the Senate. I like the fact that while the committee's work is always difficult, the committee worked together in a bipartisan way and has not become a political tool.

I have also expressed myself that I am concerned about the intelligence that we have received before going into Iraq, and the intelligence that is available even today. So I am not one who is going around trying to make excuses for the intelligence community. But my approach is different. I think we need to find out where our problems are, where we need more assistance, and how we can do a better job in the future.

It should not be about the blame game. It should not be about politics. It should not be about trying to find a way to blame it on the President or the Vice President or anybody else, even though obviously there will be some criticism directed at one place or another. The thing we need to do is to make sure we have the intelligence that our officials need and our military men and women need, and that should be the focus.

This memorandum outlines a political plan of attack in the Intelligence Committee. Our adversaries around the world must be smiling this morning. They must be enjoying watching us fight among ourselves instead of focusing on doing what we need to do to get the kind of intelligence we require to do the job against the terrorists around the world. This memorandum is a very sad commentary. While I am not quite sure of its origin, whether it was written by a particular Senator or by a staff member at the direction of a Senator, it clearly is something that a Democrat staff member, working with some members of the Intelligence Committee, drafted.

When you start talking about castigating the majority or pulling the trigger on an independent investigation, or an independent commission, the Senate voted on that just a week ago and overwhelmingly defeated the idea that we kick the football over to somebody else, let somebody else do our job. I say we should do our job, do it here, and do it in a constructive, aggressive, nonpartisan, bipartisan way.

This is a very debilitating thing that we have seen. One might say, well, maybe we are protesting too much, that this does not necessarily reflect all of the Democrat members of the Intelligence Committee. But already the London Telegraph in London is quoting Democrats in the Senate Intelligence Committee using some of the exact words in the memorandum.

> We want to know whether the administration put pressure on the agencies to come up with certain kinds of information.
>
> If the Republican leadership of the Senate Intelligence Committee is determined to protect the administration at any cost . . .

I have watched the chairman aggressively pursue information and insist that the administration provide information to this committee. We have not been shrinking violets. We are doing our job.

To have this attack plan come out and make it totally political is one of the most disquieting things I have seen in recent months in the Senate. We should not proceed in this way. I hope the Democrats will disavow this whole approach and say that is not their political plan, that is not their intent. The alternative is chaos in the committee that is so critical to making sure we have what we need in terms of intelligence.

Just this week I proposed that we make the membership permanent on the Senate Intelligence Committee. I know there has been an argument that permanent membership on the committee could impact objectivity, but what I want are members who are experienced enough to do the job.

I thank the chairman for yielding me this time, and I am looking forward to hearing Democrats assure us that this is not what is going on.

The PRESIDING OFFICER (Mr. GRAHAM of South Carolina). The Senator's time has expired.

Mr. ROBERTS. How much time do I have remaining?

The PRESIDING OFFICER. Five and a half minutes.

Mr. ROBERTS. Mr. President, as members of the Senate Intelligence Committee are well aware, we have spent almost 6 months pouring over thousands of documents that are related to Iraq's weapons of mass destruction programs and its ties to terrorism. We have interviewed over 100 people. This is probably the most thorough and complete review of intelligence that has ever been conducted, and the committee's process is completely open and transparent to Members on both sides of the aisle.

All staff involved certainly participate on an equal basis. I have worked to ensure the minority's voice has been heard at all times. There should be no legitimate question as to our approach or our dedication to following the information no matter where it leads. I have said that over and over. We have asked the hard questions.

When the inquiry is complete, I believe strongly the facts will speak for themselves. Yet despite all efforts to handle this review in the most professional and bipartisan way, we have learned of an effort to develop a plan to discredit the committee's work, undermine its conclusions, no matter what those conclusions may be.

Our goal is to discover the facts, not to target any individuals or to serve any agenda. We want to know that the assessments reached by the intelligence community were based on sound intelligence and that the policymakers, including the President and the Congress, got the best information possible.

I have been asked, Where do we go from here? The answer is simple: We go back to work. We build a bridge and go back to work. We have a number of documents yet to review. We have a handful of interviews yet to conduct. Then we will begin the process of drafting a committee report and preparing for public hearings. It is critical that all of this take place in an atmosphere of good faith and mutual trust. Secret plans to undermine the committee's work are examples of neither. I urge my friends across the aisle, those members of the committee, to disavow—and

if that word is too strong, just to say not to go down this path of a strategy of attack, and join us to work together to complete the business of the committee. The American people, and particularly those currently serving in uniform overseas, deserve nothing less.

I know Senator ROCKEFELLER. He is a good friend. He is a good colleague. We have had a good private discussion. It is time to put this in the past, build a bridge to the future, and let the Intelligence Committee, unique among the committees in the Congress, do our work, our congressional oversight on behalf of national security.

I yield the remainder of my time.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Mr. President, on my own time I would like to ask the chairman of the Senate Intelligence Committee if he would respond to a question.

Mr. ROBERTS. Yes.

Mr. DURBIN. I ask the chairman of the Senate Intelligence Committee, is he prepared to say on the Senate floor today that the investigation of this committee will not only look into the conduct and activity of the intelligence agencies, but allow us to follow the intelligence information gathering to its use by the administration, from the President on down, specifically whether the committee, as we have requested on the Democratic side, will take this intelligence information, determine whether there was any influence by the administration on intelligence agencies, and determine whether or not the administration and any of its spokesmen, before the invasion of Iraq, in any way exaggerated or distorted the intelligence that was gathered in portraying the case to the American people?

Mr. ROBERTS. I say to my friend and colleague, we are in the process of conducting an inquiry. That inquiry I would say is about 85 percent complete. We have had full cooperation—not full cooperation but a spirit of cooperation from the White House, State Department, Department of Defense, and the CIA. Once our inquiry is complete, I think I can answer the question the Senator has posed.

We are on the right track. We want to get at the timeliness and the credibility of the intelligence that was provided. We had four goals to do that, agreed upon by Senator ROCKEFELLER. We will do that job. At that particular time, why, the Senator's question would be pertinent.

I yield.

Mr. DURBIN. Let me reclaim the time. The response or lack of response from the chairman of the Senate Intelligence Committee explains why we are in the Chamber today. There are two responsibilities of this Intelligence Committee: Not only to determine whether the intelligence agencies did their job but whether or not the information they generated was correctly portrayed by the administration.

I have just asked the chairman of the Senate Intelligence Committee directly whether this investigation will go into the use of intelligence information by the administration, and you heard his response: Only after we have completed the first round of inquiry about intelligence agencies would we consider asking the question whether anyone in the administration exerted influence on intelligence agencies or mischaracterized the information coming from those agencies.

That was the direct question. There was an opportunity for the chairman of the committee to say point blank that we will allow this investigation to take its normal course, and he deferred. He said we will wait to a later time. That, I believe, is the source of frustration within this committee.

Our ranking member on this committee, Senator JAY ROCKEFELLER of West Virginia, has shown the patience of Job. He has tried literally for months to encourage and convince the Republican majority on this committee to have a full and complete investigation. That is what the American people deserve. That is what this committee should do. But, sadly and unfortunately, the Republican majority has built a wall and said we will gather all of the information and all the investigation about intelligence—but we will not breach that wall and go over the other side to see how the administration used this information.

That is the critical issue. How can you have a complete investigation without asking both questions? Unfortunately, it has been a decision by the Republican majority that they will not allow us to look into the use of intelligence data.

I have never seen this memo that has been referred to. No one has ever given it to me. I certainly had no role in the preparation of this memo. I don't know what it said. But if that memo expressed the frustration of many Senators on the committee that we have created this firewall to protect the administration, then the memo, frankly, speaks to real feelings.

The Intelligence Committee historically has been bipartisan, as it should be. Our efforts on the Democratic side were to urge the Republican majority to take perhaps the uncomfortable but necessary step so that the investigation would be complete. You heard what Chairman ROBERTS said this morning. He is not prepared to take the investigation of the Intelligence Committee to the use of intelligence data. And as long as that wall has been created, sadly, this cannot be the kind of investigation the American people deserve.

Just several weeks ago—maybe 2—Senator JOHN CORZINE of New Jersey came to the floor and asked for an independent commission on the intelligence that was gathered and how it was used by the administration before the invasion of Iraq. At that time his amendment was rejected by the Senate. It was opposed by Chairman ROBERTS of the Senate Intelligence Committee and Senator ROCKEFELLER, the ranking Democrat. They said: Stay with the investigation of the Intelligence Committee.

I, frankly, took a different position. I really think this debate this morning proves the point that it is now time to appoint an independent commission—independent and bipartisan—that will literally take this investigation wherever it leads. If the chips fall on a previous administration or this administration, so be it. It is not our role in the Intelligence Committee, nor in Congress, to protect any political party or administration. Our role is to protect the United States of America. Our responsibility is national security. Once the chairman of the committee, as he said this morning, decided this investigation will not go into the use of intelligence data, it is clear that this Intelligence Committee cannot do its job as it should. It makes the case now more than ever that an independent commission needs to be appointed so there is integrity, transparency, and believability in this process.

Mr. LOTT. Mr. President, will the Senator yield for a question?

Mr. DURBIN. I am happy to yield for a question.

Mr. LOTT. I appreciate that because I believe Senator ROBERTS did respond to your question.

I didn't mention any names quoted in this London Telegraph article. But, Senator DURBIN, you are quoted as saying that a public split and new inquiry is inevitable. I hope that is not a quote from you.

Mr. DURBIN. Well, it is a quote from me.

Mr. LOTT. Because to prejudge——

Mr. DURBIN. Reclaiming my time——

The PRESIDING OFFICER. The Senators will respond to each other through the Chair.

Mr. DURBIN. Responding to my friend from Mississippi, let me say that quote is accurate, that quote is mine, and what you heard from our chairman this morning is the reason for the quote. If we do not allow a complete and full investigation, a split is inevitable. If a decision is made to protect this administration at any level at the expense of the credibility of this investigation, we are not serving the American people well.

Senator ROCKEFELLER has tried time and time again to convince the chairman, the Republican chairman of this committee, that we need a complete investigation. He said repeatedly to Senator ROCKEFELLER, I have been led to believe, what he said on the floor this morning: We are going to draw the line. We will not look into the use of intelligence.

That, sadly, I think, is the reason we are here today and tied in this political knot. It is time for an independent commission.

I yield the floor.

The PRESIDING OFFICER. The Senator from South Carolina.

(The remarks of Mr. HOLLINGS pertaining to the introduction of S. 1821 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

The PRESIDING OFFICER. The Senator from Indiana.

INTELLIGENCE INFORMATION

Mr. BAYH. Mr. President, I am pleased to offer a few remarks on behalf of myself and also the distinguished Senator from Oregon with regard to the brouhaha that has broken out over the Intelligence Committee and our inquiry into the possible existence of weapons of mass destruction and the use of intelligence information by this administration.

In many ways, it is an unfortunate debate because if there is one thing that should absolutely be above and beyond partisanship, it is the Intelligence Committee, our intelligence services, and the use to which that information is put. We need to dedicate ourselves not to scoring political points but, instead, to protecting the national interest. When we have Members' motives cast in a bad light and heated rhetoric used, it does not serve that purpose in any way whatsoever.

Senator ROCKEFELLER, the ranking member on the Intelligence Committee, has been doing a very admirable job. It is my strong impression that he has been pursuing his responsibilities in a bipartisan way, trying to get at the truth in a way that is consistent with the finest traditions of the Intelligence Committee.

I have never seen the report that has been alluded to. I understand it was simply a listing of possible options. And I can guarantee you that Senator ROCKEFELLER has been under intense pressure by some others to pursue a much more partisan line of inquiry and to be much more confrontational. Instead, he has chosen to try to pursue the cooperative path first. I compliment him for that because it is exactly the course that needs to be pursued on the Intelligence Committee and in this body. Most importantly, we need to get beyond this current controversy.

I happen to think those who are watching this debate out beyond the beltway are scratching their heads and saying: There they go again. What on Earth are they doing?

We have gone to war at least in part because of the possible existence of weapons of mass destruction in the nation of Iraq. Our credibility is at stake. We need to get to the bottom of this and understand, if they do exist, what we can do to root them out and, if they do not exist, why we were led to believe they do exist. This is important to ensuring the national security interests of our country.

We also need to get to the bottom of allegations about the possible manipulation or misuse of intelligence in the runup to the war—not for the purpose of scapegoating or witch hunting but for the purposes of ensuring that in fact it never takes place.

Those in the majority shouldn't stonewall or circle the wagons, and those on our side of the aisle shouldn't engage in finger pointing and trying to score political points in a runup to a Presidential election next year. We need an objective, dispassionate search for the truth. That is what the American people deserve. It is my understanding that is what Senator ROCKEFELLER is pursuing.

Finally, the British have some experience in this area. They have just recently gone through an inquiry of their own over what was allegedly the ''dodgy dossier.'' I think that is how it is referred to in British circles. The Prime Minister even had to offer evidence under oath as part of that inquiry.

No one is suggesting anything so intrusive on our side of the aisle. On the contrary, we would like to pursue this in a cooperative, nonpartisan manner to get at the truth, to determine whether weapons of mass destruction existed and, if not, why we were led to believe they did, and always to fairly and dispassionately analyze how information from the intelligence world was used in making the case to pursue the ouster of Saddam Hussein. That is in the national security interests of our country.

I salute Senator ROCKEFELLER for taking the appropriate course. I hope this debate will calm down and refocus on the business at hand, which is protecting the national security of our country, rather than engaging in heated, partisan rhetoric which we have way too much of around this town and in this Chamber.

Those are my thoughts.

I again compliment Senator ROCKEFELLER, and I look forward to working with Members on both sides of the aisle to bring about that kind of inquiry.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. WYDEN. Mr. President, I very much share the view of the Senator from Indiana. I simply say that a lot of paper floats around Capitol Hill that never sees the light of day. The document that has to guide the members of the Intelligence Committee—both Democrats and Republicans—is the Constitution of the United States. That is the tone that our vice chairman, Senator ROCKEFELLER, has consistently set throughout this effort to get at the facts with respect to Iraq. That is the path I think every Member of the Senate ought to continue to follow. It ought to be a bipartisan goal. The American people deserve no less.

There are legitimate and very troubling questions that need to be answered about the intelligence used to bring this Nation to war in Iraq. In fact, serious issues have come up just in the last week.

I will say that I found it exceptionally troubling—really chilling—that just last week, Paul Bremer, who is the point man with respect to the efforts on the ground in Iraq, was asked about the nature of the Iraqi resistance and in fact was told there really wasn't a capability in the intelligence community to give our country the information that is so necessary to protect our courageous men and women who are in harm's way.

That is the kind of issue about which I think every Member of the Senate ought to be concerned. That is what the Intelligence Committee ought to be tackling in a bipartisan way. That is what Senator ROCKEFELLER has consistently been trying to do.

We can go through a lot of the past history. Certainly, in discussions about weapons of mass destruction, we were told right here in the U.S. Capitol on a number of occasions that those weapons have not materialized. There are issues with respect to the past that need to be examined. There are issues such as the point Mr. Bremer made just in the last week that I think are very troubling.

I just urge that every Member of the Senate—and certainly those on the Intelligence Committee—recognize it is not the paper that floats around here that may or may not see the light of day and various kinds of draft documents that are important; what is important is that we do the work of oversight. That is what is in line with the document that ought to guide us—the Constitution of the United States. And that is what Senator ROCKEFELLER has set out for us in his work. I commend him for it.

I yield the floor.

The PRESIDING OFFICER. The Senator from Hawaii.

(The remarks of Mr. AKAKA pertaining to the introduction of S. 1822 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

The PRESIDING OFFICER. The Senator from Michigan.

EXTENSION OF MORNING BUSINESS

Mr. LEVIN. Mr. President, I ask unanimous consent that morning business be extended for 20 minutes, equally divided between this side and the Republican side.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Michigan.

Mr. LEVIN. Mr. President, I ask that the Chair inform me when 5 minutes have been utilized so I can share the remainder of our time with the Senator from New Jersey. I think the Senator from Indiana may be on his way over as well.

CREATION AND USE OF INTELLIGENCE

Mr. LEVIN. Mr. President, early this morning there was a discussion on the

floor of a staff memo from some Intelligence Committee staffers which had not either been authorized or indeed shared by members of the Intelligence Committee. But it was characterized—and I think mischaracterized, quite clearly—as a Democratic plan relative to the review of the intelligence that was created and used prior to the Iraqi war.

The only thing that Democratic members of the Intelligence Committee have pressed is for a full investigation, a full inquiry into not just the creation of the intelligence but the use of that intelligence.

Without looking at the use of intelligence that was created by the intelligence community, there would only be half a picture painted. Hopefully, that half of a picture will be fully explored on a bipartisan basis. I think the first half of the picture, indeed, is being fully explored on a bipartisan basis. That is the part of the picture that looks at the intelligence community's production of intelligence and as to whether or not that intelligence community in some way either shaped or exaggerated that intelligence for whatever purpose. It has also been now added that if any of the administration put pressure on the intelligence community that would also be included in the review.

But what is left out is the critical half of the picture which the American public hears, which is the use of the intelligence given to the policymakers by those policymakers. Now, the word ''use'' of intelligence, that word ''use'' actually appears in the resolution creating the Intelligence Committee and identifying the oversight role of the Intelligence Committee. So the word ''use'' is actually embedded in the very document creating the Intelligence Committee that sets forth what its role will be and what its oversight responsibilities are. Yet so far the majority of the Intelligence Committee has said: We will not look at the use of the intelligence which was given to the policymakers.

Now, that is a huge gap. That means we will be walking up to the water's edge and stopping there. That means instead of letting the chips fall where they may, the chips will only be allowed to fall on the intelligence community's side of the fence. They will not be allowed to fall on the policymakers' role and responsibility.

We were told by the policymakers, prior to the war, that—this is Secretary Rumsfeld—

> We know where the weapons of mass destruction are.

We were told, before the war, by the Vice President:

> Simply stated, there is no doubt that Saddam Hussein now has weapons of mass destruction.

We were told, before the war, by the President, himself, that:

> Intelligence gathered by this and other governments leaves no doubt that the Iraq regime continues to possess and conceal some of the most lethal weapons ever devised.

So the heart of the problem that we have at the Intelligence Committee is whether or not we are going to stop at that water's edge or look at the use of the intelligence, whether a critique will be made of the intelligence community's shaping or exaggeration, to the extent that existed, or whether or not the same searchlight will be placed upon the policymakers as to whether they exaggerated or shaped or misstated what was given to them by the intelligence community.

The Department of State had a Web site. On December 19 of last year, that Web site said:

> Why is the Iraqi regime hiding their uranium procurement?

This is months after the CIA apparently told the State Department that there was no such effort on the part of Iraq to obtain uranium, or at least that they had not reached that conclusion. Yet in December—and by the way, much later—the State Department's Web site still is representing to the public that the Iraqi regime is hiding uranium procurement.

Why should we not look into that Web site? How does that Web site get created, despite what we now believe was the intelligence community's conclusion or lack of conclusion relative to uranium acquisition?

The PRESIDING OFFICER. The Senator has used 5 minutes.

Mr. LEVIN. I thank the Chair.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. CORZINE. I thank the Chair. I appreciate very much the comments of the Senator from Michigan, particularly in informing the Senate that the charge of the Intelligence Committee includes the use of intelligence as part of its mission.

Frankly, this whole discussion of this leaked memo today only reinforces my own view that we need an independent, bipartisan commission because it is now becoming a political debate about whether there is politics inside the Intelligence Committee.

I listened to the earlier discussion on the floor. People are talking about Presidential politics and talking about how inappropriate it is for people to talk in a thoughtful manner about how processes may occur over a period of time. We are missing the point.

There are men and women who are dying in Iraq because either the development or the use of our intelligence is not at a level where we are protecting the people of America and the men and women in uniform.

The issue is not whether this is a political debate. The issue is whether Iraq possessed chemical or biological weapons.

It is whether Iraq had links to al-Qaida or whether Iraq attempted to acquire uranium. It is an issue of whether we are going to turn loose the names of our intelligence operatives because there is political use of the need or want to discredit someone who might challenge some of the answers to the questions I just raised.

We have a fundamental question right here and now of whether we are going to have an intelligence operation that informs policymakers so they can make good decisions or whether we are going to have an intelligence operation that is used to justify policy decisions already taken.

The idea that we are going to debate whether this is a political issue or not really does argue in the strongest terms that we need to have an independent, bipartisan approach to understanding whether the development of our intelligence was appropriate and whether the use of that was even consistent or whether it was designed to justify as opposed to inform.

When men and women are dying, I don't understand why we are even thinking about this in the context of politics on either side of the aisle. The real issue is, we ought to get to the bottom of it. What led to decisions that don't match the reality we have come to find on the ground in Iraq?

I have over and over again—and will again—asked for an independent investigation, a bipartisan investigation, a commission to understand why we don't know what we should have known when we entered into this. It seems to me that is the essence and the most important issue we ought to be discussing, not some memo that wasn't seen by anybody else in the committee, developed by a staffer as a concept memo. That really diverts from the fundamental issue of protecting our men and women, protecting the people of the United States.

By the way, there is some reason to believe we are not getting all the information, whether it is in the Intelligence Committee. We know the independent commission studying 9/11 has said they have been stonewalled. People from both sides of the commission, as far as political background, have said that. They had to subpoena information from the FAA to be able to get information to move forward to investigate.

We are missing the point. One of the reasons I do believe we need an independent, bipartisan commission is so we don't have the kind of discussion we had on the floor today, so we can get to the facts that actually will protect the American men and women in uniform. It is high time we put our priorities right, which is understanding how our intelligence operations develop and how they are used, not whether we have a political issue that can be talked about on the talk shows at night.

I find it very hard when senior people in the State Department, who have worked there 25 or 30 years, say, speaking about folks, that we have a faith-based approach to intelligence, that we are developing intelligence to show what we want to conclude.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. CORZINE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BENNETT. 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. BENNETT. Parliamentary inquiry: What is the pending business?

The PRESIDING OFFICER. There are 8 minutes remaining in morning business that the Senator may consume or yield back.

Mr. BENNETT. Mr. President, given that opportunity, I will consume a few of those minutes to respond to the conversations about Iraq.

I was in this body when we went to S–407 and heard the intelligence community brief us on the manufacture of chemical weapons taking place at what appeared to be a pharmaceutical factory in the Sudan. We were told repeatedly by high officials of the administration this was a plant producing weapons of mass destruction, chemical weapons; it had to be taken out by a cruise missile. Some of us asked to see the intelligence. We asked to know exactly what it was that led the administration to believe this was in fact a chemical plant.

As we were given that intelligence, I found myself questioning it. I walked away from that meeting saying to myself: This is a little bit thin. There is not a lot of substance here. But administration officials were very emphatic in saying, no, we have gone through the intelligence. It is very firm. We have to take this out.

The administration in this instance, of course, was the Clinton administration. The intelligence being presented to us was being presented by Secretary Cohen, the Secretary of Defense. We now know the intelligence was wrong. This was not, in fact, a factory for weapons of mass destruction. It was, rather, a pharmaceutical plant, just as the people said it was.

We blew it up nonetheless. We killed some people with the cruise missiles we threw in there. After recognizing the intelligence was wrong, we apologized, as indeed we should.

The question I would ask those who are now raising the issue about intelligence in Iraq would be this: Would they suggest the result of our actions in Iraq called for an American apology? Are they suggesting we should apologize to the people of Iraq for having taken out Saddam Hussein and, when we find him, replace him in power?

This is a man who killed 300,000 of his own people. We have uncovered the mass graves. This is a man responsible for over 1 million additional deaths in the two wars he started with his neighbors.

This is a man who has destroyed his own country. This is a man who has raped and brutalized those of his citizens whom he has not killed. This is a man who was willing to pay $25,000 to anyone who would wrap himself in dynamite and blow himself up, as long as he took some others with him. This is a man who had weapons of mass destruction and has used them against his own people. This is a man whose actions are clearly in violation of the U.N. Resolution 1441.

Am I supposed to apologize for having supported an effort to remove him just because some people are challenging the details of the intelligence that led us to this action? I do not apologize for one moment for supporting the war or for supporting the supplemental to pay for the war, because the consequences of the action we have taken have liberated over 20 million people and made the neighborhood in which Saddam Hussein lived substantially safer for all of the neighbors around him.

This is not similar to the case of the blowing up of a pharmaceutical plant in Sudan because the intelligence was faulty, which took place in the Clinton administration. This is an action that history will look back upon and say we did the right thing.

With that, I yield back the remainder of morning business time.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

AGRICULTURAL, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 2004

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to H.R. 2673, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 2673) making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for the fiscal year ending September 30, 2004, and for other purposes.

The PRESIDING OFFICER. The Senator from Utah is recognized.

Mr. BENNETT. Mr. President, I ask unanimous consent that all after the enacting clause be stricken, that amendment No. 2072, which is the text of Calendar No. 216, S. 1427, the Senate committee-reported bill, be inserted in lieu thereof, that the bill, as amended, be considered as original text for the purpose of further amendments, and that no points of order be waived by reason of this agreement.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

(The amendment is printed in today's RECORD under ''Text of Amendments.'')

Mr. BENNETT. Mr. President, I am pleased to present the Agriculture appropriations subcommittee report to the full Senate and to recommend passage of this bill. I am very grateful to the ranking member, Senator KOHL, and his professional staff.

It has been one of the most satisfying experiences of my service in the Senate to see how Senator KOHL's staff and our staff have been integrated and have performed as truly professional staffs, regardless of any partisan affiliation. I think one of the reasons the bill moved as smoothly as it did through subcommittee and full committee is that the staffs have worked together in such a professional way. I am grateful to Senator KOHL for his wisdom in the people he has chosen, and I am grateful to them for the professional way in which they have handled it.

The bill is at the 302(b) discretionary allocation level of $17.005 billion. That is $873 million less than the fiscal 2003 level, which was $17.878 billion.

It is always difficult to bring an appropriations bill to the floor that has an allocation lower than the previous year and, in this case, it is almost $1 billion lower. That has made the challenge of putting the bill together extremely difficult and, once again, underscores the accomplishments of the professional staff as they have dealt with this challenge.

To run through the various titles of the bill and help people understand what we are talking about, I will give you the following numbers.

On title I, dealing with agricultural programs, we have a total of $26.776 billion, of which $20.658 billion is mandatory. This is $1.318 million more than fiscal year 2003.

On food safety, it is $783.761 million, which is an increase of $28.9 million over fiscal 2003. The Agricultural Research Service is at $1.092 billion. The Cooperative State Research, Education and Extension Service is at $1.118 billion. The Animal and Plant Inspection Service, APHIS, is at $711 million. That takes care of title I.

Title II, conservation programs, come in at a total of $973 million, which is $48 million less than fiscal 2003. Conservation operations are at $826.635 million.

Title III, rural economic and community development programs, the total appropriated funds will be $2.588 billion, which will support a loan level of $4.353 billion. Single-family housing is at the $4.084 billion level. The Rural Community Advancement Program is at $769.479 million. Distance learning, telemedicine, and broadband is at $685.963 million.

Title IV, domestic food programs, there is a total of $44.088 billion, of which $39.164 billion is mandatory. This is $2.197 billion more than fiscal 2003. Food stamps will be funded at $27.745 billion. WIC, Women, Infants, and Children, will be funded at $4.639 billion.

Title V, foreign assistance and related programs, there is a total of $1.486 billion, which is $349 million less than fiscal year 2003, which included supplemental funding of $369 million.

Title I, development food assistance, is $131.67 million.

Title II, emergency food assistance, is $1.192 billion. McGovern-Dole international food for education and child nutrition, which is a new discretionary account, is funded at $25 million.

On the overall bill, title VI, related agencies and the Food and Drug Administration, this is an increase. It is $1.482 billion, $16 million more than in fiscal 2003.

The Food and Drug Administration gets $1.39 billion in direct appropriations, plus an additional $302 million in user fees.

The committee provides $10 million toward the Government's share of the medical device review user fee program.

Finally, title VII, general provisions, the committee includes limitations on several farm bill mandatory programs. We do not freeze these programs at a level below fiscal 2003, and we do no harm to existing programs by these limitations.

The committee did not include a limitation on the mandatory funding level for the Environmental Quality Incentives Program, EQIP.

Now, in the bill, there are necessary pay costs for employees covered: $131.208 million.

I will make a personal and parochial observation with respect to this bill. Utah is in its fifth year of the worst drought in memory, which is a situation shared by many Western colleagues. We have not provided emergency funding for the drought, but we have made substantial investments in farm programs and conservation efforts that we think will help producers deal with these weather-related disasters.

This is an appropriations bill, not an authorizing bill. I know there is a strong temptation to use appropriations bills as a vehicle to catch up on authorization situations. Senator KOHL and I have agreed that we will oppose any authorizing amendment regardless of how salutary it may be, unless it has been cleared by both the chairman and the ranking member of the appropriate authorizing committee.

I am grateful to Senator KOHL for his willingness and leadership on this particular issue. We have done our best to accommodate Member requests in this bill. This is not always possible. The fact that we are almost $1 billion less than fiscal 2003 makes it difficult. We have done our best to be as fair as we can and as complete as we can. If there are any funding amendments, therefore, offered on the floor, they must be offset.

It is the desire of the leadership, Senator FRIST and Senator DASCHLE, to finish this bill today. I think that can be done. But if it is to be done, we are going to have to have full cooperation of all of the Senators. We know of some of the amendments that have been proposed. We have done our best to deal with those amendments at the staff level and in the committee by having conversations and occasionally colloquies. But we understand there are some amendments that will be proposed, will be debated, and will be voted on.

I ask for the cooperation of all of my colleagues and that, first, they come to the floor in a timely fashion to offer their amendments; secondly, that they would understand we need to move through these amendments as quickly as possible in order to meet the leadership's request that we finish the bill tonight. I am hoping we can finish it in good time tonight. We will stay, as I understand it from Leader FRIST, as long as we have to stay to get the bill done.

While the time seems to be hanging heavily on people's hands right now, I hope they will come to the floor and offer their amendments now, rather than rushing in at 10:30 tonight and saying: I have an amendment, and I need to have it brought up.

I will do my best to allow full and fair debate on each amendment, but I am prepared to offer a tabling motion if it appears to me all of the arguments have been made. I believe we know which are the more controversial amendments. I have talked with people who stand on both sides of those amendments and suggested to them the arguments have been made; there is really nothing new to be said about it. While we did get the information on the record, we really need to come to a conclusion and move on these particular amendments.

I don't think there is any amendment on which a Senator is undecided. I think the controversial amendments have been sufficiently discussed prior to coming to the floor so that everyone pretty much knows where he or she stands.

I will use the tabling motion judiciously. I will not attempt to cut anybody off or violate his or her privileges, but I will do what I can to keep the bill moving in a timely fashion.

AMENDMENT NO. 2073

Mr. BENNETT. Mr. President, I send an amendment to the desk on behalf of myself and Senator KOHL.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Utah [Mr. BENNETT], for himself and Mr. KOHL, proposes an amendment numbered 2073.

Mr. BENNETT. 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:

On page 47, line 13, insert a period after ''$335,963,000'' and strike the remainder of the sentence, and on page 48, lines 7 through 9, strike all after ''transmission in'' and insert in lieu thereof the following: ''rural areas eligible for Distance Learning and Telemedicine Program benefits authorized by 7 U.S.C. 950aaa.''.

Mr. BENNETT. Mr. President, I understand Senator KOHL is on his way and will be here shortly. 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. KOHL. 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. KOHL. Mr. President, I rise today in support of the fiscal year 2004 appropriations bill for Agriculture, Rural Development and Related Agencies. This year, the subcommittee faced a difficult task. The allocation provided to the subcommittee, just over $17 billion in discretionary funding, was a significant decrease from the fiscal year 2003 funding level. Our new chairman, Senator BENNETT, worked extremely hard to balance priorities in this bill with limited funding. It has been a pleasure to work with him, and I appreciate the good job that he has done.

I would like to briefly mention some of the highlights of this bill.

Continued funding has been provided for important research projects ranging from nutrition issues to the control of emerging diseases. As we witnessed the devastating economic effect that one case of mad cow disease had on Canada, the importance of knowing all we can about it and making certain that our borders are protected becomes very clear. Further, outbreaks of Chronic Wasting Disease and West Nile Virus demonstrate how small the world has become, and research funded in this bill plays an integral role in keeping America prepared.

Continued funding has also been provided for ongoing conservation projects across the country. The Natural Resources Conservation Service provides basic services to help ensure that agriculture and our natural resources can fully complement each other. Risks from drought and flooding are reduced due to activities carried out by the NRCS. In recent years and recent days, it seems nearly every community in America has been faced with one or the other, and the NRCS, along with the Farm Service Agency, has played a vital role in protecting and assisting affected communities.

Funding has been provided to improve food safety, including funding for the Food Safety and Inspection Service to hire an additional 87 food safety inspectors and foreign program auditors. Funding for additional training, to improve the scientific and surveillance skills of these inspectors, as well as improved laboratory capability to ensure that they have access to modern equipment, is also included in this bill. The Food and Drug Administration is provided funding to improve monitoring of the food industry, improve the FDA's laboratory preparedness, and to implement the recently mandated Food Registration System.

For rural development, this bill provides adequate resources to continue

the important programs that include homeownership, essential community facilities, water and waste assistance, business loan and grant programs. The committee has also provided sufficient funds for farm credit programs, which are essential to farmers who could not obtain funding from the commercial sector for ownership and operating loans.

The bill provides sufficient funding for the WIC program to support a monthly participation level of approximately 7.8 million low-income women, infants and children, the same participation level requested in the budget. This level includes funding for several initiatives requested by the President, and includes $25 million for the popular WIC Farmers' Market program and a $125 million contingency fund. Funding for the food stamp program and the commodity supplemental food program is also provided in this bill.

Funding for the child nutrition programs, which include school breakfast, school lunch, the child and adult care feeding program, and the summer food service program, is included at the President's request level. In previous years, I have worked to include several provisions in this bill to expand the availability of these important programs. This year, due to the scheduled reauthorization of the child nutrition programs, these provisions are not included. Instead, I have been working with the chairman and ranking member of the Agriculture Committee to have these provisions included permanently in child nutrition reauthorization.

The FDA is funded in this bill at sufficient levels to continue its mission of promoting and protecting the public health. Increased funding is provided for the food safety items I previously mentioned, as well as patient safety activities, medical device review, over the counter drugs, generic drugs, and pharmaceuticals for children. Last year, consumers spent nearly $1.5 trillion dollars on FDA-regulated products. The work done there is vital to this country, and the nearly $1.4 billion in funding provided to the agency reflects that importance.

I believe that more could be done with additional funding. However, with the dollars available, the chairman has put together a good bill that I fully support. I would like to thank Senator BENNETT for his leadership and hard work, as well as the hard work of his staff Pat Raymond, Fitzhugh Elder, Hunter Moorhead, and Dianne Preece. It is hard to believe that this is their first year working on this bill. Their expertise and professionalism would indicate that they had many years experience on this subcommittee.

Again, I strongly support this bill, and I urge all Members to vote for its passage.

Mr. NICKLES. Mr. President, I commend the distinguished Chairman and the Ranking Member for bringing the Senate a carefully crafted spending bill within the subcommittee's 302(b) allocation and consistent with the discretionary spending cap for 2004.

The Senate reported bill provides $17.0 billion in discretionary budget authority and $17.6 billion in discretionary outlays for fiscal year 2004 for the Department of Agriculture. This is 8.5 percent less than last year in discretionary budget authority and 1.6 percent less than last year in discretionary outlays. This bill also provides $55.5 billion in mandatory budget authority and $39.5 billion in mandatory outlays in fiscal year 2004 for the Department of Agriculture.

The Senate reported bill is at the subcommittee's 302(b) allocation for budget authority and $171 million in outlays below the 302(b) allocation. The bill provides $1.57 billion less in budget authority and $279 million less in outlays than the FY 2003 level and $22 million more in BA and $96 million less in outlays than the President's request.

Mr. President, I ask unanimous consent that a table displaying the Budget Committee scoring of the bill be printed in the RECORD at the conclusion of my remarks.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1427, AGRICULTURE APPROPRIATIONS, 2004.—SPENDING COMPARISONS—SENATE-REPORTED BILL

[Fiscal year 2004 $ millions]

	General purpose	Mandatory	Total
Senate-reported bill:			
Budget authority	17,005	55,536	72,541
Outlays	17,632	39,472	57,104
Senate Committee allocation:			
Budget authority	17,005	55,536	72,541
Outlays	17,803	39,472	57,275
2003 level:			
Budget authority	18,575	52,763	71,338
Outlays	17,911	40,712	58,623
President's request:			
Budget authority	16,983	55,536	72,519
Outlays	17,728	39,472	57,200
House-passed bill:			
Budget authority	17,004	55,143	72,147
Outlays	17,657	39,142	56,799
Senate-Reported Bill Compared To			
Senate 302(b) allocation:			
Budget authority	0	0	0
Outlays	−171	0	−171
2003 level:			
Budget authority	−1,570	2,773	1,203
Outlays	−279	−1,240	−1,519
President's request:			
Budget authority	22	0	22
Outlays	−96	0	−96
House-passed bill:			
Budget authority	1	393	394
Outlays	−25	330	305

Note: Details may not add to totals due to rounding. Totals adjusted for consistency with scorekeeping conventions.

Mr. BYRD. Mr. President, the Senate is now considering the fiscal year 2004 Agriculture, rural development, and related agencies appropriations bill, and I would like to speak on the issue of increased funding provisions related to the treatment of animals.

Two agencies in the Department of Agriculture are charged with the responsibility of carrying out regulatory programs to protect animals from mistreatment, called for under the Animal Welfare Act and the Humane Methods of Slaughter Act. The Animal Welfare Act is enforced by the Animal and Plant Health Inspection Service, and the Humane Methods of Slaughter Act enforced by the Food Safety and Inspection Service.

The need for this increase in funding and commitment is due, in part, to media reports above livestock being raised in unspeakable conditions where they did not even have room to lie down, and about animal slaughter operations where animals are not properly stunned before beginning the process of dismemberment. While the U.S. Department of Agriculture, and certain state authorities, did initiate investigations regarding some of the more egregious reports, I understand that those charges were dismissed due to evidentiary problems, leaving unanswered the actual degree of severity to which humane slaughter regulations were violated in the reported cases, or the degree to which similar violations occur throughout the Nation.

During consideration of the fiscal year 2003 omnibus appropriations bill, the Senate included, at my request, $5 million for the hiring of at least 50 additional humane slaughter inspectors. Report language accompanying that bill instructed these new inspectors to work solely on the enforcement of the Humane Slaughter Act.

Prior to the $1.25 million allocation in the fiscal year 2001 supplemental appropriations bill for the hiring of 17 district veterinary medical specialists at the Food Safety Inspection Service to work solely on the enforcement of the Humane Slaughter Act, there were no inspectors employed exclusively for this purpose.

On May 7, 2003, the Secretary of Agriculture testified before the Senate Appropriations Subcommittee on Agriculture regarding the administration's fiscal year 2004 budget request. At that hearing, I asked the Secretary about the hiring of additional Food Safety Inspection Service inspectors for which funding had been appropriated in the previously enacted appropriations bill; however, it became apparent that the Department had yet to hire any new inspectors.

As a result of continued interest in this matter, the Senate Appropriations Committee included additional report language clarifying the funding provided in fiscal year 2003 regarding the Department's goal for hiring 38 new inspectors by the end of fiscal year 2003. As of October 28, 2003, this goal was met, and I understand that the remaining 12 inspectors will be hired by the end of this calender year.

The fiscal year 2004 Senate Agriculture appropriations bill provides statutory language to continue funding for the 50 humane slaughter inspectors and the 17 district veterinary medical specialists, and outlines the Committee's expectation that this funding will be included in the Department's fiscal year 2005 budget request.

I strongly believe that much work remains to be done. I believe that continued attention should be placed on enforcement on both the Animal Welfare Act and the Humane Methods of

Slaughter Act to put a stop to the mistreatment of animals.

Mr. President, I thank the chairman and ranking member of the Agriculture Appropriations Subcommittee for their support in this every important effort.

STATUS OF APPROPRIATIONS BILLS

Mr. BYRD. Mr. President, as Members are aware, all 13 appropriations bills have cleared the Senate Appropriations Committee.

Four bills have been sent to the President for signature, of which three have been signed into law. The Defense, Homeland Security, and Legislative Branch appropriations bills have been signed, and the Interior appropriations bill is awaiting signature.

Five appropriations bills are in conference. These are the Military Construction, Energy and Water Development, Labor-HHS-Education, Foreign Operations, and Transportation and Treasury appropriations bills. The Military Construction appropriations bill completed conference yesterday, and the Energy and Water Development conference met today.

Four appropriations bills are awaiting completion of Senate action—Agriculture, VA–HUD, Commerce-Justice-State, and the District of Columbia. The Agriculture appropriations bill is being considered on the floor today.

Mr. President, the Senate should proceed to process these four final bills on the floor and to send them to conference with the House. This will protect our rights as Senators to offer amendments. The Senate should process 13 individual appropriations bills, and avoid an omnibus appropriations bill. Omnibus appropriations bills have the effect of shoehorning large segments of the Federal Government into one monstrous bill. Members' rights to amend legislation are severely limited, and they will not be able to know what they are voting for or against. Omnibus appropriations legislation also has the result of bringing the White House to the table, which has the effect of blurring the distinction between the responsibilities of the executive branch and the constitutional responsibilities of the legislative branch to develop legislation under the separation of powers. This is no way to legislate.

I thank and commend the distinguished chairman of the Appropriations Committee, Mr. STEVENS, for his steadfast pursuit of the goal of processing 13 individual appropriations bills. The Senate would not be at this stage of processing the appropriations bills, if my friend, the Senator from Alaska, had not pursued this matter with such vigor on his side.

Again, I thank my distinguished and able colleague, Mr. STEVENS, for his efforts.

RURAL UTILITIES SERVICE BROADBAND LOAN PROGRAM

Mrs. CLINTON. Mr. President, I support the effort spearheaded by my colleagues, Senator BURNS and Senator DORGAN, and have serious objections to the Bush administration's proposal to gut the only national program we've ever enacted to get broadband high speed Internet connectivity deployed across our country.

It was just last year that Congress passed, as part of the farm bill, the only national broadband deployment incentive I am aware of that has been enacted by the Federal Government—a program that was supposed to provide over $700 million in loans a year to help get broadband to all parts of the country—$700 million in loans a year to help create and bring jobs to rural parts of the country—$700 million a year to help improve health care and education delivery to places like Upstate New York, rural Montana, North Dakota, Alaska, Iowa, and all across the country—$700 million a year to help improve emergency communications systems so that our first responders can actually receive those calls for help.

From a fiscal perspective, you couldn't ask for a better deal. It takes just $20 million in Federal resources to leverage over $700 million in loans—$700 million in loans plus at least another 20 percent in investment from the private sector. Has the program been popular? You better believe it has. In just 9 months since the Rural Utilities Service published regulations for the broadband loan program, the RUS has received applications that total over $1 billion. Our rural communities across the country recognize the promise of new telecommunications technologies.

Our rural communities and the coalition of Members from Congress that helped create the RUS broadband loan program in last year's farm bill aren't the only ones who recognize the promise of broadband. Look what other countries are doing.

A recent study by the International Telecommunications Union, the UN's telecommunications agency, confirmed what many of us already know. South Korea is leading the world in numbers of high-speed Internet connections per capita, with Hong Kong and Canada coming in at second and third. Where is the U.S. a distant 11th.

And these other countries are outspending us on broadband infrastructure. Sweden has set aside some $800 million on broadband deployment in rural areas of the country. France is following suit, having announced not long ago its plans to invest $1.5 billion on broadband infrastructure over 5 years. In Japan, through the majority government owned Nippon Telegraph and Telephone, the country is in the middle of a huge fiber-to-the-home project across the country. In Korea, the government is laying out some $15 billion to provide an optical fiber connection to 84 percent of homes by 2005.

We are falling behind. I don't know about the rest of my colleagues, but I think that's a huge problem. People in upstate New York know it's a huge problem. There is little disputing that a nation with ubiquitous broadband will be more efficient and productive than a nation without it. Just a couple weeks ago, the Wall Street Journal had a story titled, What's Slowing Us Down?, with the byline, ''Broadband is seen as a critical part of the national economy. Yet the U.S. lags behind other countries.''

The Wall Street Journal piece points out that, ''Rising rates of high-speed Internet access are expected to trigger everything from increased sales of new computers to a massive rise in worker productivity.'' A recent Brookings Institution study found that universal broadband access could add $300 billion a year to the U.S. economy. Forgoing a major broadband rollout, the Wall Street Journal notes, might not only hinder economic growth, but also worsen an already bleak picture for battered telecommunications and high-tech industries.

That explains the letter that a host of companies and high-tech associations have sent to Senators BENNETT and KOHL, the managers on this important bill. This letter pleading to restore funding of the RUS broadband loan program is signed by 3M, Alcatel, Cisco Systems, Corning, Intel, Nortel Networks, Siemens, and so many others who recognize the importance of this modest investment.

But they are not the only ones we're hearing from. I am hearing from small carriers across New York who need assistance to get broadband deployed to their rural areas—companies like Castle Cable Television in Alexandria Bay, NY who want to do the right thing—who recognize the potential of broadband to bring jobs and better services to their communities.

So what is our plan, our national strategy to help ensure broadband gets deployed across America? What is our plan to ensure America's competitiveness? Well, the administration's plan and the one that's come out of committee in the Senate is to crush the one permanent broadband deployment program the Federal government has ever enacted.

I understand that we have replaced $10 million that would leverage over $350 million in broadband loans with $10 million in grants. That doesn't make any sense. I am not suggesting we not do grants—but it doesn't make fiscal sense to saw off $10 million that will leverage over $350 million in loans for a simple $10 million in grants.

And it certainly doesn't make sense to take away the Rural Utilities Service's administrative funding and capacity to process and review the pending applications. Rural communities across the country, like Alex Bay in New York, need these resources to create and attract jobs. And our country needs to make these investments if we're to stay ahead of—or at least competitive with—South Korea, Hong Kong, Japan, and our neighbors to the

north, Canada, who are making the investments in broadband to move ahead.

I commend my colleagues, Senators BURNS and DORGAN, for their leadership in helping restore the full funding level for the RUS broadband loan program, and I ask the managers of this bill and for the administration to join in what should be a national strategy to deploy broadband across America.

Mr. KOHL. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROCKEFELLER. 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. ROCKEFELLER. I ask unanimous consent to speak as if in morning business.

Mr. BENNETT. Mr. President, reserving the right to object, could I ask the Senator from West Virginia how long he intends to speak?

Mr. ROCKEFELLER. I would say 15 to 18 minutes.

Mr. BENNETT. I have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROCKEFELLER. Mr. President, I thank my distinguished friend and colleague.

LEAK OF STAFF DRAFT MEMO

Mr. ROCKEFELLER. There have been statements made on the floor today—which I was not here to listen to because I was in a Commerce Committee meeting—expressing concern, outrage, et cetera, about what is happening with the Senate Intelligence Committee's inquiry into the prewar Iraqi intelligence. We have heard charges that a draft memo taken from the Intelligence Committee spaces and provided to the media somehow represents a plan to discredit what the Intelligence Committee is doing and to politicize the inquiry. These charges are inaccurate and unfortunate. I wish to speak to them as vice chairman of that committee.

I would suggest to my colleagues that there is in fact reason for concern today, but it is not because of the content of this draft staff memo—a memo which, for the record, was not approved by me, was not given to any other member of the Senate Intelligence Committee, nor to any other staff person, my own staff on the Intelligence Committee, nor to any other member of the Senate, nor anybody else. It was an internal draft memo. It happens all the time in the Senate. At some point very soon the committee and the Senate are going to have to explore the chain of events surrounding this draft memo since it raises serious questions about whether the majority is obtaining unauthorized access to private internal materials of the minority, and who made the decision in this case to leak the draft of an unofficial memo to the press.

It is disturbing that individuals are seeking, perhaps or perhaps not, to score political points with a draft paper describing the rights of the minority to push for a full and fair review of the issues of the committee and that the memo is being so grossly mischaracterized to try to deflect attention from the real issue.

More importantly, the concern this body should feel today is that the Intelligence Committee is not conducting a thorough and in-depth inquiry into all aspects of the intelligence process leading up to the war in Iraq. This body should be disturbed that 5 months after we started asking questions, we are still going, in essence, hat in hand to the administration to try to get the documents we need to conduct this review.

I most sincerely regret the impression that the draft memo has apparently given to some of my Republican colleagues, but it clearly reflects staff frustration that the Senate Intelligence Committee's investigation has not tackled all of the tough issues, and frustration with the difficulties we have had in obtaining information from the administration. It should come as no surprise to anyone that there is tension on the committee. I have said publicly for months that the committee must review not only the accuracy of prewar intelligence on weapons of mass destruction and terrorism but also the use or misuse of that intelligence by senior policymakers in this administration. This is fundamental to answering the questions the American people have about how we got into this war. But at every turn, the chairman has made it clear that the inquiry will be limited to reviewing the prewar intelligence against the low threshold of a standard called reasonableness. We have a basic disagreement. These kinds of things happen in the Senate.

I was pleased last week ended with the chairman and myself standing side by side, as we should, insisting on the committee's need for evidence wherever it might be located. But the information we have requested to date is only part of our work. It should be obvious to all that our committee still has much to do to assure that our inquiry into prewar intelligence about Iraq's weapons of mass destruction and links to terrorism fulfills our responsibilities to the Senate and to the American public.

I want to take a minute—it is important for me to do so—to describe these responsibilities because I am not sure all of our colleagues know. The committee's responsibilities come to us from the Senate. We don't make them up. The Senate created the Senate Select Committee on Intelligence in 1976. The measure that established it, S. Res. 400 of the 95th Congress, remains the Senate's charter to us as a committee. It is very specific.

S. Res. 400 was not a casual measure. It was the product of years of interest in improving oversight of intelligence, a major investigation chaired by Senator Church, reports of several standing committees, about eight or nine, and extensive floor consideration. It is not up to the 17 of us who happen now to be on that committee to make up the boundaries of our responsibility. They are given to us and written out very clearly.

S. Res. 400 begins by stating its purpose: To create a Senate select committee ''to oversee and make continuing studies of the intelligence activities and programs of the United States Government.''

The Senate did not leave the term ''intelligence activities'', the object of oversight, to the imagination of generations of members of the Intelligence Committee. Instead, the Senate carefully defined the term ''intelligence activities'' in section 14 of the resolution to include ''the collection, analysis, production, dissemination, or use of the information.''

The five elements of intelligence activity—that is collection, analysis, production, dissemination, and use—represent the full cycle with which the committee must be concerned. That is our charter. If we examine analysis of information without considering the collection of it, we fail in our responsibility. If we examine both of them but not the production of reports and the dissemination of information, we fail in our responsibility. If we stop at dissemination and do not examine the use of intelligence, we will equally fail in our responsibility. That examination is what I have been pushing for and it is what I will continue seeking.

I have heard it said that policy is the responsibility of other committees. Of course, other committees have responsibilities relating to national security policies. But so do we. Our mandate from the Senate is clear. S. Res. 400 also says the information which is subject to the committee's oversight includes information relating to foreign countries and to ''the defense, the foreign policy, the national security, or related policies of the United States.'' It is broad. It is thorough.

We should be committed as a committee to developing a full record. The joint letters the chairman and I wrote last week insisting the administration provide us with the necessary documents and interviews are a step in the right direction which I very much appreciate. But there is a lot more to be done. Even if we might disagree about the evaluation of evidence, we should put the full weight of the committee behind obtaining all the facts our members believe to be necessary for a complete inquiry. For me, that means all communications, not just a limited list, about Iraqi weapons of mass destruction and terrorism intelligence between the Intelligence Committee and policymakers, including the White House.

Without those, our record will not be complete. We cannot assess, for example, whether intelligence agencies were

pressured to conform to the views of policymakers unless we know what policymakers were asking of these agencies. This is a key objective of this inquiry, and we are in danger of completely missing it.

Albeit in strong language, what staff suggests in the draft memo—which, again, nobody on the committee saw and nobody else had seen it until it was leaked, and then everybody has it—is that the minority work with the majority to get as far as we can in this effort. That was our purpose—to work as far as we can and be as successful as we can in this effort, and if the majority continued to refuse, then the minority should be prepared to point out shortcomings consistent with the rules.

It is misleading to suggest this possible approach comes as a surprise to anyone in this body. I have been clear with the chairman for months that there is growing interest among many members of the committee in pursuing a separate investigation. It is not a course I choose to follow. Many Senate Democrats are on record in support of an independent commission. We voted it down the other day. I voted against it, but many Members did not; they voted for it. I am on record opposing that approach and I continue to oppose it. But, it is an option that cannot be ruled out.

Exploring or asserting the rights of the minority under the Intelligence Committee rules in no way amounts to politicizing intelligence. A substantive disagreement is not grounds for charges of partisan politics; it is a difference of approach, a difference of opinion.

I have worked for months within the committee to try to get these critical questions answered. It was not until the committee Democrats, in fact, exercised their rights under the rules and forced a meeting in June that the committee first discussed the parameters of a review. Democrats, some of them, wanted a formal investigation and ultimately agreed to the majority's less formal, less structured approach because the issue was too important to descend into political bickering.

In August, I wrote the chairman with a list of 14 areas where I thought the committee needed to do more work. I got no response. In September, after press reports that the chairman was planning to wrap up the interim investigation by the end of September, I wrote again to express my belief that we had more work to do and set out a framework for how we should approach the task we faced. I got no response. I met with the chairman on numerous occasions and got no response.

Then, 2 weeks ago, after reading press stories from the chairman describing a committee report that I had not seen and a deadline I knew we could not meet, I sat down with the chairman—again, we are good friends, and we will remain that way—to talk about where the inquiry was and what was left to do. In that meeting, I provided him with draft letters to the different agencies that owed us documents and interviews which the committee staff, under the control of the majority, had long since asked for, months ago. I cosigned a tough letter, along with the chairman, to the head of the Central Intelligence Agency, pressing him to provide materials requested by the committee staff—fundamentally one which his staff director directs. When I provided the majority with a list of nine examples of the use of intelligence we must have to understand the interplay between policymakers and the intelligence community, I was turned down.

The fact is that I have approached the majority in every way I know how—in private letters, in meetings, in committee meetings, in public statements, on the Senate floor, imploring the majority to work together with us and imploring the majority to meet the committee's fundamental responsibility to investigate the potential misuse of intelligence by policymakers leading up to the war in Iraq. My entreaties have been to no avail, eliciting either no response or, worse yet, public statements by the chairman unilaterally announcing that the committee will, in fact, not pursue the critical issue of use.

The majority has left the Senate minority with two choices: Either abandon what we believe is a fundamental obligation in this body to the American people as is laid out in the Senate resolution creating us, or, reluctantly, part ways and use our rights as a minority to get the job done on our own. I prefer not to do that. It is not my nature. I prefer not to do that. That calls for members working together and calls for following committee rules and following our charter.

Throughout this difficult situation, I have remained committed to the committee's investigation. I have been vocal in my appreciation of the absolutely excellent job done to date by the staff on the aspects of the investigation they have been asked to perform, which is reviewing the prewar Iraqi intelligence. They have done a superb job, absolutely superb job.

I still strongly believe the committee can and should do this job. I am confident that, presented with the facts, the American people can and will judge this administration fairly. For my part, I have and I will continue to support the President when I believe he is right. I had the same approach with the previous President, President Clinton. When I believed he was wrong, I went after him really hard, on steel and other things. But when he was right, I said so. On the other hand, I will also challenge and question the President and his administration when I think they are in error. That is my duty. I am an elected Senator and I represent my people. That is my job as a Senator. It is my responsibility as vice chairman of the Senate Intelligence Committee.

I conclude by saying I am also confident that the members of the Intelligence Committee can put aside their differences and continue with the tough tasks facing members. Maybe it took this to somehow embarrass all of us enough to bring us together. I want the result to be that we do this together under the Senate resolution. I hope we can put this behind us.

I suggest to the chairman that the full committee meet again this week to bring us to a point of consensus. We must pursue this inquiry to the end. These are extraordinarily important matters we are discussing, not to score political points on either side but because we must make sure we fix problems and provide our country with the best intelligence possible. That is our job.

I yield the floor.

Mr. BENNETT. Mr. President, we are back on the bill. I see some Senators have come to the floor and I ask those who are here if they intend to offer amendments.

Mr. DORGAN. Mr. President, in response to the Senator from Utah, it is my intention to offer an amendment. I would like to speak about a subject that is going to prompt the amendment and then discuss with my colleague, Senator BURNS from Montana, who will be joining me with an amendment. There are several ways we might offer this amendment. I would like to have a discussion with Senator BURNS and also with Senator KOHL and Senator BENNETT about the specific amendment because my hope is we can work things out as this bill is on the floor.

It is my intention to offer an amendment with my colleague, Senator BURNS from Montana. I would like to speak about it, and he would probably want to speak as well.

Mr. REID. Mr. President, if I may respond, the Senator from California is here. In fact, she left a very important conference committee to come here because she feels strongly about her amendment. She has an amendment to offer and she is not in a position to agree to any time. She will probably take an hour, an hour and a half. So it will be the first lengthy amendment on this bill.

Mr. BENNETT. I understand the Senator from California had the desire to offer her amendment, and I encouraged her to come to the floor to do so. Now she has come.

I ask the Senator from North Dakota how long he might want to take because I want to accommodate the Senator from California. I say that as if I control the time, which I clearly do not, but the Senator from Nevada has suggested the Senator from California be allowed to offer her amendment and I want to be as accommodating as I can be to all Senators.

Mr. DORGAN. Might I inquire of the Senator from Utah? First of all, I would like to speak for perhaps 5 to 7 minutes initially. I guess the Senator from Montana may want to speak for a

very short time. Following the presentation by Senator FEINSTEIN and perhaps after a meeting I will attend, I will speak at greater length, if I could be recognized—I would be very brief—in order to describe to the Senator from Wisconsin and the Senator from Utah what Senator BURNS and I want to try to achieve this afternoon on this piece of legislation.

I think we can introduce that very shortly and then perhaps discuss it at greater length at a later time.

Mr. BURNS. If the Senator from North Dakota will yield.

Mr. DORGAN. I yield.

Mr. BURNS. It is a good idea to give us time to work it out to the agreement of both sides. This can be done. We are going to have to offset it. We would work with the chairman and the ranking member.

I don't need any time prior to Senator FEINSTEIN speaking. We can do that after because she has come, with all good intentions, to offer her amendment, and I think she should be allowed to do so.

The PRESIDING OFFICER. The Senator from Utah.

Mr. BENNETT. In that case, Mr. President, I ask unanimous consent that the Senator from North Dakota be recognized for 7 minutes and, further, that he be followed by the Senator from California.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The Senator is recognized for 7 minutes.

Mr. DORGAN. Mr. President, as I said, I will speak about this at greater length this afternoon, but I did want to advance the topic Senator CONRAD BURNS and I wish to advance, an amendment on this bill dealing with something called the Broadband Loan Program.

Let me describe what that is. Let me describe it by telling you I was recently in my hometown, a town of fewer than 300 people, in southwestern North Dakota. I visited a home there. I stopped by to say hello, and there was a woman in that home who had a little device on her counter. It looked different to me. It had a camera mounted on it. It was no bigger than a shoe box. She had a bracelet hanging on a little round projectile on it.

I said: Well, what are you doing there? She said: I am taking a picture of this bracelet. I said: Why are you doing that? She said: I sell on eBay.

Here in my hometown is a woman who sells on eBay, and she takes a picture of those products and puts them on her computer. She told me she has been supplementing her income by doing business on eBay.

It describes the need, even in a town of 300 people, for computer access, the need for broadband, the need for the big pipes in which you can do business on the Internet in a way that does not take you a day to download something others are downloading in 5 minutes.

So the question of the building out of broadband to rural communities all across this country, including rural areas especially, is a very important question. Because if you do not build out broadband capability, then what happens is you leave some parts of the country behind. You have an Internet divide. You have people on the right side of it and you have people on the wrong side. The people on the wrong side will never have any economic development opportunities because when you talk to somebody about building a business in this town, they will ask: Do you have the capability to connect us by computer with some reasonable speed? When you say: No, we don't, they will say: Well, so long. We're going elsewhere. That is why this is so important.

Let me describe quickly what we did. In the farm bill, a group of us—Senator BURNS, myself, and others—included a provision that deals with a broadband loan program. It is the first and the only program in this country designed to spur the development of the buildout of broadband capability to rural areas. It was scheduled to use $100 million in direct spending to subsidize $3.5 billion of loans over the 6 years of the farm bill.

Pursuant to that, RUS, down at the Department of Agriculture, put together the first 2 years $40 million, and they announced they would make $1.4 billion in loans available. As a result of that, they set a July 31 deadline. They received $1 billion in loan applications because we have people with interests and businesses really interested in building out this broadband capability to rural areas, very much like the old REA program.

Prior to REA, there was no electricity on America's farms. They were dark. When the Sun went down, you could not plug into anything because no one built electricity infrastructure out to America's farms. We created the Rural Electrification Act, and all of a sudden America's farms got electricity. It created dramatic explosions in productivity on America's farms. That is what this is about: the buildout of the infrastructure for broadband to our small rural communities and to our farms.

So what happened was the USDA put together this program. The loans were requested. We have applications for loans. They came in by July 31. What happened, however, is the language that is included now in this appropriations bill eliminates the broadband section of the farm bill—it eliminates it—and in its place puts a $9.1 billion appropriation, which is less than half the amount that should have been available this year.

If we move down this road, it appears to us the money that has been applied for, for loans will not be at this point continued. They will have to start over. You will have half the money. There is no assurance the additional money will be available in future years because this will be an appropriated amount rather than being in the farm bill which authorized this for 6 years.

This is very important. This is about the haves and have-nots in this country with respect to access to the Internet and with respect to broadband capability. If we decide that access to the Internet, with pipes that are of reasonable circumference so you get some decent speed, does not matter to rural areas, we will have, in my judgment, economic development only in areas of the country where we have broadband, and small towns and rural areas are going to be told: So long, Charlie. Just tough luck. You are not going to be developed because we have a digital divide, and we support that digital divide. That is a terrible message to come from the Congress.

What I would like to do, with my colleague, Senator BURNS, is to work with Senator BENNETT and Senator KOHL to try to deal with this problem that is created in the appropriations bill. We have two problems. One is a language problem. We need to restore the language that existed in the farm bill that calls for this Broadband Loan Program. We should not kick that out in this appropriations bill, No. 1.

No. 2, we should restore the funding that was there that was promised and upon which applicants now have applied for $1 billion in investment funds to build out broadband capability to rural areas of the country.

I know rural areas are sometimes looked at as kind of the ''back 40.'' Well, it is not the ''back 40.'' It is a wonderful part of this country. It is small towns and good families trying to make a living, often in circumstances where they are losing population. These are places with strong schools, places in which you can raise kids without worrying about their safety, with good neighbors, good places to be. But if we decide, as a country, in the age of information technology and information revolution, that only the big cities are going to have the aggressive, robust buildout of broadband, then we are consigning rural America to a pretty desperate struggle for their future. That is not what we want. That is not what Congress decided.

Congress already made this judgment when it passed the farm bill. It said: Rural America matters as well. Small towns matter, too. That is what the Congress decided. As a result of that decision, it made a specific, deliberate investment to say we are going to fund, through loans, and we are going to encourage, through loans, the buildout of broadband infrastructure to help small towns and family farms in this country.

That promise was well underway, and now what has happened is, in this bill, we have a problem that derails it. We want to fix it. I want to work with my colleagues, Senator BENNETT and Senator KOHL, to do that. I will return this afternoon to see if we can do that.

I yield the floor.

The PRESIDING OFFICER (Mr. CORNYN). The Senator's time has expired.

The Senator from California is recognized.

Mrs. FEINSTEIN. Thank you very much, Mr. President.

AMENDMENT NO. 2083

(Purpose: To improve the operation of energy markets)

Mrs. FEINSTEIN. On behalf of Senators LUGAR, LEVIN, HARKIN, CANTWELL, BOXER, LEAHY, WYDEN, DURBIN, and HOLLINGS, I send an amendment to the desk.

The PRESIDING OFFICER. Without objection, the pending amendment is set aside. The clerk will report.

The bill clerk read as follows:

The Senator from California [Mrs. FEINSTEIN], for herself, Mr. LUGAR, Mr. LEVIN, Mr. HARKIN, Ms. CANTWELL, Mrs. BOXER, Mr. LEAHY, Mr. WYDEN, Mr. DURBIN, and Mr. HOLLINGS, proposes an amendment numbered 2083.

Mrs. FEINSTEIN. I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The amendment is printed in today's RECORD under ''Text of Amendments.'')

Mrs. FEINSTEIN. Mr. President, this amendment has to do with providing some regulatory oversight over energy trading. It has to do with closing the Enron loophole. It has to do with providing transparency. Energy trades today are not subject to the 2000-passed Commodity Modernization Act. Rather, these energy trades take place electronically, take place in secret, without transparency, with no records kept, with no audit trail available, and with no regulatory oversight to prevent fraud and manipulation in energy trading.

I would like, first of all, from the Derivatives Study Center, to indicate and read a couple of paragraphs from the letter they have sent, which I think defines the issue very well.

I quote:

This regulatory assistance comes at a critical time. According to the Federal Energy Regulatory Commission's Director of the Office of Market Oversight, ''energy markets are in severe financial distress.'' Along with the decline in credit quality in these markets, the loss of confidence and trust has led to a ruin in the liquidity and depth of these markets. This legislation will go a long way to address this problem.

Then he defines what derivatives are. This is important for Members to know. It is complicated. We went through this once before. I would like to give you this definition because it is a good one:

Derivatives are highly leveraged financial transactions, allowing investors to potentially take a large position in the market without committing an equivalent amount of capital. Moreover, derivatives traded in over-the-counter markets are devoid of the transparency that characterizes exchange-traded derivatives, such as futures, and this lack of transparency introduces a greater potential for abuse through fraud and manipulation.

That is exactly what happened. He goes on to say:

Derivatives are often combined into highly complex, structured transactions that are difficult, even for the seasoned securities trader and finance professionals, to understand and price in the market. Enron used such over-the-counter derivatives extensively in order to hide the nature of their activities from investors. The failure of Enron and the demise of other energy derivatives dealers has had a devastating impact on the level of trust in energy markets.

That is a good definition of what we are trying to do, why we are trying to do it, and what we are trying to involve.

Now I would like to read into the RECORD a portion of a letter from Eliot Spitzer. Mr. Spitzer is the attorney general of the State of New York. That is the place where many of these cases are now coming to trial.

He says:

I firmly support your efforts to make energy markets competitive and protect those markets from fraud and manipulation. The bill sponsored by Senators Feinstein, Levin, and Lugar, and under consideration as an amendment to the proposed 2004 agricultural appropriations bill, is a major step toward both goals.

He goes on to say:

The amendment makes a major contribution to competitive energy markets by initiating an electronic information system to be operated through the Federal Energy Regulatory Commission. This system will provide open access to comprehensive, timely, and reliable wholesale electricity and transmission, price and supply data, greatly expanding the choices of both buyers and sellers. In addition, the reliability of market information would be markedly improved by the amendment's general prohibition on manipulation of the purchase or sale of electricity or the transmission services needed to deliver electricity, and by specific prohibition of the round-trip trading manipulation used so effectively to inflate electricity prices to the public's injury.

This is a letter from the attorney general of the State of New York. As such, it places an imprimatur of correctness, of need, and of value on the amendment that we introduce today.

Now, what is in that amendment? Specifically, the amendment would improve price transparency in wholesale electricity markets. The amendment directs the Federal Energy Regulatory Commission to do just what Mr. Spitzer said it would do: to establish an electronic system to provide information about the price and availability of wholesale electricity to buyers, to sellers, and to the public. This provision is actually similar to the transparency provision offered by my colleague from New Mexico, Senator DOMENICI, in the Energy bill.

Secondly, this legislation would prohibit round-trip electricity trades. What is a round-trip trade? It is the simultaneous buying and selling of the same quantity of electricity at the same price, in the same location, with no financial gain or loss. In other words, no commodity ever changes hands. Again, this is similar to a provision that Senator DOMENICI offered during consideration of the Energy bill. Round-trip or wash trades are bogus trades. No electricity changes hands but the profits from the trades enrich the bottom line of a company's financial report.

In fact, I think we had one company—I believe it was CMS—say that 80 percent of their balance sheet in a given year was from bogus trades. And there is nothing we can do about it? Does anyone believe that is right? I think not. I don't think the American people do, and that is one of the reasons these markets are so decimated.

Next we would increase penalties for violations of the Federal Power Act and the Natural Gas Act. Maximum fines for violations of the Federal Power Act would be increased from $5,000—that is nothing to a big company—to $1 million. And maximum sentences are increased from 2 to 5 years. Remember, these rip-offs were tremendous. Just look at the people plea-bargaining from Enron, look at what they did, look at the amounts of money they fraudulently compromised.

This language is identical to section 209 of the Senate-passed Energy bill. Current fines are extraordinarily low and, therefore, provide no deterrence to illegal activity.

We also amend the Natural Gas Act to do essentially the same thing. Senator DOMENICI, in his substitute electricity title to the Energy bill, increased the fines in the Gas Act but he did not do so in the Federal Power Act. We would do both in this amendment.

Next the amendment would prohibit manipulation in electricity markets. Manipulation is prohibited in the wholesale electricity markets, and FERC is given discretionary authority to revoke market-based rates for violators.

Strangely enough, manipulation of energy markets is not prohibited in current law. Can you believe that? Manipulation of energy markets is not prohibited in current law. This would add language to part 2 of the Federal Power Act to do just that.

Most importantly, this bill would repeal the Enron exemption and allow the Commodities Futures Trading Commission, which has oversight over virtually all other trading, to monitor the over-the-counter energy market.

This would repeal what happened in 2000 when Enron pushed the Commodities Futures Modernization Act exemption for large traders in energy commodities. And it would apply antimanipulation and antifraud provisions of the Commodities Exchange Act to all over-the-counter trades in energy commodities and derivatives.

In my view, when Congress exempted energy from the Commodities Futures Modernization Act of 2000, it created the playing field for the western energy crisis of 2000 and 2001. The western energy crisis cost millions of people millions of dollars in my home State of California. So this is a charge I am making. When this Congress permitted

the Enron loophole to exist in the Commodities Modernization Act, they created the loophole for the playing field that Enron and others used to manipulate the western energy markets.

Next, our bill would provide the Commodity Futures Trading Commission the tools to monitor over-the-counter energy markets. Over-the-counter energy trade in energy commodities and derivatives performs a significant price discovery function, including trade on electronic trading facilities. Our amendment requires large, sophisticated traders to keep records and report large trades to the Commodity Futures Trading Commission. This doesn't change the law. It only applies the law that exists for futures contracts to over-the-counter trades in energy markets.

We would limit the use of data. This requires the CFTC to seek the information that is necessary for the limited purpose of detecting and preventing manipulations in the futures and over-the-counter markets for energy, to keep proprietary business data confidential, except when used for law enforcement purposes. This does not require the real-time publication of proprietary data. It does not.

This would have no effect on non-energy commodities or derivatives. The amendment would not alter or affect the regulation of futures markets, financial derivatives, or metals. We have specifically stated on page 20 the following:

The amendments by this title have no effect on the regulation of excluded commodities under the Commodity Exchange Act.

In addition, we state:

The amendments made by this title have no effect on the regulation of metals under the Commodity Exchange Act.

Mr. President, my colleagues may be asking themselves why I continue to press this cause. Here I note that Senator LEVIN has come to the floor. I want the Senate to know how helpful the Senator from Michigan has been in working on this complicated issue. He has spent hours and hours of his time. His staff has worked with my staff in evolving this measure. We have carefully vetted it. I believe we really know what we are doing here.

The energy crisis in the West demonstrated that, without Federal oversight, a business becomes solely concerned with its bottom line and not with any sense of ethical behavior; and arrests and convictions to date have clearly documented this to be the case.

Californians are still paying the price of this unethical behavior. I make the point that we are not talking about one bad player in the California market. This goes way beyond Enron. It extends to others as well—to Reliant, Dynegy, Williams, AEP, CMS, El Paso Merchant Energy, Duke, Mirant, Coral, Sempra Energy Trading—unfortunately, in my own State—Aquila, the City of Redding, Morgan Stanley Capital Group, Pacificorps, and to the Puget Sound Energy.

We believe California was duped out of $9 billion. The Federal Energy Regulatory Commission has illustrated its inability to refund California the money it is owed by recently recommending settlements that in no way, shape, or form reflect the damage that was caused to both consumers and the economy of the largest State in the Union. In fact, FERC settled with Reliant on August 29, allowed them not to admit wrongdoing, and fined them $836,000. That was $836,000 for rules of conduct that cost the State $13 million—hardly fair.

This disproportionately low fine gives credibility to the fact that the price one would have to pay in penalties, if caught manipulating the market, is worth the risk since the benefits of not getting caught far outweigh any penalty that may be levied upon a company.

I think it is pretty clear that this disproportionately low fine gives credibility to the fact that the price one would have to pay in penalties, if caught manipulating in the market today, is worth the risk. There is no deterrence, since the benefits of not getting caught far outweigh any penalties that may be levied on a company. That is what we are trying to change.

If I left any doubt in my colleagues' minds about the widespread manipulation that took place during the western energy crisis, let me point out some recent examples of a case that was brought by the Securities and Exchange Commission against David Delaney, a former chief executive with two of the most prominent divisions of Enron.

On October 30, 2002, Delaney pled guilty to insider trading. The SEC brought charges against him for selling millions of dollars in Enron stock at a time he knew it was being manipulated. While these charges appear to be financial in nature, the underlying facts of the case were that Enron was engaged in manipulative business practices, especially in California.

In March of 2003, the FERC staff report on price manipulation in western markets: Investigators said they suspected Enron was using price information obtained in regulated deals to manipulate trades in unregulated energy derivative markets.

In one instance, Enron manipulated the price of physical gas, upward, then downward. Although the price change in the physical markets was only 10 cents per million Btus, Enron profited due to the effect that this small change in the physical price had on its large financial position. Enron earned more than $3 million in the unregulated over-the-counter markets, while losing only $86,000 on the physical sale of natural gas.

I think it is important to note that the FERC report also states:

Enron's corporate culture fostered a disregard for the American energy customer. The success of the company's trading strategies, while temporary, demonstrates the need for explicit prohibitions on harmful and fraudulent market behavior and for aggressive market monitoring and enforcement.

That is what we are trying to provide in this amendment. That is what FERC says is missing.

Our amendment would provide greater oversight over these markets so that fraudulent and manipulative behavior could be prevented. It would increase the penalties if, in fact, a company engaged in fraudulent or manipulative behavior, and it would outlaw all types of manipulation including round-trip trading, wash trades, false reporting, churning, and deliberately withholding generation. All of the Enron trading strategies, such as Ricochet, Death Star, Get Shorty, Fat Boy, Non-Firm Export, Load Shift, Wheel Out, Black Widow, Red Congo, and Cuddly Bear: these are euphemisms for fraud and manipulation and our amendment would cover them all.

It is not clear to me why energy derivatives are not regulated while the Federal Government oversees some physical energy transactions. In other words, if I buy natural gas, and it is delivered to me, then that transaction is overseen by FERC, which has the authority to ensure that this transaction is both transparent and reasonably priced.

But a giant loophole is opened where there is no Government oversight, when transactions are carried out in electronic exchanges. As a result, if I sell natural gas to you, and you sell it to someone else who sells it to another person who then sells it again, none of these transactions are covered by FERC or the CFTC. Because of that, what we saw in the western energy crisis is that this particular loophole allowed energy companies to manipulate prices and to escape any investigation or prosecution by any regulatory agency.

Our amendment will close the loophole, as Senator LEVIN said, created in 2000 when Congress passed the Commodities Futures Modernization Act.

The loophole exempted energy trading from regulatory oversight, and it excluded it completely if the trade was done electronically. At the time, Enron was the main force behind getting this exemption in this act. By closing this loophole, the amendment will prohibit fraud and price manipulation in all over-the-counter energy commodity transactions and provide the CFTC the authority it needs to investigate and prosecute allegations of fraud and manipulation.

Opponents of this amendment have questioned why we need to explicitly give the CFTC this authority. The answer is we need to give the Commodities Futures Trading Commission this authority because we learned during the western energy crisis that there was, in fact, pervasive manipulation and fraud in energy markets, and that FERC and the CFTC were either unable or unwilling to use the authority they

had to intervene. I think Mr. Delaney's plea bargain is eloquent testimony to that.

We need to give the CFTC this authority because we need regulators to protect consumers and make sure they are not taken advantage of. We need to give the CFTC this authority because, when there are inadequate regulations, consumers are ripped off. Let me be clear. Our amendment will provide the same protections to consumers in energy markets as these same consumers have in all other commodity markets such as the New York Merchantile Exchange or the Chicago Merchantile Exchange. Our amendment does not provide more regulation or greater oversight than what currently exists for other commodity markets, merely the same protections: Protections which are currently lacking.

In fact, in an effort to avoid onerous or complicated requirements, Senator LEVIN, Senator LUGAR, and I have worked together to make sure the recordkeeping and reporting requirements are very clear. Our amendment only requires traders to keep records of over-the-counter trades in energy commodities and derivatives that perform a significant price discovery function. In other words, these are the trades that affect the pricing for everyone. These are the big trades, and these are the trades where there needs to be transparency because they affect the market.

If I am a large company and I sell you 1,000 decatherms of natural gas in a typical transaction on the spot market, this is a price discovery transaction because the prices of these transactions are usually covered and reported by the press and will affect prices of subsequent transactions. Trades on electronic markets serve, by their very nature, as price discovery functions. They should be available for everyone to see because they will very likely influence what price the next trader will buy or sell at in an open and transparent fashion.

Our amendment would require traders to keep records of their trades and to maintain an audit trail. This requirement would simply regulate energy trading in the same way other finite commodities are handled. Why should pork bellies or frozen concentrated orange juice have more protection for consumers than electricity?

There is nothing in this amendment that should be burdensome for traders in any way. I would think responsible traders would already be keeping records and maintaining an audit trail for their own protection in this world. In fact, the amendment only allows the CFTC to seek information to investigate allegations of wrongdoing.

We have worked for almost 3 years to craft this provision. It has had hearings in the committee. It has been discussed on the floor. We have met with dozens of people. We understand there are those who do not want to support it. But in not supporting it, what they are doing is condoning a marketplace that has practiced deep fraud and deep manipulation and for the most part gotten away with it.

I don't think we do our job as Senators if we can't protect an unsuspecting public. As the Derivative Center pointed out, these markets are in disarray now. Why are these markets in disarray? They are in disarray because people do not have confidence in them. They are in disarray because there is no transparency because there are hidden markets, and when they explode, they explode big time.

Why should Mrs. Smith from Texas or Mr. Jones from Pennsylvania or Mr. CORNYN from Texas invest in these markets? Why should he? He wouldn't have confidence in them. He would have no transparency. He would have no ability to know what is going on.

What we are trying to do is put that confidence back in the marketplace by providing some prudent, commonsense, antifraud, antimanipulation oversight by saying: If you trade this way, you must keep a record of the trade. You must keep an audit trail. And these trades must be transparent so that the Smiths, the Jones, and the Cornyns, if they so desire, can find out what in fact is going on.

Let me stress that this does not impact financial derivatives in any way whatsoever. We have clarified that. Our opponents persist in using the argument that financial derivatives are affected. They are not. Look at page 20, lines 17 to 20, if you want to see it in black and white. Nothing in this provision affects the authority of the Federal Energy Regulatory Commission. We don't change it in any way.

To respond to concerns about trading platforms that only match buyers and sellers, there is no capital requirement. Let me repeat that because people are going around saying there is. To respond to concerns about trading platforms that only match buyers and sellers, there is no capital requirement.

Bottom line: Our amendment merely gives back to the CFTC most of the authority it had before Congress passed the Commodity Futures Exchange Act.

I note that Senator LEVIN is in the Chamber. I wonder if it would be appropriate for him, if other Members would agree, to make some comments at this time.

Mr. BENNETT. Mr. President, I would have no objection to having the Senator from Michigan make his statement. But I wonder if we can arrive at some kind of time agreement as to how much longer we are going to spend on this amendment. I was told the Senator from California originally said she could deal with it in an hour and a half. I suggested an hour and was told that was not acceptable. I am now willing to say an hour and a half if we can, in fact, nail that time down, with the Senator's statement until now applying against the full hour and a half.

Mrs. FEINSTEIN. If I might respond, I believe Senator LEVIN will speak, Senator LUGAR wishes to speak, and Senator CANTWELL wishes to speak. So on our side of this issue, I believe it will be at least an hour and a half.

Mr. BENNETT. An additional hour and a half, I ask?

Mrs. FEINSTEIN. It may not be. I will try to move it rapidly along. These Senators have indicated they wish to come to the floor.

Mr. BENNETT. I ask unanimous consent, then, that the debate on the minority side be limited to an hour and a half from this point forward, and I will control the time on the majority side and see that we have no more than an hour and a half to respond.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. BENNETT. In that case, I have no objection to the Senator from Michigan speaking now.

The PRESIDING OFFICER. The Senator from Michigan is recognized.

Mr. LEVIN. Mr. President, first let me thank Senator FEINSTEIN for her leadership on this issue and for her typical courtesy in interrupting her statement so I may give mine at this time. It is most appreciated. More important, I thank her for her leadership and Senator LUGAR's leadership in bringing this amendment to the floor.

Recent highly negative events in our energy markets show that there is an urgent need to prevent price manipulation in those markets, improve the transparency of energy markets, and to strengthen the ability of State and Federal agencies to enforce the rules governing the operation of those markets.

Widespread price manipulation and falsification of price information in the electricity and natural gas markets in the last few years have inflicted billions of dollars in extra costs on energy consumers and businesses and have been a severe blow to our economy.

The corruption and manipulation of these markets by Enron and other companies fueled the collapse of some energy markets in the United States, the bankruptcy of some energy companies, and a huge decline in investment and trading in the energy markets.

The bipartisan amendment of Senators FEINSTEIN, LUGAR, myself, and others would close these ''Enron loopholes.'' Enron used these loopholes, and other companies joined with them, to manipulate energy markets at the public's expense. Our amendment would strengthen prohibitions on fraud and manipulation and give both the Federal Energy Regulatory Commission, FERC, and the Commodity Futures Trading Commission, CFTC, the necessary tools to monitor the energy markets, to prevent manipulation, and ensure that prices are fairly and competitively arrived at.

This legislation is needed because companies such as Enron are now permitted to trade large amounts of energy in virtually unregulated markets, making those unregulated markets and

the resulting price of the energy we use vulnerable to fraud and manipulation.

FERC's recent report on manipulation in the western energy market provides some stunning examples of how the energy markets can be manipulated.

FERC found that Enron, through an unregulated electronics trading center called EnronOnline, ''manipulated the price of physical gas upward and downward,'' earning huge amounts of illegal profits. FERC determined that Enron often ''invited counterparties to wash trades, and these trades created a false sense of liquidity, which can distort prices. Enron also manipulated prices on the EOL by having affiliates on both sides of certain wash-like trades. This created artificial price volatility and raised prices.''

The report by FERC concluded that ''large-volume, rapid-fire trading by [Enron] . . . substantially increased natural gas prices in California.'' FERC found ''significant market manipulation'' in the ''inextricably linked'' natural gas and electricity markets, and that ''dysfunctions in each fed off one another'' during the energy crisis in California.

According to FERC:

Spot gas prices rose to extraordinary levels, facilitating the unprecedented price increase in the electricity market. Dysfunctions in the natural gas market appeared to stem, at least in part, from efforts to manipulate price indices compiled by trade publications. Reporting of false data and wash trading are examples of efforts to manipulate published price indices.

Finally, the report found:

The widespread false reporting led staff to conclude that reported prices did not reliably reflect market activity.

I would like to give one specific example on how one day, January 31, 2002, Enron used an unregulated, nontransparent Internet trading system to manipulate the natural gas market in California.

In August of 2002, the FERC staff issued an investigatory report finding that out of a total of 227 trades on that day, January 31, 2002, 174, or more than two-thirds of the trades on that day, involved Enron and a single unnamed party. Most of these trades took place during the last hour of trading with two parties buying huge amounts of natural gas from each other in numerous transactions.

FERC determined that the trades took place at ''higher prices,'' in their words, than other trades that day, and resulted in a steep price increase over the last hour of trading. FERC described this trading activity as ''difficult to rationalize as a normal or standard business practice'' and noted:

[O]nly Enron and possibly the counter party could have known that so much of the trading was going on between themselves, because parties looking at EOL's screens could only see the bid and ask prices; they could not know who the counter party was on any particular trade.

The FERC report indicated that EnronOnline's prices were routinely used to prepare published reports on natural gas prices, which meant that the Enron price data was not just affecting Enron trades but also causing higher natural gas prices industrywide. The report concluded that Enron had ''significant ability and incentive to manipulate the price data published by the reporting firms.''

This spring, FERC issued a number of recommendations to fix the problems in the energy markets. FERC recommended new policies and procedures for the oversight of commodity trades and prices and a system of market surveillance to detect and prevent manipulation.

In March of this year, following a year-long investigation, I released a Permanent Subcommittee on Investigations staff report into the operation of crude oil markets. The report describes the regulated and unregulated markets for buying and selling crude oil and explains how crude oil prices are set and how they affect the price of critical oil commodities, such as gasoline, home heating fuel, jet fuel, and diesel fuel.

The report describes the vulnerability of unregulated commodity markets to price manipulation and the need for and beneficial effects of U.S. commodity regulation. The report also explains how the over-the-counter markets are virtually unregulated and, therefore, vulnerable to manipulation.

The report recommends that traders in over-the-counter markets be required to ''provide the CFTC with routine information on large positions in crude oil and energy contracts and derivatives, as well as other information that would aid the CFTC in detecting, preventing, and halting commodity market manipulation.''

So we have two reports reaching the same conclusions about the need for more market transparency and strengthened oversight to detect and prevent fraud and manipulation in energy markets.

How did we get to this position where companies, such as Enron, are permitted to manipulate prices in our energy markets? The answer lies in how the energy markets and the Federal regulations have evolved over the last 20 years.

Billions of dollars' worth of contracts for the future delivery of energy are now traded every day. These contracts are called energy derivatives because they derive their price from the price of the energy commodity in the contract.

There are two basic types of energy derivatives. Energy derivatives that are traded on futures exchanges are called futures contracts. The trading of futures contracts on futures exchanges is regulated by the Commodity Futures Trading Commission under the Commodity Exchange Act.

The other type of energy derivatives, which are not traded on futures exchanges, are called over-the-counter energy derivatives. These derivatives may be traded by fax, by phone, in face-to-face meetings, or over the Internet. The trading of these derivatives is virtually unregulated.

Both the futures markets and the over-the-counter markets perform identical economic functions. Both markets enable traders to buy and sell commodities at fixed prices, disseminate information about commodity prices, and provide a way for buyers and sellers to hedge against changes in the price of these commodities. Commodity traders routinely use both the futures markets and the over-the-counter markets for price discovery and hedging.

Today, the types of contracts traded in the futures markets and the over-the-counter markets are virtually identical. As an indication of how indistinguishable these contracts really are, the NYMEX even calls some of the contracts that it offers on its over-the-counter electronic market ''futures contracts.''

This is an example of what is shown on the NYMEX boards. This is the way the NYMEX advertises: Light Louisiana sweet crude oil futures—futures. Futures are supposed to be bought and sold on futures markets, not over-the-counter markets, but this is an over-the-counter sale and offer.

This is a picture the New York Mercantile projects over the Internet for the purchase and sale of over-the-counter contracts. Notice it says: Trading venue is over the counter, and yet it calls that over-the-counter offer ''futures.'' If they were really futures, they would be regulated as futures contracts are by the Commodity Futures Trading Commission. But these are over-the-counter sales. These are unregulated, and yet they are characterized as futures. The language used here is interchangeable. The economic function is interchangeable. The only difference—and it is a critical difference—is that futures contracts are regulated by the Commission and over-the-counter contracts are not. And they should be. They perform the same economic function. The language used is exactly the same and yet there is one group of contracts unregulated. The other group of contracts is regulated. It is the unregulated contracts which got us into so much trouble, the lack of transparency which got us into so much trouble.

Let me give another example. The largest over-the-counter electronic trading facility is the IntercontinentalExchange, known as ICE, in Atlanta. It trades contracts that it calls futures, and yet these are not futures; these are over-the-counter transactions, described by the ICE as futures. It says you can trade futures from your desktop. Yet these are over-the-counter transactions.

Here is what they say on their Web site:

IntercontinentalExchange brings parallel trading in IPE Brent crude of futures to the ICE platform. Electronic futures trading sessions operate in parallel with the regular

open-outcry session on the IPE floor in London.

Now, that open-outcry session, as they phrase it, is the futures trading session that occurs at the exchanges. So they are treating them the same. They are saying, one can trade in futures electronically. The language now has become the same, the economic function is the same, but there is one key difference, and it is a deadly difference in terms of consumers and in terms of manipulation of prices. That difference is that futures contracts are in fact regulated and must be disclosed and are in fact transparent, whereas the over-the-counter trades are not. They are now dealt with interchangeably by the largest exchange, the largest over-the-counter electronic trading facility in the country, the IntercontinentalExchange in Atlanta.

Only real futures markets are regulated to prevent price manipulation. That is a fact. The over-the-counter market is not. That is what has got us in the hole we are in. That is what permitted Enron to dig us deeper into the hole we are in and to cause the loss of huge amounts of money to our consumers and to many customers. No disclosure, take care of these trades over the market. If the market were a regulated market, such as the futures market is, it would have been regulated. It could have been transparent. We would not have seen the Enron disaster and the manipulation that we saw in Enron and by other companies.

The Commodity Exchange Act regulates the futures exchanges so that they cannot be artificially manipulated. This regulation and transparency has bolstered the confidence of traders in the integrity of these markets and it has helped to propel our country into the leading marketplace for many commodities.

For example, the New York Mercantile Exchange, NYMEX, is the world's leading exchange for futures contracts, for energy products such as natural gas, crude oil, gasoline, and home heating oil. The CEA makes it a felony to manipulate the price of any commodity, and it contains a number of provisions to enable the futures exchanges and the CFTC to detect and prevent price manipulation. The CEA requires the regulated futures exchanges to ensure that trading is orderly and to detect and prevent price manipulation. The CEA directs the CFTC to oversee the operations of the futures exchanges and to itself perform market oversight and ensure that trading is orderly.

According to a former CFTC Chairman:

> The job of preventing price distortion is performed today by regulatory and self-regulatory rules operating before the fact and by threats of private lawsuits and disciplinary proceedings after the fact. Both elements are essential.

According to the CFTC:

> The heart of the commission's direct market surveillance is a large-trader reporting system, under which [the futures exchanges and brokers] electronically file daily reports with the commission. These reports contain the futures and option positions of traders that hold positions above specific reporting levels set by the CFTC regulations.

There are no protections against manipulation in the over-the-counter markets. Unlike the futures markets, the over-the-counter markets are not required to monitor trading to detect and deter fraud and price manipulation. Information that is routinely reported to the futures exchanges and the CFTC is not available to the over-the-counter exchanges or to the CFTC. Traders do not have to report large trades. There are no position limits or daily price limits. The over-the-counter markets lack all of the critical features of an effective program to detect and prevent price manipulation.

Over-the-counter energy derivatives are unregulated because of a provision that was added to a conference report at the last minute in an amendment to the Commodity Exchange Act in an omnibus appropriations bill at the end of the Congress in the year 2000. The Commodity Futures Modernization Act of 2000 was intended to clarify the regulation of financial instruments. Most of the provisions in the CFMA were based upon the recommendations contained in the Report of the President's Working Group on Financial Markets, Over-the-Counter Derivatives Markets and the Commodity Exchange Act, which was jointly issued in November 1999 by the Treasury Department, the Federal Reserve, the SEC, and the CFTC.

The working group recommended that financial derivatives be excluded from regulation under the CEA but that derivatives involving nonfinancial commodities with a limited supply, such as energy commodities, not be excluded.

The working group stated:

> Due to the characteristics of markets for nonfinancial commodities with finite supplies, however, the working group is unanimously recommending that the exclusion not be extended to agreements involving such commodities.

A unanimous recommendation of the working group and the House and Senate bills leading up to that conference in fact did not extend the exclusion to commodities transactions. Yet the exemption in the current law for trades in over-the-counter energy derivatives, the Enron exemption, somehow or another got inserted in that law at the eleventh hour during a House-Senate conference. This exemption was never considered by any committee. It was never discussed at any hearing. It was never commented on by interested parties. It was simply inserted in the conference report at the last minute. It is one of the reasons for the Enron mess that we have had to clean up after.

This amendment would correct that situation. It is essential we have this kind of transparency regulation in the commodities markets. I hope this amendment, which is a bipartisan amendment, will be adopted by this body and close the Enron loophole which was created in the dark of night, without any debate in this body, without any knowledge of this body, in a bill which this body had passed without such an exemption, in a bill which the House had passed without such an exemption, and yet the exemption showed up nonetheless in a conference report and helped to create the Enron disaster and mess which we have been trying to clean up ever since.

Exempting energy commodity trades from the CEA did not make sense when it happened in 2000. It would be irresponsible to continue it now, especially after we have seen how it facilitated the market fraud and manipulation by Enron and others.

The amendment before us would return the commodities law to the way it was for decades prior to the passage of the Enron exemption. It would ensure that fraud and price manipulation would be a felony, and it would remove ''the Enron exemption'' as a shield against regulation and prosecution. It would authorize the CFTC to establish recordkeeping requirements to enforce the anti-fraud and anti-manipulation prohibitions in the CEA.

This amendment also contains important provisions to improve FERC's ability to ensure the transparency and integrity of wholesale energy prices. It would direct FERC to establish an electronic price reporting system, strengthen the penalties for violations of the Federal Power Act and the Natural Gas Act, prohibit wash trading and other collusive and manipulative practices in wholesale energy markets, and clarify FERC's authority to fashion appropriate remedies in cases of wholesale price manipulation.

There is a great deal of support for this legislation.

Governor Jennifer Granholm, of my home State of Michigan, writes that, in the aftermath of the massive electricity blackouts that struck Michigan and large areas of the midwest and northwest this past summer, ''all necessary steps should be taken to bolster business and consumer confidence in the Nation's energy markets and promote additional investment in reliable energy delivery at a fair price.'' Governor Granholm says our language ''would improve energy price transparency in wholesale electricity markets, greatly increase criminal and civil penalties for trading violations, prohibit market manipulation and fraud in all energy market sectors, and strengthen day-to-day energy market oversight, including over-the-counter market transactions that significantly affect energy prices.''

The American Public Gas Association supports the amendment because ''it will improve market transparency and provide the essential regulatory oversight to detect and prevent manipulation and improve the efficiency of energy markets.''

Attorney General Eliot Spitzer, from the State of New York, urges swift

adoption of the amendment, writing that ''the amendment closes loopholes used to manipulate energy markets, improves the ability to detect fraud and other manipulation, and deters manipulation by establishing substantive penalties.''

The North American Securities Administrators Association, the association representing the securities administrators of the 50 States, supports this amendment because it ''would provide more transparency to the wholesale electricity markets, supply the CFTC with the authority to detect fraud and manipulation, and help to deter wrongdoing by significantly increasing the penalties for violations of the Federal Power Act.''

Consumers Union, the Consumer Federation of America, Public Citizen, and the U.S. Public Interest Research Group support this amendment. They state it ''would go a long way towards addressing the serious problems plaguing the Nation's energy markets.''

The Derivatives Study Center comments that ''this important legislation will assure that [energy commodities] will be covered by Federal prohibitions or fraud and manipulation. . . . It will subject [energy] derivatives to some of the same regulations that apply to securities, banking, exchange-traded futures and options and other sectors of U.S. financial markets.''

The National Association of State Utility Consumer Advocates writes that this legislation ''will help fix broken energy markets and given regulators the tools needed to protect consumers from market manipulators.''

One hundred and fifty years of history of our commodity markets demonstrates that market integrity and investor confidence will not magically spring up in markets that have been tainted by manipulation. That same history shows that fair and efficient markets do not emerge by themselves. Rather, regulation and oversight are necessary to ensure that markets are fair and efficient. Without fair and efficient, and that means transparent, energy markets consumers will pay higher prices for energy products, capital will be misallocated, and out national economy and energy security will be harmed.

This history also shows that a legal prohibition against commodity market manipulation, without more, does not deter or prevent manipulation. Continuous market disclosure and oversight are essential to halt manipulation before economic damage is inflicted upon the market and the public. This is why a major portion of the CFTC's budget and resources is devoted to oversight of the futures markets.

Although some enforcement actions have been brought following the manipulation of the western markets, these enforcement actions will do little to make whole the consumers and businesses that suffered billions of dollars in losses from those misdeeds. It would be far better to ensure that such abuses do not occur in the first place, rather than rely on the hope that a few of the manipulators are caught after the fact.

We cannot afford to have more Enrons, more manipulations, more frauds, and more flight of capital in the energy sector. It is imperative that we restore the integrity and credibility of our energy markets.

Our bipartisan amendment will help create fair and transparent energy markets that investors can trust.

Mr. President, I thank the Senator from California for her tenacity on this and so many other issues. But in this matter she and her State have suffered firsthand probably more than any other State as a result of this Enron loophole which she is so heroically and determinedly trying to close this afternoon.

Mrs. FEINSTEIN. I thank the Senator from Michigan. More than just thank him, I thank him for his brilliance and for his willingness to be part of this effort. I think Senator LEVIN is really one of the fine minds in this Senate. It has been a great delight for me to have the opportunity to work with him. I think he has helped us make this a much better bill. I thank him so much.

Mr. President, at this point I would like to read into the RECORD a colloquy between the two leaders, Senators FRIST and DASCHLE, which makes clear the parameters of this and why we are on the floor on this bill. If I may:

Senator DASCHLE: Mr. President, Senator FEINSTEIN has a market manipulation amendment that she was seeking a vote on. It is my understanding that the agricultural appropriations bill would be the appropriate bill for that amendment. I would inquire of the majority leader, should she offer her amendment to that bill, would she be assured of a vote on or in relation to her amendment with no second-degree amendments, prior to such vote?

The majority leader responds:

The Democratic leader is correct. If Senator FEINSTEIN offers her amendment to that bill, she will get a vote on or in relation to it.

I just offer that to clarify the present legal situation.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. LUGAR. Mr. President, I thank the distinguished Senator. I compliment her and I compliment Senator LEVIN on this work. I am pleased to be associated with them in this amendment.

I come to this amendment from an experience serving on the Agriculture Committee throughout the 27 years of my service in the Senate and 6 years as chairman of the committee. The Agriculture Committee spent a great deal of productive time working with the CFTC to make certain that the regulatory aspects with regard to trading were as strong and as just as possible. We did so, not in a sense of being punitive with regard to new markets and new innovations to weigh in on how American enterprise might flourish, but rather to try to give confidence to hundreds of thousands of traders and beyond—the farming community in particular—of our country. That was the basis for the creation of the Commodity Futures Trading Commission. We have had renewals of the CFTC during my tenure, and I believe we have improved upon the situation on each occasion.

Historically, energy has been exempted from CFTC regulations. I will not attempt to trace the history of why those exemptions occurred. But I will say, in the give and take of compromise as the legislation made its way through the committees of the House and the Senate, and conferences in consultation with the White House, on each occasion in which energy was about to be incorporated in a regulatory pattern, it was exempted as a final compromise in order to gain passage of legislation at one juncture or another. That turned out to be a fatal flaw.

The testimony before the Agriculture Committee, quite apart from testimony before other committees represented by the Senators here today, indicated it was not the entirety of the problem but certainly an example of the contribution of a very grave set of circumstances in which traders without particular scruples and with a minimum of regulation bankrupted each other, and unfortunately, a good number of other innocent parties in the process.

Even in the midst of all of this rubble, as we witnessed the whole thing collapsing, there were still brave spirits in committee and elsewhere who said: ''Let freedom rein; don't regulate anything that doesn't need regulating.'' But, of course, by that time, most of the market aspects of it—all the electronic aspects of it—the poles and the plugs, had literally been pulled.

I do not claim to understand the entirety of the complexities of how those markets work. At some point, if there are not people who can make good trades, you literally pull the plug and stop your electronic mechanism and the trading stops, and those who are still on the merry-go-round are out of luck.

There has always been the arguments that this is simply a subject for a few wealthy Americans to consider as they deal with each other. But that is not the case. The principal users of these markets are very wealthy people—people who ought to know better and who have proper legal or financial counsel so they don't make mistakes.

But there are other people who get involved. The ramifications of the energy markets are not just for private corporations but they branch out into services for communities and the governing systems of this country.

I appreciate very much those who will continue to advocate in the midst of all of the devastation which is apparent—and books are now being written about the difficulties. These books

will point out, as some already have, that the President's working group—whose members testified before the Agriculture Committee several times when I was chairman—let the markets go without regulation; and said if you have not regulated at this point, let them alone. I am here to advise the President and the member of this working group, that these markets do not work well without public confidence, and without a degree of transparency. If there is anything occurring in American financial markets now, anything encouraging to investors, it is the thought that finally many people in Government have come to their senses and realized a good number of things have been going on to undermine confidence in those markets. Those of conservative persuasion who favor the markets and believe markets work, have to take responsibility and make certain they do actually work. In order for them to work, markets must be just, and investors must understand that there are remedies, as opposed to pulling the plug, literally, and letting the trades flounder and bankruptcy ensue.

Mr. President, this is a very serious problem. I appreciate very much the persistence of the Senator from California in insisting that this issue needed to be raised again. She has raised it, and this is why I have come to the floor today in support of it.

I recognize the atmosphere in which we are involved in trying to come to grips with the Agriculture appropriation in such a short time frame. It is a necessity to complete our work.

This is not, perhaps, the most conducive manner to study this complex subject matter that Senators might require. However, I simply say, during my chairmanship, the Agriculture Committee studied this issue to a fault. Beyond circumstances I can control, I was no longer chairman, and the issue slid from the agenda. I do recall that we researched the issue, brought all the parties together, and held 2 days of study with experts on how future markets work. Many Members came to the conclusion that energy should be included, and it should be reformed. I pray that will occur.

The CFTC, I believe, is the logical repository, but I am not insistent upon that. The need for reform is at hand and this amendment advances that ball.

I yield the floor.

The PRESIDING OFFICER (Mr. HAGEL). The Senator from California.

Mrs. FEINSTEIN. Mr. President, I thank the Senator from Indiana. He has taken a position based on extraordinary knowledge, having served on that committee for 27 years, having been its chair, having seen what happened with the Commodity Futures Oversight Act.

In resisting, as he termed it, the movement just to have anything go, let anything go, if they are not regulated, let it go that way, he realizes the American people are not well served and the investment community is not well served when every day you pick up a newspaper and someone else is being arrested for fraud or manipulation. Our laws can prevent that from happening.

I thank the Senator very much. You have been terrific. Your support is very meaningful to us.

I have stated in the Senate numerous times it is the duty of this Congress to make sure our regulators have all the authority they need to prevent fraud and manipulation in the energy markets. Simply put, this is what our amendment does.

Enron remains the perfect example of how the systems were so easily gamed. After Enron successfully lobbied for an exemption to the Commodity Futures Modernization Act in 2000, they and others in the energy sector quickly took advantage of this new freedom by trading energy derivatives absent any transparency and regulatory oversight. In other words, in secret. Thus, after the 2000 legislation was enacted, Enron began to trade energy derivatives literally without being subject to proper regulatory oversight. That is how all these schemes came about. Some hotshot trader, sitting in front of his computer, found a way to evolve a strategy for the fraudulent and manipulative action of the marketplace. They let these various strategies play out.

Unlike the NASDAQ, from which timely electronic trade reports are available to the public, even prior to its transparency-enhanced reforms in 1997—in 1997, the NASDAQ reformed itself to make their traders more transparent—EnronOnline did not offer timely reporting of executions. This means EnronOnline provided no data regarding recently executed transactions. Consequently, even after the trades, basic market information was not provided to market participants.

It should not surprise anyone that without basic transparency, without the ability to see what is happening, prices would soar. What interests me is they did and yet there is still resistance to this legislation.

In 2 years, Enron's derivatives business had been a stand-alone company. It would have been the 256th largest company in America. That year, according to author Robert Bryce, Enron claimed it made more money from its derivatives business, $7.23 billion, than Tyson made from selling chickens. That is huge, if you think about it. Think what that means. This segment of the market in one year made $7 billion and nobody knew how. No one knew what the trades were. They were all in secret. Nothing was registered. There was no audit trail. There was no antifraud, antimanipulation oversight. Boom. It happened.

EnronOnline rapidly became the biggest platform for electronic energy trading. But unlike the regulated exchanges, such as the New York Mercantile Exchange, the Chicago Mercantile Exchange, and the Chicago Board of Trade, EnronOnline was not registered with the CFTC. So Enron set its own standards. In other words, it had a very secure, quiet, protected niche on the market.

Others have tried to replicate that. The banks, for example, Senator LEVIN said, devised something called the IntercontinentalExchange so they could do the same thing Enron has done. It is wrong.

Traders and others in the energy sector came to rely on EnronOnline for pricing information. Yet the company's control over this information and its ability to manipulate it was tremendous. As author Robert Bryce went on to describe—and this is very colorful and true—Enron did not just own the casino. On any given deal, Enron could be the house, the dealer, the oddsmaker, and the guy across the table you are trying to beat in diesel fuel futures, gas futures, or the California electricity market. You tell me that is a good situation?

You tell me this Senate and this Congress should let that happen. We should not. That is just plain wrong. Those who want to protect this secret niche are just dead wrong. It is not in the American people's interest to have a secret trading niche that can be an empire for fraud and manipulation. We need to protect consumers from future Enron-like scams because they are going to happen.

Now, was Enron and its energy derivative trading arm, Enron Online, the sole reason California and the West had an energy crisis? Absolutely not. Was it a continuing factor to the crisis? I certainly believe that evidence has shown it was.

Unfortunately, because of the energy exemptions in the 2000 Commodity Futures Modernization Act, which took away the CFTC's authority to investigate, we may never know for sure. In other words, quite purposely, this Congress, in 2000, let this secret world be created and said: We are going to take energy and metals out of the entire trading regulatory structure and we are going to let them go ''on operating'' on their own, without the proper oversight. That is exactly what happened. It is just plain wrong.

I repeat, once again, the amendment we offer will subject electronic exchanges such as EnronOnline to the same oversight as other commodity exchanges, such as the Chicago Mercantile Exchange, the New York Mercantile Exchange, and the Chicago Board of Trade—no more, no less. Without this type of legislation, there is insufficient authority to investigate and prevent fraud and price manipulations since parties making the trade are not required to keep a record.

This amendment is not going to do anything to change what happened in California and the West. That is done. But it does provide the necessary authority for the CFTC to protect other parts of this country against this kind of thing happening again. And it well could happen.

Nobody thought we would ever see the kind of event that blacked out most of the east coast and the Midwest, but we did. Nobody thought we would ever see what happened in the West, but we did. Nobody ever thought anybody would come up with schemes like ''Ricochet,'' ''Death Star,'' ''Get Shorty,'' ''Fat Boy,'' but they did. Nobody thought they could use them to commit a manipulation of the market, but they did.

I will leave you with one fact: The total cost of electricity in California in 2000 was $7 billion. The cost the next year was $28 billion. Does anyone believe that market forces—namely, supply and demand—could account for a 400-percent increase in the cost of electricity in a year? The answer has to be no. The answer has to be that bad things were done.

So we have worked on this amendment. I sit on the Energy Committee. I have tried to pay a great deal of attention to these matters, to follow this, and I am absolutely convinced that America and the business climate of America is much better off when things are transparent, when there are records kept, when there is a regulatory authority that can say: Whoa. Something may be going haywire. Let's take a look at it. That is all we do—no more and no less than for any commodity.

I wish to say one other thing. A financial derivative is not like an energy derivative. For people to confuse this and say it affects financial derivatives is not right. Energy is a finite commodity. There is a beginning and there is an end, and it is different from a financial derivative.

Mr. President, may I ask how much time our side has remaining?

The PRESIDING OFFICER. The Senator from California has 32 minutes remaining.

Mrs. FEINSTEIN. Thank you. I retain the remainder of my time.

I yield the floor.

The PRESIDING OFFICER. The Senator from Utah.

Mr. BENNETT. Mr. President, I yield half an hour to the Senator from Idaho.

Just a moment, Mr. President. I was unaware that the Senator from Mississippi was on the floor. He was hiding behind me. So I yield 15 minutes to the Senator from Mississippi.

The PRESIDING OFFICER. The Senator from Mississippi is recognized.

Mr. COCHRAN. Mr. President, thank you very much. I thank the chairman very much for yielding me this time.

Mr. President, the Feinstein amendment suggests a significant change in the regulatory regime that exists today for energy markets.

My understanding of the Senator's amendment is that it would, for the first time, require regulation of off-exchange energy derivatives. These complex instruments, used to transfer risk among sophisticated traders, are vital tools in today's energy trading environment.

The Commodity Futures Trading Commission exempted off-exchange energy derivatives from regulation in 1993. The Congress codified this exemption, largely without change, as part of the Commodity Futures Modernization Act of 2000. The Congress considered regulating off-exchange energy derivatives when it debated the modernization act but chose not to do so because of the disruption new burdensome regulation would cause to these sophisticated traders.

Senators should remember that the distinguished Senator from California initially offered an amendment similar to the one before us today during last year's Senate debate on the Energy bill. On April 10, 2002, the Senate voted 48 to 50 not to invoke cloture on this initial version of the Feinstein amendment. Senator FEINSTEIN tried again with a new version of her amendment in June of this year, again during debate on the Energy bill. On June 11, 2003, the Senate tabled this amendment by a vote of 55 to 44. It should be noted that the second version of her amendment received four fewer votes than the first version. Now we have before us a third version of the Feinstein amendment.

Senators may remember from the debate last summer on the second version of the Feinstein amendment that I read into the RECORD a June 11, 2003, letter from the President's Working Group on Financial Markets. In that letter, Alan Greenspan, Chairman of the Federal Reserve; John Snow, Secretary of the Treasury; William Donaldson, Chairman of the Securities and Exchange Commission; and James Newsome, Chairman of the Commodity Futures Trading Commission, all expressed opposition to the Feinstein amendment.

The letter warned that the Feinstein amendment would have significant unintended consequences for this important risk management market. It also pointed out that the Commodity Futures Trading Commission has brought formal legal actions against Enron, Dynegy, and El Paso for market manipulation, wash—or round-trip—trades, false reporting of prices, and operation of illegal markets.

The Securities and Exchange Commission, the Federal Energy Regulatory Commission, and the Department of Justice have also initiated formal actions in the energy sector. Some of these actions have already resulted in substantial monetary penalties and other sanctions and make clear that wrongdoers in the energy markets are fully subject to the existing enforcement authority of Federal regulators.

To my knowledge, the President's working group has not changed its position on this latest version of the proposal of the Senator from California.

Finally, the Feinstein amendment may create regulatory uncertainty for off-exchange energy derivatives from multiple Federal agencies. On one hand, the amendment before us requires the Commodity Futures Trading Commission to regulate off-exchange energy market derivative transactions. However, the amendment also contains a provision that appears to preserve the Federal Energy Regulatory Commission's authority in this market. At a minimum, the amendment appears to muddy the regulatory water with respect to this market.

Remember, the CFTC has antifraud authority. It has brought legal actions against Enron, El Paso, Dynergy, and others regarding energy market problems. It has recovered millions of dollars in fines from these companies. It has numerous ongoing investigations in this area. And more charges are possible. The Senator from California has said that her amendment is needed to prevent wash trades. The CFTC has wash trade authority. It has specific authority under section 4 of the CEA. The CFTC has brought several wash trade actions in the last several years, and its authority to do so has been upheld recently by two U.S. appeals courts. Just this year, the Commodity Futures Trading Commission has recovered tens of millions of dollars from merchant energy traders for wash trades and false trades.

It has also been suggested by the Senator that because exempt commercial markets such as the InterContinentalExchange are exempt from regulation under the Commodity Exchange Act that they have no regulatory oversight. These markets are subject to many regulatory requirements. They are required by statute to have an electronic audit trail. They are required by statute to keep records for 5 years. They are subject to antifraud and antimanipulation authority under the CFTC's jurisdiction. They are subject to special call examinations by the commission as well.

This amendment would impose large trader reporting on exempt commercial markets. Large trader reporting works on retail futures exchanges with standardized contracts but wouldn't work on exempt commercial markets which do not have the same type of standardization. Large trader reporting on exempt commercial markets could actually lead to misleading information being provided to the public. Large trader reporting is used for market surveillance in retail futures markets.

The Commodity Futures Trading Commission's statutory authority for exempt commercial markets is after-the-fact antifraud and antimanipulation enforcement and is, therefore, inconsistent with a large trader reporting scheme.

For these reasons, which I think are very compelling, the Senate should reject this amendment.

I ask unanimous consent to print in the RECORD the text of a letter that went out to all Senators signed by myself, Senator PETE DOMENICI, Senator MIKE CRAPO, and Senator ZELL MILLER on this subject, along with enclosures which are letters addressed to Senators CRAPO and MILLER from the Department of the Treasury, Board of Governors of the Federal Reserve System,

signed by John W. Snow, Alan Greenspan, William Donaldson, and James E. Newsome, along with a Department of the Treasury letter, dated September 18, 2002, to these same two Senators, Mr. CRAPO and Mr. MILLER.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

OPPOSE FEINSTEIN DERIVATIVES AMENDMENT TO AGRICULTURE APPROPRIATIONS BILL

DEAR COLLEAGUE: We are writing to express our opposition to the Feinstein Derivatives Amendment to the Agriculture Appropriations bill. This amendment has been defeated twice before on a motion to invoke cloture in April 2002 (48–50) and most recently on a motion to table in June 2003 (55–44).

The amendment before us today is an up or down vote. The amendment would significantly modify portions of the Commodity Futures Modernization Act of 2000 (CFMA) and re-introduce legal uncertainties into derivatives markets. It is our understanding that the amendment's goal is to provide additional regulatory oversight to the over-the-counter (OTC) energy derivatives markets in light of the California energy crisis and Enron's bankruptcy; however to date, there is no evidence that derivatives caused either crisis.

Attached please find copies of two letters from the President's Working Group. The 2002 letter discusses reasons why the derivatives amendment is not warranted and urges Congress ''to be aware of the potential unintended consequences of current legislative proposals.'' The 2003 letter discusses all the civil, criminal and enforcement actions taken by the various federal agencies against the wrongdoers in the energy markets since Enron and specifically highlights the CFTC's actions.

Finally, the Energy Policy Act of 2003 will address many of the provisions in Senator Feinstein's proposed legislation, including increased protection against fraud and manipulation, which addresses the Enron-On-Line problem, a ban on roundtrip trading, and increased penalties for violations of the Federal Power Act and Natural Gas Act. Any attempt to undermine the Energy bill by adding similar provisions to the Agriculture Appropriations legislation is unnecessary and we strongly oppose this effort.

Sincerely,

THAD COCHRAN.
MIKE CRAPO.
PETE DOMENICI.
ZELL MILLER.

Attachments.

DEPARTMENT OF THE TREASURY, BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM, U.S. SECURITIES AND EXCHANGE COMMISSION, COMMODITY FUTURES TRADING COMMISSION,

June 11, 2003.

Hon. MICHAEL D. CRAPO,
U.S. Senate, Russell Senate Office Building, Washington, DC.
Hon. ZELL B. MILLER,
U.S. Senate, Dirksen Senate Office Building, Washington, DC.

DEAR SENATORS CRAPO AND MILLER: Thank you for your letter of June 10, 2003, requesting the views of the President's Working Group on Financial Markets (PWG) on proposed Senate Amendment #876 to S. 14, the pending energy bill. As this amendment is similar to a proposed amendment on which you sought the views of the PWG last year, we reassert the positions expressed in the PWG's response dated September 18, 2002, a copy of which is enclosed. The proposed amendment could have significant unintended consequences for an extremely important risk management market—serving businesses, financial institutions, and investors throughout the U.S. economy. For that reason, we believe that adoption of this amendment is ill-advised.

We would also point out that, since we wrote that letter last year, various federal agencies have initiated actions against wrongdoing in the energy markets. As you note, the CFTC has brought formal actions against Enron, Dynegy, and El Paso for market manipulation, wash (or roundtrip) trades, false reporting of prices, and operation of illegal markets. The Securities and Exchange Commission, the Federal Energy Regulatory Commission, and the Department of Justice have also initiated formal actions in the energy sector. Some of these actions have already resulted in substantial monetary penalties and other sanctions. These initial actions alone make clear that wrongdoers in the energy markets are fully subject to the existing enforcement authority of federal regulators.

The Commodity Futures Modernization Act of 2000 brought important legal certainty to the risk management marketplace. Businesses, financial institutions, and investors throughout the economy rely upon derivatives to protect themselves from market volatility triggered by unexpected economic events. This ability to manage risks makes the economy more resilient and its importance cannot be underestimated. In our judgment, the ability of private counterparty surveillance to effectively regulate these markets can be undermined by inappropriate extensions of government regulation.

Yours truly,

JOHN W. SNOW,
Secretary, Department of the Treasury.
ALAN GREENSPAN,
Chairman, Board of Governors of the Federal Reserve System.
WILLIAM H. DONALDSON,
Chairman, U.S. Securities and Exchange Commission.
JAMES E. NEWSOME,
Chairman, Commodity Futures Trading Commission.

DEPARTMENT OF THE TREASURY, BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM, U.S. SECURITIES AND EXCHANGE COMMISSION, COMMODITY FUTURES TRADING COMMISSION,

September 18, 2002.

Hon. MICHAEL D. CRAPO,
U.S. Senate, Russell Senate Office Building, Washington, DC.
Hon. ZELL B. MILLER,
U.S. Senate, Dirksen Senate Office Building, Washington, DC.

DEAR SENATORS CRAPO AND MILLER: In response to your letter of September 13, we write to express our serious concerns about the legislative proposal to expand regulation of the over-the-counter (OTC) derivatives markets that has recently been proposed by Senators Harkin and Lugar.

We believe that the OTC derivatives markets in question have been a major contributor to our economy's ability to respond to the stresses and challenges of the last two years. This proposal would limit this contribution, thereby increasing the vulnerability of our economy to potential future stresses.

The proposal would subject market participants to disclosure of proprietary trading information and new capital requirements. We do not believe a public policy case exists to justify this governmental intervention. The OTC markets trade a wide variety of instruments. Many of these are idiosyncratic in nature. These customized markets generally do not serve a significant price discovery function for non-participants, nor do they permit retail investors to participate. Public disclosure of pricing data for customized OTC transactions would not improve the overall price discovery process and may lead to confusion as to the appropriate pricing for other transactions, as terms and conditions can vary by contract. The rationale for imposing capital requirements is unclear to us, and the proposal's capital requirements also could duplicate or conflict with existing regulatory capital requirements.

The trading of these instruments arbitrages away inefficiencies that exist in all financial and commodities markets. If dealers had to divulge promptly the proprietary details and pricing of these instruments, the incentive to allocate capital to developing and finding markets for these highly complex instruments would be lessened. The result would be that the inefficiencies in other markets that derivatives have arbitraged away would reappear.

It is also unclear who would benefit from the proposed disclosures and regulations other than whoever simply copied existing products and instruments for their own short-term advantage. Weakening the protection of proprietary intellectual property rights in the market arena would undercut a complex of highly innovative markets that is among this nation's most valuable assets.

While the derivatives markets may seem far removed from the interests and concerns of consumers, the efficiency gains that these markets have fostered are enormously important to consumers and to our economy. We urge Congress to protect these markets' contributions to the economy, and to be aware of the potential unintended consequences of current legislative proposals.

Yours truly,

PAUL H. O'NEILL,
Secretary, Department of the Treasury.
ALAN GREENSPAN,
Chairman, Board of Governors of the Federal Reserve System.
HARVEY L. PITT,
Chairman, U.S. Securities and Exchange Commission.
JAMES E. NEWSOME,
Chairman, Commodity Futures Trading Commission.

The PRESIDING OFFICER. The Senator from Utah.

Mr. BENNETT. I yield a half an hour to the Senator from Idaho.

The PRESIDING OFFICER. The Senator from Idaho is recognized.

Mr. CRAPO. Mr. President, I rise to address the Feinstein amendment, as the Senator from Mississippi has indicated, for the third occasion that we have debated this issue in this Congress. It is important to note that each time this amendment has been raised, it has been defeated. Each time the amendment has been raised, it has been opposed by those in the regulatory community—again as has been indicated by the Senator from Mississippi—whether it be the CFTC, the Department of the Treasury, the Board

of Governors of the Federal Reserve, or others. The fact is that consistently those who are in charge of regulating, overseeing, and managing our economy and our financial markets have been opposed to this amendment. The question that we must ask ourselves is, Why?

To do so it is important to go back over the history of this act. The Commodity Futures Modernization Act that we are debating is one with which we have had a long history of dealing in this Congress. In fact, before 2000, when President Clinton was in office, a President's working group was established which brought together experts from across the industry, not only those who were in the financial industries, but those who were regulating the financial industries, those we have already mentioned. The Secretary of the Treasury, the Commodity Futures Trading Commission, the Board of the Federal Reserve, and others were a part of this Presidential working group. Those who were involved in this Presidential working group looked at all the different commodities that we deal with, the different types of manners in which we deal with these commodities, and came up with an approach to how we should reform and modernize our law to best take advantage of the types of trading contexts or trading ideas that were utilized in the management and trading of commodities.

It is a difficult subject to talk about because it is so complicated. The bottom line is that this act was then put forward. It was brought forward on a bipartisan basis in Congress, studied extensively by congressional committees after the Presidential committee brought forward its recommendations. And in the year 2000, reforms of the act were implemented.

The amendment seeks to change the structure of regulation that this act established. The first time this challenge to the act was brought forward, we had occasion to have Mr. Greenspan before the Banking Committee. Mr. Greenspan was asked in his testimony what the proposed amendment would mean and what this concept of derivatives, that most people in America don't really get very engaged with, meant to our economy. I was the one who asked the question at that time.

Mr. Greenspan's answer is very illuminating. He said, in his opinion, increasing the regulation and changing the scheme for regulating the management and the trading in derivatives from that which had been put together by the President's working group and approved by Congress would actually increase the threat to our economy. In fact, he pointed out that a very simple way to understand derivatives is that they are a tool by which sophisticated participants in the market are able to allocate risk so that those who are better able to bear it can pick it up, and that by being an instrument or a tool through which we allocate risk in our economy, the American economy actually was able to respond more quickly, more resiliently, and more effectively to the threats that have faced it over the last few years.

Had we not had the capacity for derivatives transactions between sophisticated buyers, had that been regulated and diminished or pushed offshore because the United States chose to regulate it so aggressively, we would not have had the resilience and the response in our economy that we had.

We would have had a deeper trough and a more difficult recovery. Again, this amendment seeks to change that regulatory system Congress and the President and his working group so carefully put together.

How did that act work? Well, the act created three different categories of derivatives transactions. The first category that was fully covered and is on an exchange—regulated exchange—where the first category was the category of agricultural transactions. Those transactions are fully regulated and fully covered under the act.

The act identified certain types of transactions that should not be covered at all and should have no regulatory impact. Those were called financial derivatives. They include things such as treasury bonds, foreign exchange, or interest rates—those types of transactions that occur in the financial markets, and it was concluded they should not have any regulation. They were simply excluded from the act.

A middle category was created for all other kinds of transactions. We have, on the one hand, agricultural transactions, which are fully covered. On the other hand, we have financial transactions, which are fully excluded and, in the middle, all other types of commodities, where the energy transactions fall. It has been argued today that these energy transactions simply are not covered. In fact, the phrase that has been used is one that would imply those engaged in energy derivatives transactions simply don't have any regulatory coverage at all. The phrase ''let anything go'' has been used, or it has been said there is literally no antifraud or antimanipulation provision or protection in the law regarding these types of transactions. That simply is not the case. This middle type of transaction was not put on an exchange because these are not the kinds of transactions that general investors in the market get involved with. These are highly sophisticated transactions, detailed negotiations between very sophisticated buyers and sellers, accomplishing this result which I talked about earlier of trading and exchanging risk. It is done in such a way that it doesn't effectively work on an exchange. That is why in this middle category the exchange was not included, but regulation for price reporting, antiprice manipulation, antimarket manipulation, and antifraud protection was included. So it is simply not correct to say those engaged in energy transactions—derivatives transactions—are not subjected to antifraud, antimanipulation, or price-reporting requirements. They are, which brings to bear the question of why we need to change this system of regulation.

Again, on the floor today, as has been the case in the past each time we have debated it, the argument has been made that the Enron transaction or the Enron problem would not have been a problem had we had the aggressive kind of antifraud and antimanipulation this amendment proposes to create. Well, again, when we have had experts before us, and as has been said on the floor already by others, the Agriculture Committee and other committees have studied this very carefully. The experts have said to us there is no indication the lack of regulatory authority, if such exists, was any cause for what happened with Enron, and the lack of having regulated derivatives transactions, in terms of putting them on an exchange, or failure to have further fraud or antiprice manipulation and enforcement authority, was the cause of what happened with regard to the Enron transaction.

As a matter of fact, I asked that same question, when this issue first came up, to Alan Greenspan. He, among many others, has indicated there is no evidence the failure to have more rigorous regulatory schemes in place on derivatives transactions would have stopped Enron from doing exactly what it did.

Nobody is saying Enron did not violate the market, that Enron did not engage in price manipulation, that Enron did not engage in these wash transactions, that Enron did not engage in fraudulent behavior. The fact is, Enron did engage in these types of activities. The fact is the CFTC is currently investigating and enforcing its antifraud and antimanipulation enforcement authority against Enron and others in the market who might engage in these types of activities.

The point is, as we proceed, we must understand whether what happened in terms of the Enron circumstance was as a result of the law not being strong enough or was simply the result of the fact that Enron violated the law. The fact is Enron did violate the law, those violations are being identified, and something over $90 million in fines and penalties against Enron and other market violators have already been enforced.

Again, the point is enforcement is occurring. Why should we be concerned about adding a further regulatory scheme on top of that which is already in place? It gets back to the point Alan Greenspan made in that first hearing, where I first asked him about the issue; that is, we have a need in this country for resilience in our marketplace, in terms of allocation of risk.

Our management of derivatives is critical in terms of how well we

achieve that objective. If we want to increase the regulatory burden and increase the potential of diminishing our ability in the market to have the benefit of these very important types of transactions, then we better have a very good reason for doing so. If we want to have the benefit of a resilient marketplace, where derivatives transactions can occur between sophisticated buyers and sellers, then we want to be very careful about how we regulate it or overregulate it.

I agree with anybody who says we want to make sure there should be antiprice manipulation or antifraud provisions in place. We should have those kinds of protections in place. But we should be very careful that, as we implement this type of regulatory scheme, we don't drive offshore derivatives transactions or cause a loss of resilience in our marketplace because we overregulate these important transactions.

I note the chairman is looking to perhaps intervene here to conduct other business. I will reserve the remainder of my time.

ORDER OF PROCEDURE

Mr. BENNETT. Mr. President, I ask unanimous consent that the vote in relation to the Feinstein amendment No. 2083 occur at 2:30 today; provided that no second-degree amendments be in order to the amendment prior to the vote, with the time until then equally divided in the usual form. I further ask unanimous consent that following that vote, the Senate proceed to a vote on passage of H.R. 2622, the Fair Credit Reporting bill. I also ask as in executive session that the Senate then proceed to executive session and an immediate vote on the confirmation of calendar No. 402, Roger Titus to be U.S. District Judge for the District of Maryland; provided further, that following that vote the President be immediately notified of the Senate's action and the Senate then resume legislative session. Finally, I ask unanimous consent that there be 2 minutes equally divided for debate prior to each of the votes following the first vote.

Mr. REID. Mr. President, I wonder if my friend will modify his request to have the votes following the first vote be 10 minutes in length.

Mr. BENNETT. I am happy to have the second two votes be 10-minute votes.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. BENNETT. Mr. President, I ask the Senator from Idaho if he has further comments.

Mr. CRAPO. I do. I will need 3 or 4 or 5 minutes.

Mr. BENNETT. I yield 5 more minutes to the Senator from Idaho.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAPO. Mr. President, I want to conclude by once again going over the material that has already been put into the record by Senator COCHRAN from Mississippi.

As I indicated, as we have gone through this battle—now the third time—and the debate over whether we should change the manner in which we address derivatives transactions in this country, each time those who are charged with regulating and overseeing these types of concerns have weighed in in opposition to this amendment. I simply want to go through some of the points they have made from the materials. Again, they are already a part of the record.

The first time we debated this amendment, back in September, a letter was submitted by Alan Greenspan, Chairman of the Board of Governors of the Federal Reserve System, Paul O'Neill from the Department of Treasury, Mr. Harvey Pitt, Chairman of the U.S. Security and Exchange Commission, and James E. Newsome, Chairman of the CFTC.

In their letter at that time, they pointed out that this proposal would subject market participants to disclosure of proprietary trading information and new capital requirements.

The capital requirements, I understand, have been dropped in this amendment. But as they go forward, they explain they don't believe a case exists in public policy to justify this increased level of Government intervention.

The OTC markets, they state, trade a wide variety of instruments. Many of them are idiosyncratic in nature. They are customized markets and do not generally serve a significant price discovery function for nonparticipants, nor do they permit retail investors to participate.

Again, this is not a market in which general investors participate. Highly sophisticated investors engage in these transactions. There has been some debate they have actually created the market through wash transactions and other activity. My point is that type of manipulation, either through manipulating a price or through other activities, such as wash trades, is already regulatable and being addressed by the CFTC.

They go on to make the point: The trading of these instruments arbitrages away the inefficiencies that exist in all financial and commodities markets, and that we should not cause increased regulatory burdens on those important functions in our economy.

Then again in June, when we addressed this issue last, the same group responded again to the same proposal. They wanted to point out then that with regard to the argument there was all of this bad activity taking place and we needed to pass new laws to stop this bad activity, the same group of regulators—the Treasury, the Federal Reserve System, the Securities and Exchange Commission, and the CFTC—stated they have brought formal actions against Enron, Dynegy, and El Paso for market manipulation, wash or roundtrip trades, false reporting of prices, and operation of illegal markets, and these actions have already resulted in substantial monetary penalties and other sanctions.

Again, the point there is, as I made earlier, that we are enforcing the existing regime.

Lastly, if there is still concern that we don't have enough protection in the law, our current chairman of the Energy Committee, Senator PETE DOMENICI, and those who are working with him from the Agriculture Committee, and others are beefing up those protections in the current law.

A letter which, again, the Senator from Mississippi has already put in the RECORD, coming from Senator COCHRAN, myself, Senator DOMENICI, and Senator MILLER, explains that the Energy Policy Act, which we are now working through in conference, will contain increased protection against fraud and price manipulation which addresses the EnronOnline problems that have been raised by the Senator from California.

Even if the current situation in the law was not already satisfactory, we are increasing the antifraud and antimanipulation provisions to make certain that any concerns about this possibility occurring again are addressed as we focus the regulation without trying to do something to our derivatives markets that would cause a reduction in the resiliency of U.S. markets.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Utah.

AMENDMENT NO. 2084

Mr. BENNETT. Mr. President, I send an amendment to the desk on behalf of myself and Senator KOHL and ask for its immediate consideration.

The PRESIDING OFFICER. Is there objection?

The Senator from California.

Mrs. FEINSTEIN. Is this meant to be an amendment to my amendment?

Mr. BENNETT. No, the unanimous consent agreement, I say to the Senator from California, is that no second-degree amendments are in order to her amendment.

Mrs. FEINSTEIN. Correct.

Mr. BENNETT. This is a freestanding amendment separate and apart. If the Senator from California prefers, I can wait until after the vote to offer this amendment. This is a housekeeping action.

Mrs. FEINSTEIN. Will the Senator be quick? I want to address some of the comments that have been made.

Mr. BENNETT. I will, indeed.

The PRESIDING OFFICER. Is there objection to the consideration of the amendment?

Without objection, the clerk will report.

The bill clerk read as follows:

The Senator from Utah [Mr. BENNETT], for himself and Mr. KOHL, proposes an amendment numbered 2084.

Mr. BENNETT. 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:

On page 79, between lines 7 and 8, insert the following new section:

''SEC. . Statements made by the Chairman and/or Ranking Member of the Agriculture Appropriations Subcommittee, and colloquies engaging the Chairman and/or Ranking Member of the Agriculture Appropriations Subcommittee, given on the Senate Floor or submitted for the Record during Senate consideration of this Act shall be deemed part of Senate Committee Report 108–107 for purposes of conference with the House of Representatives.''.

Mr. BENNETT. Mr. President, this amendment provides that statements made by Senator KOHL and myself, as well as colloquies we have with our colleagues during consideration of this bill would be germane for conference with the House. I urge adoption of this amendment.

The PRESIDING OFFICER. Is there further debate?

If not, the question is on agreeing to the amendment.

The amendment (No. 2084) was agreed to.

Mr. KOHL. I move to reconsider the vote.

Mr. BENNETT. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Who yields time?

The Senator from California.

AMENDMENT NO. 2083

Mrs. FEINSTEIN. Mr. President, I would like to try to respond to some of the comments that have been made.

I believe the CFTC has antifraud and antimanipulation oversight on futures exchanges but not on over-the-counter energy trades. That is the difference here. We would cover over-the-counter energy trades and particularly those trades that are electronic.

I also want to show where existing law is inadequate. There is a case that has just been brought to my attention which I think shows that the existing law is inadequate, and this is what we are trying to fix.

Two energy traders from the energy firms Dynegy and El Paso were charged by the U.S. Government with reporting false information on a number of trades—at least 48 trades. They falsely reported the number and the prices used in trades they conducted involving natural gas in an attempt to influence the natural gas spot price indices.

The Federal indictment charged them, among other matters, with wire fraud and violation of the Commodity Exchange Act, which is what we are talking about, provisions prohibiting price manipulation and dissemination of false information about energy commodity rates.

The Federal court allowed the wire fraud charges, but it dismissed the Commodity Exchange Act charges on the ground that the wording of the act failed to prohibit persons from knowingly providing false information. While the CEA used the word ''knowingly'' in an earlier part of the provision, the court ruled that the word had to be repeated in the section prohibiting false information.

The Feinstein-Lugar-Levin amendment would clarify the wording of the CEA provision to resolve the problem identified by this Federal district court in the case of the United States of America v. Michelle Valencia, Criminal Action No. 8–03–024.

That is a pretty clear indication of where present law is not adequate. These were bogus trades. These trades never took place. There were totally bogus, and yet the wording in the Commodity Exchange Act, which we are trying to fix, was judged by the court as too vague to take any action.

Second, I want to make this point: What we are trying to do is prevent fraud and manipulation. We are trying to prevent it and deter it from happening. The soft penalties we have now don't prevent it. That should be very clear. We toughen the penalties in the Electricity Act and in the National Gas Act. Clearly, a number of these schemes that Enron practiced, whether it was Death Star, Ricochet, or Black Widow, or any of these other terrible schemes, took place. Our bill would specifically prevent them.

We are trying to prevent and deter, and the way we do that is by strengthening the law.

I am really puzzled by the administration's position. I am really puzzled because it seems to me they should be on the side of the American people, not on the side of the traders and those who want to get rich quick from this open marketplace.

Additionally, it is interesting to me that the President's working group, when it came out in 1999, specifically said:

''Due to the characteristics of markets for nonfinancial commodities with finite supplies''—that is energy—''however, the working group is unanimously recommending that the exclusion''—the exclusion from the bill—''not be extended to agreements involving such commodities.''

So beginning in the year 2000, they have done a total switch and I do not understand why, particularly after the events of 2000 and 2001, where we know fraud and manipulation was explicit. Now when the Government tries to go after two companies for bogus trades, a court finds the Commodities Exchange Act is inadequate; it is vague.

Why would people oppose what we are trying to do? I think we are on the side of the angels.

Let me quickly go over some points. Why do we need this legislation? We need it because companies are now permitted to trade large amounts of energy in virtually unregulated markets, which makes it easier for unscrupulous companies such as Enron to manipulate the price of energy. The bill would close the Enron loophole that allows this unregulated trading.

Secondly, do we have any examples of how these markets have been manipulated? FERC recently released a 1-inch thick report on how the markets for electricity and natural gas in the western United States were manipulated in 2000 and 2001. So we know it happened. The FERC found Enron and other companies lied about the prices of their trades, reported fictitious trades to drive up prices, did wash trades with each other, and engaged in rapid trading to drive prices up and then back down, reaping millions of dollars of profits in the process and costing customers billions of dollars in unjustified energy costs. That is according to FERC. That is a finding in their study. Yet people still oppose this legislation. Unbelievable.

Would this legislation have prevented these manipulations? Under current law, the CFTC is totally in the dark about what goes on in the over-the-counter markets. Under this legislation, manipulation in these markets would be a felony and the CFTC would get reports about large trades in the over-the-counter markets, so it would be able to monitor these markets, something it cannot do now. Should anybody be able to escape from ongoing monitoring of what they do in these markets, big traders? I do not think so. Yet they are in this little loophole that was created. That was the purpose of the loophole, to prevent anybody from looking; keep no records. Therefore, they are not going to be able to catch us, and there will be a weak law so it will not be sustained in court when they try to bring a case.

Another question: Enron is bankrupt. A number of traders have been fined and energy trading is back on the rise. The marketplace seems to be correcting itself. Why is this legislation needed?

It is needed to avoid more problems like we have just had. Although everything mentioned in the question I just asked may be true, there is one other significant fact. The consumers and businesses that paid higher prices have only recovered a small fraction of their losses. It is better to prevent the manipulation and the losses from happening than try to make up for them after they take place. That is the point. What our agencies have shown is there is, up to this point at least, no way for an aggrieved marketplace to recover its losses from fraud and any manipulation. Therefore, it should be our job to see the laws are accurate and in place to prevent this kind of activity from taking place in the beginning. That is where increasing the penalties comes in.

Imagine, a $2,000 penalty for doing this. That is nothing. That is not even a slap on the wrist for multibillion-dollar companies.

How does one respond to the concerns that this legislation will increase costs and uncertainty and scare off investment in the energy markets? It will not. The regulated U.S. commodities

markets are the most successful and reliable in the world. Ever since the agricultural exchanges were first regulated, we have heard dire predictions from commodities traders that regulation will drive business overseas. In fact, the opposite has happened. We have seen a flight to quality as investors seek safe and reliable markets. That is a fact. This helps the market.

Many traders and energy companies have said the actual cost of compliance with this legislation will be minimal.

The final question: Why should energy derivatives be regulated differently or more stringently than financial derivatives? Because we do not touch financial derivatives. Mr. Greenspan, please know that.

The price of energy derivatives can be manipulated by manipulating the supply of the underlying energy commodity. The price of financial derivatives is very difficult to manipulate because it is difficult to manipulate the price of financial measures underlying the instruments, which generally are not commodities but abstract financial measures such as interest rates and currency exchange rates.

Then again, in 1999, the President's working group saw this. They recommended they not put energy into the loophole. The Congress saw differently and put energy into this loophole, and the never-never land of secrecy went on. These bogus trades were enabled. These bogus trades took place.

There are cases being brought, and we are even finding that the law is inadequate because a court has said it is too vague. We correct that.

I think this is really an important amendment. I do not think I could live with myself if I did not try to do it. If we lose today, believe me, I will come back again and again, because we saw what happened. We know there was massive fraud and manipulation. We know the loophole was there. We know there is no transparency, no record, no audit trail, and no antifraud and antimanipulation oversight for any over-the-counter energy trade. That is what we are trying to do.

My colleagues have referred to futures exchanges rather than over-the-counter energy trades, and that is what we are referring to in this bill. Please, I know back here people look at the West and they say, aha, it is not us, but what I say to them is some day it could be them. Do they not want the law right? Do they not want to be protected? Do they not want a record kept so the regulatory agency can look at it? I really hope the answer is yes, and I hope this Senate will vote for this amendment.

If there are no further comments, I will yield the remainder of my time. If there are, I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Utah.

Mr. BENNETT. Mr. President, I understand there will be a response on this side so I would recommend to the Senator from California that she hang on to all the cards she has.

Mrs. FEINSTEIN. I thank the Senator. I will do that.

Mr. BENNETT. I yield 10 minutes to the Senator from Idaho.

The PRESIDING OFFICER. The Senator from Idaho is recognized.

Mr. CRAPO. Mr. President, I would like to respond to some of the points my colleague from California has made and try to further clarify some of these issues. It appears there may be a difference of understanding between us as to just what the CFTC actually has jurisdictional authority over. My colleague from California has indicated that the antifraud and antimanipulation provisions in the Commodities Futures Modernization Act do not apply to over-the-counter trades. My understanding is very different from that. In fact, it is my understanding that the CFTC has antimanipulation authority that allows the Commission to obtain books and records from any market participant when the CFTC believes the prices are being manipulated. In fact, as I had indicated in my previous comments, enforcement authority with regard to market manipulation and price manipulation is being undertaken with regard to Enron.

The question here is whether there is a standardized set of books and records that are required of each participant. In that case, that is correct; the act does not put the full level of regulation onto those in the energy derivatives markets, only on agricultural commodities. So that might be the difference we are talking about. But the fact is, the distinction here is whether there is an exchange type of document disclosure as opposed to simply the type of document disclosure that the CFTC can ask for if it is investigating alleged price manipulation.

Second, the Senator from California indicated that she believed the penalties were too soft, and her legislation addressed that issue. I suppose there is not a lot of disagreement. I have not really talked with other Members of the Senate about it. I don't know if there is a lot of disagreement in strengthening the penalties, but that is not really all this amendment does. In fact, it is not really the focus of this amendment. What this amendment does, as I said before, is it increases and creates an entirely new regulatory regime for the management of derivatives transactions in energy.

I think this next point is a very critical point that we need to address. The Senator from California said in 1999 the working group said that energy transactions should not be excluded from the act. I am not familiar with the exact quotation or document that is being referred to there. But if the word ''excluded'' is the word the President's working group used, then that makes sense because, as I said earlier in my remarks, the act that we established after the President's working group went through its analysis created three different categories: Those that were included, those that were excluded, and those that were exempted. Why they use the word ''exempted'' as opposed to some other category, I don't know. But there is a real distinction in this law between the word ''excluded,'' which means they are not covered, and the word ''exempted,'' which means they are not required to be registered on an exchange.

Those that are in the exempted category are not excluded, which is what the 1999 working group apparently recommended for energy. Energy transactions in derivatives are not excluded, they are exempted, which means they, along with every other commodity transaction except for agricultural and financial transactions, are required to be subject to the reporting and investigatory antifraud and antimanipulation provisions of the act. That is what we are debating here.

Finally, the Senator from California mentioned a case where the court did say there was a sufficient lack of clarity in the act that it could not be enforced against knowing and willful conduct. That is correct. That case, to my knowledge, is one of the only, if not the only, case in the country where there has ever been a court ruling that did not give the CFTC the authority it needs to go after this type of conduct.

As I indicated in my earlier remarks, the Energy bill, which we are now putting together in the Energy conference, is correcting the problem that came up with that case. I actually have the language in front of me that is being changed in the law to address the concern raised by that case.

So because there is a case where the court said the language needs to be tightened up a little bit, that does not mean we then need to create a whole new regulatory regime for the management of derivatives. What it means is we need to correct that problem that the case law pointed out in the statute to be sure that the antifraud and antimanipulation language is able to be enforced as we intended it to be. That is exactly what the chairman of the Energy Committee and the others of us who submitted this letter have stated is being corrected in the Energy bill.

Then just one final comment. There was some question as to whether Mr. Greenspan or those of us on this side were making a distinction between financial derivatives or energy derivatives. I can assure those who were involved in the debate on all sides that Chairman Greenspan, as well as the rest of us, understand that we are talking about different types of derivatives when we talk about financial derivatives or energy derivatives or agricultural derivatives or other types of transactions in these commodities. The fact is, whether it is agriculture or energy or financial or other types of commodities, the manner in which we regulate them has incredible impacts on the way in which the markets operate.

I will conclude my remarks at this time by asking unanimous consent to have printed in the RECORD a letter which was delivered to me today, again by Alan Greenspan, responding this third time to the issue, and discussing the reasons our market needs to retain its resilience as we deal with the management of different types of very sophisticated transactions like these derivatives transactions.

I ask unanimous consent this letter be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

BOARD OF GOVERNORS,
FEDERAL RESERVE SYSTEM,
Washington, DC, November 5, 2003.

Hon. MICHAEL D. CRAPO,
U.S. Senate,
Washington, DC.

DEAR SENATOR: You have asked me for my views on Senator Feinstein's latest proposal for additional regulation of energy derivatives. By imposing large trader reporting requirements on bilateral transactions in energy commodities, the proposal would take the first steps toward introduction of an ex ante prophylactic regulatory regime for the OTC energy derivatives markets. Such a regime would undermine market discipline to the extent that market participants come to depend on the Commodity Futures Trading Commission (CFTC) to protect their interests and therefore fail to do more to protect themselves. Reliance on market discipline rather than government regulation has allowed derivatives markets to allocate risks very flexibly and effectively, which has contributed importantly to the resiliency of our financial system and our economy.

In my view, concerns about market manipulation in the energy derivatives markets would be addressed more effectively by a combination of: (1) enhanced market discipline on the processes through which price data are gathered and price indexes are constructed, and (2) more vigorous exercise of the CFTC's existing ex post enforcement authority with respect to market manipulation. Some clarification of the CFTC's enforcement authority would be desirable, but it is not at all clear that the provisions in the proposed amendment are the best way to accomplish that goal.

Sincerely,

ALAN GREENSPAN.

Mr. CRAPO. With that, I withhold my further remarks. I suspect we may need to get into a little bit of debate on these issues, and that may help us to bring focus on what the differences and concerns we have are. But I withhold further remarks at this time.

The PRESIDING OFFICER (Mrs. DOLE). The Senator from California.

Mrs. FEINSTEIN. Madam President, I would like to respond to the Senator. I think this discussion is constructive and I am pleased to partake in this exchange with my good friend from Idaho.

This is a report entitled ''The Over-the-Counter Derivatives Market in the Commodity Exchange Act'' which was written by the President's working group on financial markets in 1999.

On page 16 of that report, it goes on to say—and I want to read it in its context:

Due to the characteristics of markets for nonfinancial commodities with finite supplies—

Which energy would be one—

the working group is unanimously recommending that the exclusion—

In other words, the loophole—

not be extended to agreements involving such commodities. For example, in the case of agricultural commodities, production is seasonal and volatile and the underlying commodity is perishable, factors that make the markets for these products susceptible to supply and pricing distortions and to manipulation. There have also been several well known efforts to manipulate the prices of certain metals by attempting to corner the cash or futures markets. Moreover, the cash market for many nonfinancial commodities is dependent on the futures market for price discovery. The CFTC, however, should retain its authority to grant exemptions for derivatives involving nonfinancial commodities as it did in 1993 for energy products, where exemptions are in the public interest and otherwise consistent with the Commodities Exchange Act.

Then the loophole was promulgated. The section of the Commodities Exchange Act which contains that loophole is section 2(g) and is titled, ''Excluded Swap Transactions.''

The section reads, No provision of this Act (other than section 5a (to the extent provided in sections 5a(g)), 5b, 5d, or 12(e)(2) shall apply to or govern any agreement, contract or transaction in a commodity other than an agricultural commodity if agreement, contract or transaction is . . .

And then it goes on.

This section in the Commodities Exchange Act is what creates the loophole, and that is the problem that we are trying to correct in this legislation. I believe we do correct it.

Again, it is very hard for me—and this might have something to do with the fact we went thorough it the west—to understand why we would not want to deter this activity and strengthen the rules to prohibit such manipulation from happening in the future.

We want to be very certain that with all of this kind of trading, including over the counter trades and electronic trades, that the records are kept and there is an audit trail clearly exists and there is an opportunity for the Commodity Futures Trading Commission to note something may be wrong and hold the proper investigation. This is no more and no less than what exists on the exchange today.

Why should this secret world of trading be allowed to exist? I know people get rich through it. This secret trading world allows people to get rich by engaging in fraudulent trades, as was seen during the Western energy crisis. It is this type of manipulative behavior that we are trying to stop.

I can't understand why the administration would not want to support this. When Mr. Greenspan came in and talked to me a few years ago when we first proposed this legislation, his main concern was financial derivatives. This is why we made certain, as I have said in my comments, that this legislation does not concern financial derivatives. He may well have expanded his view to all kinds of over-the-counter trades since then, but at the time I sat down and met with him, that was not his position.

Regardless, we are talking about public policy. We are talking about protecting the people of America. We are talking about strengthening the law so that what happened on the west coast can never happen in the Midwest or on the east coast or any part of the nation.

I mentioned what the attorney general of the State of New York—the attorney general, not a deputy—Mr. Spitzer, has written. Once again, let me read what he said. He is the one who prosecutes many of these cases and I really think his views in this area should make a difference.

He says:

I urge your amendment's adoption. In addition to providing wholesale electricity markets, the transparency vital to effective competition, the amendment closes loopholes used to manipulate energy markets. It improves the ability to detect fraud and other manipulation, and it deters manipulation by establishing substantive penalties.

This is the attorney general of the State of New York who is going to be prosecuting many of these cases. He says it is a wise thing to do, it is a prudent thing to do, and you should do it.

He also says that this amendment makes a major contribution to competitive energy markets by initiating an electronic information system to be operated through the Federal Energy Regulatory Commission. I have already talked about this. Earlier, I said how this legislation will provide open access to comprehensive, timely, and reliable wholesale electricity and transmission prices. The attorney general repeats that. He says:

The reliability of market information would be markedly improved by the amendment's—

Don't we want that? I think so—

general prohibition on manipulation of the purchase or sale of electricity, or the transmission services needed to deliver electricity and by the specific prohibition of the round trip trading manipulation used so effectively to inflate electricity prices to the public's injury.

This is the prosecutor in one of the main States that would have this kind of litigation.

Then he goes on to say:

Enforcement of the law and regulation safeguarding our energy markets would be greatly aided by other reforms the amendment provides. The amendment would repeal the so-called Enron exemption which shields large energy traders from oversight.

Once again, I want to iterate that this is the attorney general of New York speaking.

In addition, the amendment would apply to anti-manipulation and anti-fraud provisions of the Commodity Exchange Act—

I just read to this provision to you. Clearly this section of the Act is inadequate by anybody's reading to effectively regulate all energy transactions—

Our legislation would improve the Federal Energy Regulatory Commission's ability to

address complaints, and it would lift the restriction on the Federal Energy Regulatory Commission's authority to order refunds. These reforms will make accountable parties, which are currently beyond the law's reach accountable for their actions and will increase recovery of overcharges.

Once again, I ask, don't we want to do this? Do we really want to protect these people who are willing to do such harmful things to the American people?

I am shocked at the administration's letter. I thought they were there to protect the public.

I thank the Chair. I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Utah.

Mr. BENNETT. Madam President, I yield an additional 10 minutes to the Senator from Idaho and allow him to yield back whatever time he might decide not to use.

The PRESIDING OFFICER. The Senator from Idaho is recognized.

Mr. CRAPO. Thank you very much, Madam President. I will try to be brief.

I wish to respond to what really has become the one focal point in the discussion we have been having over the last few minutes; that is, whether the Commodity Futures Trading Act applies and provides tools to protect against over-the-counter trades and derivatives. There isn't any difference between us in regard to that.

The Senator from California said: Would we want to protect people who would do all of these bad things? She indicated from the letter she read from the attorney general of New York that we were shielding large over-the-counter trades from oversight. I will simply say again that this is not the way the laws have been interpreted by the authorities of the government who administer this act, and it is not the way the law has been interpreted by those who were involved in writing the act. Frankly, with the exception of one case of a word change correction in the energy conference bill to address the issue—with the exception of that one case, to my knowledge, there is no indication that the CFTC does not have authority to regulate these trades.

Let me go on. I will go back to the letter of June 11. This is a letter from the Department of the Treasury, the Board of Governors of the Federal Reserve System, the U.S. Securities and Exchange Commission, and the Commodity Futures Trading Commission in which they state they were aware that one of the arguments was they do not have the authority or that adequate regulation is not taking place.

This is a letter written to me and to Senator ZELL MILLER, whom I commend for his efforts in this matter. They state in the letter:

> As you know, the Commodity Futures Trading Commission has brought formal actions against Enron, Dynegy, and El Paso for market manipulation, wash—roundtrip—trades, false reporting of prices, and operation of illegal markets.

If they don't have the authority under the act to regulate price manipulation or other market manipulations, then how could they have brought formal actions to enforce it? Not only do they bring formal actions but the Securities and Exchange Commission, the Federal Energy Regulatory Commission, and the Department of Justice have also initiated formal actions in the energy sector.

At the time of this letter, which was last June, they indicated:

> Some of these actions have already resulted in substantial monetary penalties and other sanctions. These initial actions alone make clear that wrongdoers in the energy markets are fully subject to the existing enforcement authority of Federal regulators.

We can debate about whether we should increase the penalties or add more regulations on top of this, but the fact is that under the Commodity Futures Trading Act, anti-price-manipulation and other antifraud provisions are enforceable.

I wish to go back also to one other comment the Senator from California made. She read to us out of the 1999 report of the President's working group. I listened very carefully to the words she was reading because it is important to understand the usage of words by the President's working group.

I will go back again to when the President's working group recommended how to create this statutory system. When Congress adopted that recommendation and made it law, we created three categories—included, exempted, and excluded. What this working group language which was read to us said was that due to the characteristics of nonfinancial commodities, exclusion was not intended or not recommended.

That is exactly, in fact, what we did in the law. We did not exclude the energy sector. We put it in the middle category, which is exactly where their working report said it should go. It said they should have authority to be exempted. It was put in the ''exempted'' category which, again, although that exempted word makes it sound as if they are excluded, is not the way the wording of the statute works. The exempted category is fully subject to antifraud and antiprice manipulation protections and to record-reporting requirements imposed by the CFTC.

Again, we may have a difference of opinion on where the reach of the law is, but the bottom line is the agencies involved in administering these and other laws are fully enforcing the law.

I conclude by reading one further letter sent to the Honorable BILL FRIST and TOM DASCHLE yesterday by a number of associations. I will read the names of the associations. These are not just energy companies but companies, associations, and groups involved with the management of our economy from many different perspectives. They point out that the President's working group's approach, which we have been debating today, has been applied and that enforcement actions are taking place. In their words:

> These actions make it clear that wrongdoers in the energy markets are fully subject to the significant authority of federal and state authorities.

Again, in their words:

> Led by the CFTC, federal and state authorities are currently investigating 32 companies and since last year the Commission has entered into six settlements collecting a total of $96 million in civil penalties from energy companies and power merchants for attempting to manipulate energy prices.

Again, if they do not have the authority to regulate, they are certainly doing a good job of regulating. They have collected over $96 million in civil penalties and continue to enforce the act.

Signers of this letter are: the American Bankers Association, the ABA Securities Association, the Association for Financial Professionals, the Bond Market Association, EMTA, the Financial Services Roundtable, the Foreign Exchange Committee, the Futures Industry Association, the International Swap and Derivatives Association, the Managed Funds Association, the National Mining Association, and the Securities Industry Association.

I bring that up simply to point out that not only are those agencies in our Government—such as the Department of the Treasury and the CFTC and the Federal Reserve and others—concerned about this, but those in the industry, those operating in our financial industries are concerned about what this will do to our economy and the resilience of our ability to manage risk in our economy.

One of the factors that gives us the ability to have the strongest economy in the world is our ability to utilize these types of transactional authorities to allocate risk in a way that gives us the resiliency to defend against the kinds of threats against our economy we faced over the last few years.

I yield back the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. BENNETT. Madam President, what is the time situation?

The PRESIDING OFFICER. The Senator from Utah has 3 minutes 16 seconds and the Senator from California has 2 minutes 15 seconds.

Mr. KOHL. Madam President, I would like to make a brief statement on this amendment. This is a complicated issue.

The PRESIDING OFFICER. Who yields time?

Mrs. FEINSTEIN. I would be very happy to yield my 2 minutes to the ranking member if I might have 3 minutes to conclude.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KOHL. This is a very complicated issue. This is an issue on which the Senator from California has spent a lot of time. I believe she knows it thoroughly. Her proposal would bring more transparency to the derivatives market, something we should all support. With above-board transparent

markets, derivatives trading will never be taken seriously and investors will always be at risk of being taken advantage of. I will be supporting the Feinstein amendment. I urge fellow Senators to do the same.

The PRESIDING OFFICER. Who yields time?

Mrs. FEINSTEIN. Madam President, there really is a difference of opinion. I would like to have the time to read part of the transcript in a hearing on the Committee on Agriculture on July 10. A question that Senator CRAPO asks to Mr. Newsome of the CFTC.

Senator CRAPO: I know we have been over this before but I want to be sure that I have it right. As I listened to the testimony of both of you it seems to me that there is actually a lot more agreement than disagreement with respect to what we ought to be doing and where we ought to be. The disagreement, as I understand it, is over whether 2G excludes from the fraud and manipulation provision swap transactions.

Now, swap transactions are the dominant majority of what goes over the over-the-counter market.

I am correct about that. Would the two of you agree that is the core of the disagreement between your testimony?

Mr. Newsome: 2G certainly does exclude swap transactions.

That is my point. And he is testifying to it in this committee that this is not covered by the CFTC.

It goes on.

Senator CRAPO: It excludes them from fraud and manipulation protections.

Mr. Newsome: 2G excludes them from jurisdictions of the CFTC.

The PRESIDING OFFICER. The Senator from Utah.

Mr. BENNETT. Madam President, I yield 2 minutes to the Senator from Wyoming.

Mr. ENZI. Madam President, I rise to oppose this issue.

I ask unanimous consent that an article from the Wall Street Journal that explains how small firms are potentially affected by this amendment, a way that small firms have had for hedging so they could stay in business in markets that fluctuate dramatically so they could keep a level price for consumers and still make a profit, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, Nov. 3, 2003]

SMALL FIRMS ARE TURNING TO FINANCIAL FUTURES FOR FUEL

(By Russell Gold)

DALLAS.—Deregulated energy markets have taken their fair share of criticism in recent years. But that hasn't scared off some of the nation's small-business owners, who are betting that the wild and woolly world of the financial-futures markets will provide more price stability than the stodgy regulated utilities.

That's a big departure. Typically, small businesses have relied on the regulated utilities for their energy needs. But in the past three years, natural-gas prices have surged and the regulated utilities have been slow to find ways to put a lid on the trend. That's opened the doors to marketers that can use financial derivatives and fixed-rate contracts to offer stable pricing for customers.

By the end of this year, an estimated 550,000 commercial clients nationwide will have purchased fixed-price, natural-gas contracts through energy marketing middlemen, according to Kema, a consulting firm in Fairfax, Va., that researches retail-energy markets. That represents a 10% increase from two years ago. ''We are seeing slow and steady growth'' in small businesses switching from utilities to deregulated energy marketers for fuel supplies, says Kema's natural-gas research director, Gerry Yurkevicz.

LOCKING INTO FIXED PRICES

In the past, only large industrial companies would take such risks. But an increasing number of small and midsize businesses, including property managers, hospitals and fast-food franchises, are locking in a fixed price rather than watching their energy bills gyrate from month to month. If they're lucky, they will save money on fuel. But if a warm winter causes prices to collapse, they may end up spending more on natural gas than what utilities would charge.

But for most small businesses, natural-gas marketers have something to offer besides the possibility of lower prices: They can offer near-term price stability. This allows businesses to set their energy budgets for the year and not worry.

Mark Beffort, president of a real-estate-management concern in Oklahoma City recently made the switch. Instead of buying natural gas from the local utility for a 22-story suburban office tower he manages, he works with natural-gas marketer Clearwater Enterprises LLC. This past fall, Mr. Beffort called Clearwater and chewed over whether to but natural gas for the winter or wait. ''Do we want to lock or do we want to gamble?'' he asked. Last month, a government report on levels of natural gas stored in reservoirs for winter use sent natural-gas prices down. At the urging of Clearwater, Mr. Beffort bought on the drop. He orally agreed to take enough natural gas to heat the office tower at a fixed price. Clearwater then locked in supply using a combination of futures contracts and fixed-price deals with producers.

''Customers can fix their energy budgets at the beginning of the year,'' Mr. Yurkevicz says. ''They can set it and forget it.'' By contrast, regulators set up rules that discourage utilities from hedging, making retail prices almost as volatile as natural-gas prices.

For most of the 1990s, natural-gas prices, as measured by tradable futures contracts on the New York Mercantile Exchange, held stable at about $2.50 per million British thermal units. Since 2000, however, the price has whipsawed, and the average cost so far this year has exceeded $5 per million BTUs.

Many marketing firms are targeting smaller and smaller commercial customers. Peoples Energy Services, a unit of Chicago-based Peoples Energy Corp., reported it number of commercial clients jumped 20% to 13,073 for the year ended Sept. 30. Meanwhile, the company's average customer usage decreased by 9% to 3.2 million cubic feet, as the energy marketer takes on more smaller customers.

UGI Energy Services, a subsidiary of suburban Philadelphia-based UGI Corp., has more than quadrupled its number of customers since 1999. Over the same span, its average customer usage has dropped 13%, to 23 million cubic feet. ''We view ourselves as risk managers,'' says UGI Energy Services President Bradley Hall. ''What most people are looking for its stability.''

SWITCH TO PROPANE

That's what attracted customer Jeff Uhlenburg. His family-owned industrial furnace in Philadelphia had spent more than six months of its energy budget by mid-March, and high natural-gas prices forced him to switch to propane. ''I got burned,'' he says. This summer, he switched to UGI, which buys natural-gas futures and supplies Mr. Uhlenburg natural gas at a fixed price.

Rather than fighting the trend, some regulated utilities are encouraging their customers to switch. The utilities continue to profit from transporting the natural gas. And often, the utility and energy marketer share a common corporate parent.

Oklahoma Natural Gas Co., a regulated utility owned by Oneok Inc., gained approval from the state earlier this year to permit even smaller customers than previously allowed to switch to third-party marketer. The 97-year old utility last month began asking commercial clients as small as dry cleaners for permission to send their contact information to marketers. Oneok is hoping that commercial customers will choose to sign up with its unregulated subsidiary, Oneok Energy Marketing Co., to provide their natural gas.

Mr. ENZI. I know this is a glaze-the-eyes-over issue. It is hard for me to understand. It is probably hard for me to be able to spell derivatives, let alone understand paragraphs A, B, C, D, G, or whatever they were.

This amendment has come up twice before. We voted it down twice before. There have been some changes to pick up a little bit more of a majority. As the letter read by the Senator from Idaho pointed out, the industries that were excluded in this have not bit into it yet. They understand it is a slippery slope and they will come back up and pick them up.

The SEC has brought action against these companies. If Sarbanes-Oxley had been in place a year before the time that it was, we would not have had any problem. There are protections out there. So let's not take this advantage away from the small businesses.

The proponents of the amendment believe that the trading of derivatives, especially in the energy area, were the cause of the energy problems faced by western States in recent years. Specifically, the proponents believe that energy trading of derivatives by Enron contributed significantly to the energy problems.

Unfortunately, the problems that caused Enron to fail were based upon failures in corporate governance and outright fraud. Ironically, we are addressing this amendment after we celebrated the 1-year anniversary of the passage of the Sarbanes-Oxley act in July. If that act had been in place earlier, the problems of Enron, and companies like Enron, would have been discovered by the independent directors and effective auditors required by the law.

Proponents of the amendment also would have us believe that Federal regulators do not have enough power and authority to seek out and punish the wrong doers. That is simply not true. Three Federal agencies have brought enforcement actions as a result of the activities of Enron and companies like Enron and the Department of Justice has instituted investigations into the matter.

Two weeks after we defeated the amendment in June, the Federal Energy Regulatory Commission issued two ''broad show cause'' orders to over 60 power trading companies that are alleged to have engaged in manipulative practices that disrupted the western energy markets in 2000 and 2001.

In addition, the Commodities Futures Trading Commission documented administrative and criminal actions of the energy trading industry in the agency's, ''Report on Energy Investigations'' that was released on April 9 of this year.

Finally, in late July, the Securities and Exchange Commission settled enforcement proceedings in the amount of $255 million against two investment banks that conspired with Enron to commit fraud. This is not the first action by the Securities and Exchange Commission in this area. In total, the Securities and Exchange Commission has brought six separate actions in connection with the Enron matter.

In addition, the Federal agencies are not sitting idle. In particular, the Federal Energy Regulatory Commission has regulatory initiatives to provide greater clarity and transparency to the energy markets.

It is abundantly clear that the Federal agencies are acting where appropriate and are using their full authority to pursue those who commit fraud on the energy and securities markets.

During the debates on the June 11 amendment, the President's working group, which is comprised of the Chairman of the Board of Governors of the Federal Reserve, the Secretary of the Department of the Treasury, the Chairman of the SEC, and the Chairman of the CFTC, sent a letter to opposed the amendment. In the letter, the working group stated that the June 11 amendment ''could have significant unintended consequences for an extremely important risk management market—serving businesses, financial institutions, and investors throughout the U.S. economy.''

On July 16, Chairman Greenspan testified before the Senate Banking Committee on the state of monetary policy. In response to question posed at the hearing, he reiterated his opposition to the amendment.

As I stated on June 11, as we debated this amendment before, I believe that the amendment is overly broad and if adopted will likely decrease market liquidity because of increased legal and transactional uncertainties. In addition, I am suspect of this amendment as it includes a carve-out for the metals industries. Congress should be very cautious about carve-outs as it may start out to be a slippery slope where the initial carve-out is for the metals industry. The next move will be to exempt other industries until there are enough votes to pass an amendment—then the process well reverse to pick up the exemptions.

Instead of cutting the throats of particularly small companies, this will be the death by a thousand small slices. Derivatives are protecting hedging for small companies and it works. Evidence of small business use of energy financial products on energy issues can be seen in the November 3 article of the Wall Street Journal entitled, ''Small Firms are turning to Financial Futures for Fuel.'' I also would like to acknowledge the financial services industries opposition to this amendment.

For every reaction Congress tends to have an overreaction. I believe that this is the case here. The Commodities Futures Trading Commission already oversees market manipulation concerns with the energy trading markets. The pursuit of a new broad-based regulatory scheme for the oversight of energy trading may be an unnecessary addition to the market.

Accordingly, I urge my colleagues to vote against this particular amendment as they have voted it down twice before.

Mr. BENNETT. Madam President, as I have listened to this debate, it has reminded me once again of why I am glad I did not go to law school. The details of the legislation are best left to the lawyers who have argued it.

I simply share with my colleagues a conversation I had when the question of derivatives arose with respect to the bankruptcy of Orange County in California. There was an attempt at that point to say we must regulate these derivatives. Derivatives are terrible. Derivatives are responsible for all of our troubles. Chairman Greenspan was asked pointblank if derivatives were responsible for the bankruptcy in California. He said no, all derivatives did was make the stupid actions of the treasurer of Orange County be carried out more effectively than would have been the case without them.

We must remember that derivatives are neutral. They are tools to be used by managers to hedge risks and to make things move more efficiently in the marketplace. We sometimes move away from that understanding and think they are inherently evil in and of themselves.

I accept the assurances that the trading in this area is appropriately managed by the regulatory agencies that have been set up and I intend to oppose the amendment. I urge my fellow Senators to do the same.

Mrs. FEINSTEIN. I ask unanimous consent for 1 minute to permit Senator CANTWELL to speak.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Washington.

Ms. CANTWELL. Thank you, Madam President.

Madam President, I come to the floor to support the Feinstein amendment. I think Senator FEINSTEIN has done an outstanding job of trying to communicate what is essential for markets to operate efficiently. For markets to operate efficiently, they need transparency. That is what the underlying amendment does.

It says, let's make these commodities have the same transparency as other products on the market that are sold as futures, have the ability to look at the books, and make sure that manipulation has not happened.

I urge my colleagues to support the Feinstein amendment.

The PRESIDING OFFICER. The Senator from Utah.

Mr. BENNETT. Madam President, I move to table the amendment and ask for the yeas and nays.

Mr. LEVIN. Will the Senator withhold for a unanimous consent request?

Mr. BENNETT. I will withhold.

Mrs. FEINSTEIN. Madam President, I have a copy of a colloquy between the leaders that we would have an up-or-down vote on the amendment.

Mr. LEVIN. Madam President, while that is being considered, I ask unanimous consent that a statement of the American Public Gas Association, supporting the amendment; a statement of Attorney General Eliot Spitzer, supporting the amendment; a statement of the North American Securities Administrators Association, supporting the amendment; a statement from the Consumers Union, Consumer Federation of America, U.S. Public Interest Research Group, and Public Citizen, supporting the amendment; and a statement from the Derivatives Study Center be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

AMERICAN PUBLIC
GAS ASSOCIATION,
Fairfax, VA, October 8, 2003.

Re protecting electricity markets and consumers.

Hon. RICHARD LUGAR,
Hart Senate Office Building,
U.S. Senate, Washington, DC.

DEAR SENATOR LUGAR: The American Public Gas Association (APGA) is very pleased that you and Senators Levin and Feinstein are leading a bipartisan effort to ensure that energy prices are determined in a competitive and informed marketplace. The provisions in your ''Energy Market Oversight Amendment'' are significant steps toward closing the gaps that impede effective federal oversight of the energy marketplace. We strongly support the changes you propose to the Commodity Exchange Act (CEA) and the Federal Power Act (FPA). We also urge that you amend the Natural Gas Act (NGA) in the same manner as the FPA so natural gas markets and consumers are provided the same level of protection you propose for electricity markets and consumers.

APGA represents the interests of municipally-owned gas utilities. There are over 950 public gas systems across the country in 36 states serving more than five million residential and commercial customers. APGA represents over 600 of these public gas systems. Our members are not-for-profit utilities, and their boards are composed of locally elected and appointed officials. No other trade association in the gas industry is closer to the customers they serve than APGA members. And, on behalf of APGA, we strongly support your amendment because it will improve market transparency and provide the essential regulatory oversight to detect and prevent manipulation and improve the efficiency of energy markets. Greater

transparency and effective oversight are the basic steps necessary to restore confidence in the energy markets and promote the investments needed to provide reliable energy at fair prices to consumers and businesses.

We applaud your efforts and your goals: to improve transparency, strengthen enforcement, and preclude manipulation in energy markets. Fundamental to achieving these goals is to undo the special exclusions and exemptions granted in the closing hours of the 106th Congress. The amendments to the CEA you now propose are focused specifically on energy markets and will provide a basic level of protection for all energy consumers because the provisions clearly establish anti-fraud and anti-manipulation authority in the over-the-counter derivatives contracts for energy commodities.

However, we urge you to include changes to the NGA that are consistent with your changes to the FPA. Unless such changes are made in tandem, there will be even further disparity between the consumer protection provisions in these two important acts. We hope that such disparate treatment will not be tolerated.

Again, public gas utilities and the hundreds of communities we serve commend you for your thoughtful and deliberate leadership on this very important issue. While there may be some who will oppose this amendment, one need not look far to see whether the opposition is looking out for the best interests of Wall Street or Main Street. We pledge to work with you in any way we can to pass this much-needed amendment. Please let me know how I can assist you.

Sincerely,

BOB CAVE,
President.

STATE OF NEW YORK,
OFFICE OF THE ATTORNEY GENERAL,
New York, NY, October 15, 2003.

Hon. TED STEVENS,
Chairman, Appropriations Committee, U.S. Senate, Washington, DC.
Hon. ROBERT C. BYRD,
Ranking Member, Appropriations Committee, U.S. Senate, Washington, DC.
Hon. ROBERT BENNETT,
Chairman, Subcommittee on Agriculture, Rural Development, and Related Services, Appropriations Committee, U.S. Senate, Washington, DC.
Hon. HERB KOHL,
Ranking Member, Subcommittee on Agriculture, Rural Development, and Related Services, Appropriations Committee, U.S. Senate, Washington, DC.

DEAR SENATORS: I firmly support your efforts to make our energy markets competitive and to protect those markets from fraud and manipulation. The Energy Market Oversight Amendment, sponsored by Senators Feinstein, Levin and Lugar and under consideration as an amendment to the pending 2004 Agriculture, Rural Development, and Related Services Appropriations legislation, is a major step toward both goals. I urge its swift adoption. In addition to providing wholesale electricity markets the transparency vital to effective competition, the amendment closes loopholes used to manipulate energy markets, improves the ability to detect fraud and other manipulation, and deters manipulation by establishing substantive penalties.

The amendment makes a major contribution to competitive energy markets by initiating an electronic information system to be operated through the Federal Energy Regulatory Commission (''FERC''). This system will provide open access to comprehensive, timely and reliable wholesale electricity and transmission price and supply data, greatly expanding the choices of both buyers and sellers. In addition, the reliability of market information would be markedly improved by the amendment's general prohibition on manipulation of the purchase or sale of electricity or the transmission services needed to deliver electricity, and by the specific prohibition of the ''round trip trading'' manipulation used so effectively to inflate electricity prices to the public's injury.

Enforcement of the laws and regulations safeguarding our energy markets would be greatly aided by other reforms the amendment provides. The amendment would repeal the so-called ''Enron exemption,'' which shields large energy traders from oversight. In addition, the amendment would apply the anti-manipulation and anti-fraud provisions of the Commodity Exchange Act to energy transactions, would improve FERC's ability to address complaints, and would lift a restriction on FERC's authority to order refunds. These reforms will make accountable parties now beyond the law's reach and will increase the recovery of overcharges.

Finally,the amendment would give effect to the deterrents against energy market abuses. These reforms make FERC penalties more than just a ''cost of doing business.''

The events of the past three years teach that we need better and stronger laws to protect our energy markets. The Energy Market Oversight Amendment would significantly improve our laws and strengthen crucial deterrents against the fraud and other energy market manipulations that have cost our citizens and our economy billions. The national interest would be served by the amendment becoming law as soon as possible.

Sincerely,

ELIOT SPITZER,
Attorney General.

NORTH AMERICAN SECURITIES
ADMINISTRATORS ASSOCIATION, INC.,
Washington, DC, October 27, 2003.

Hon. TED STEVENS,
Chairman, Appropriations Committee, Washington, DC.
Hon. ROBERT C. BYRD,
Ranking Member, Appropriations Committee, Washington, DC.
Hon. ROBERT BENNETT,
Chairman, Subcommittee on Agriculture, Rural Development and Related Services, Washington, DC.
Hon. HERB KOHL,
Ranking Member, Subcommittee on Agriculture, Rural Development and Related Services, Washington, DC.

DEAR SENATORS: The North American Securities Administrators Association is writing to express its support for the Energy Market Oversight Amendment, sponsored by Senators Feinstein, Levin and Lugar. It is our understanding that this amendment will be considered as part of the Agriculture Appropriations bill.

The collapse of Enron, continued reports of fraud, manipulation in the energy markets, and the lack of transparency in over-the-counter (OTC) energy trading underscore the need for this amendment. The Energy Market Oversight Amendment would provide the transparency and regulatory tools necessary to detect and prevent manipulation and improve the efficiency of these markets. Its disclosure requirements will make the energy marketplace more open for all producers and consumers, and the result will be a more sound and efficient market. During this period of market unrest, now is the time to strengthen the oversight of the energy markets.

NASAA supports the Feinstein-Levin-Lugar amendment because it would provide more transparency to the wholesale electricity markets, supply the CFTC with the authority to detect fraud and manipulation, and help to deter wrongdoing by significantly increasing the penalties for violations of the Federal Power Act.

The events of the past three years should be a wake-up call that we need stronger laws to protect the users of our energy markets. This amendment would improve our laws and help to ensure that problems associated with Enron, the Western electricity crisis, and the recent Northeast blackout do not recur. Thank you for your consideration of these 693Y85X views. Please do not hesitate to contact Deborah Fischione House, NASAA's Director of Policy at 202–737–0900, if we may be of assistance to you.

Sincerely,

RALPH A. LAMBIASE,
NASAA President,
Director of Connecticut Securities.

OCTOBER 16, 2003.

DEAR SENATOR: We are writing to urge you to support the bipartisan Energy Market Oversight Amendment, which will be offered during consideration of the Fiscal Year 2004 Agriculture Appropriations bill. This amendment, being offered by Senators Feinstein, Lugar, Levin and others, would go a long way towards addressing the serious problems plaguing the nation's energy markets.

Unfortunately, we have been bombarded with a steady stream of news reports about how electricity traders have unscrupulously manipulated the market to unfairly inflate their profits, costing consumers billions of dollars. More than one trader has admitted to engaging in ''round trip trading'' to artificially inflate prices. Some created transmission congestion in order to be paid to relieve that congestion. Supplies were withheld to drive prices up, resulting in a series of rolling blackouts in California. We are still learning the full extent of the misconduct, and only now are we coming to understand the nature of these schemes.

Today, the loss of trust and confidence in the integrity and creditworthiness of energy and energy derivatives markets has left trading in oil, gas and electricity suffering from a lack of liquidity. If markets are going to be the terrain for setting the price for our key energy products, then it is crucial that they be orderly and efficient. Towards that end this amendment seeks to put an end to this plague of fraud and market manipulation. It will help improve market oversight and surveillance. It will enable the Commodity Futures Trading Commission (CFTC) to detect and deter manipulation. Its disclosure rules will make the marketplace more transparent for all producers and consumers, and the result will be a more sound and efficient market.

Given all this, we believe that it would be irresponsible to weaken consumer protections and cut federal oversight of the electric industry, as both the Senate and House-passed versions of the energy bill would do. That is why the Energy Market Oversight Amendment is so timely. This amendment would:

Improve price transparency in wholesale electricity markets by directing the Federal Energy Regulatory Commission (FERC) to establish an electronic system to provide information about the price and availability of wholesale electricity to buyers, sellers and the general public;

Prohibit round trip trading;

Increase penalties for violations of the Federal Power Act and the Natural Gas Act from $5,000 to $1,000,000;

Prohibit manipulation of the electricity markets, including giving FERC the authority to revoke market-based rates for companies that are found to have engaged in market manipulation;

Repeal the ''Enron exemption'' in the Commodities Future Modernization Act for large traders in energy commodities and apply the anti-fraud provisions of the Commodity Exchange Act to all over the counter trades in energy derivatives; and

Provide the CFTC tools to monitor energy markets, including requiring traders to keep records and report large trades to the CFTC, focusing on transactions that perform a significant price discovery function, while limiting the CFTC to seeking only information necessary to detect and prevent price manipulation in the futures and over the counter markets for energy.

In addition, the amendment would have no effect on futures markets, financial derivatives, metals, swaps or electronic trading of non-energy commodities.

Energy production is a major sector of the economy, but energy's importance is greater than that measured by its size. One of the hard learned lessons from the Western electricity meltdown of 2000 and 2001 is that when energy companies manipulate the electricity markets, devastating consequences result. Billions of dollars were lost and millions of lives were adversely affected. The toll on businesses both large and small was enormous. The impact of the Northeast-Midwest blackout was also immense. Congress should do everything within its power to ensure that such devastation never occurs again, and, if it does, that those responsible are punished severely.

Please protect the nation's electricity markets from further Enron-style manipulations—support the Energy Market Oversight Amendment.

Thank you.

Sincerely,

Adam J. Goldberg, Policy Analyst, Consumers Union.

Mark N. Cooper, Director of Research, Consumer Federation of America.

Anna Aurilio, Legislative Director, U.S. Public Interest Research Group.

Michelle Boyd, Legislative Representative, Public Citizen.

FINANCIAL POLICY FORUM,
DERIVATIVES STUDY CENTER,
Washington, DC, October 22, 2003.

DEAR SENATOR LEVIN: I am writing regarding the Energy Market Oversight legislation being offered as an amendment to the FY 2004 Agricultural Appropriations bill. This important legislation will assume that over-the-counter derivatives markets in ''exempt'' commodities such as energy will be covered by federal prohibitions on fraud and manipulation. It will also help to create energy derivatives markets that are more transparent and thus more efficient. In doing so, this legislation will bring OTC energy derivatives out of the shadows and into the same light of financial disclosure. It will subject these derivatives to some of the same regulations that apply to securities, banking, exchange-traded futures and options and other sectors of U.S. financial markets.

This regulatory assistance comes at a critical time. According to the Federal Energy Regulatory Commission's Director of the Office of Market Oversight, ''energy markets are in severe financial distress.'' Along with the decline in credit quality in these markets, the loss of confidence and trust has led to a ruin in the liquidity and depth of these markets. This legislation will go a long way to address this problem.

Derivatives are highly leveraged financial transactions, allowing investors to potentially take a large position in the market without committing an equivalent amount of capital. Moreover, derivatives traded in over-the-counter markets are devoid of the transparency that characterizes exchange-traded derivatives such as futures, and this lack of transparency introduces a greater potential for abuse through fraud and manipulation.

Derivatives are often combined into highly complex structured transactions that are difficult—even for seasoned securities traders and finance professionals—to understand and price in the market. Enron used such over-the-counter derivatives extensively in order to hide the nature of their activities from investors. The failure of Enron and the demise of other energy derivatives dealers has had a devastating impact on the level of trust in energy markets.

This legislation would help ensure that over-the-counter derivatives markets operate with proper federal oversight which will make the markets more stable and transparent. It is appropriate to place this oversight authority with the Commodity Futures Trading Commission, which, as the principal federal regulator of derivatives transactions since its founding in 1975, will provide oversight, surveillance and enforcement of anti-fraud and anti-manipulation laws. The CFTC has the experience to handle these complex financial transactions and to develop the best rules to implement these protections.

At a time when these energy markets are deeply distressed and the investing public looks skeptically at derivatives trading and firms engaged in derivatives trading, we should take decisive steps to ensure that the public is protected from Enron-like abuses and that derivatives are properly regulated so as to make energy markets more efficient. This amendment is just such a step, and the authors of the legislation deserve appreciation for their work in the public interest.

Thank you for introducing this important legislation.

Sincerely,

RANDALL DODD,
Director.

STATE OF MICHIGAN
OFFICE OF THE GOVERNOR,
Lansing, MI, October 2, 2003.

Hon. CARL LEVIN,
U.S. Senate, Russell Senate Office Building, Washington, DC.

DEAR SENATOR LEVIN: I am writing to express my strong support for passage of the Feinstein-Lugar-Levin amendment to the Fiscal Year 2004 agriculture appropriation bill.

In the aftermath of the massive electricity blackout six weeks ago that affected at least six million Michiganians, I believe all necessary steps should be taken to bolster business and consumer confidence in the nation's energy markets and promote additional investment in reliable energy delivery at a fair price. Your amendment would improve electricity price transparency in wholesale electricity markets, greatly increase criminal and civil penalties for trading violations, prohibit market manipulation and fraud in all energy market sectors, and strengthen day-to-day energy market oversight including over-the-counter market transactions that significant affect energy prices.

By directing the Federal Energy Regulatory Commission (FERC) to establish an electronic price and supply monitoring system and crack down on manipulation in wholesale electricity markets. Congress would be providing new authorities consistent with my testimony before the House Energy and Commerce Committee last month that urged Congress to sharpen the teeth of federal regulators and hold electricity market participants accountable to assure energy reliability.

I appreciate your efforts in the Senate to strengthen federal oversight of energy markets and promote reliable and fairly priced energy that will protect consumers and fuel economic growth.

Sincerely,

JENNIFER M. GRANHOLM,
Governor.

NATIONAL ASSOCIATION OF
STATE UTILITY CONSUMER ADVOCATES,
October 27, 2003.

DEAR SENATOR: The National Association of State Utility Consumer Advocates strongly support the bipartisan Energy Market Oversight Amendment, which will be offered during consideration of the FY 2004 Agriculture Appropriations bill.

The proposal, offered by Senators Feinstein, Lugar, Levin, and others will help fix broken energy markets and give regulators the tools needed to protect consumers from market manipulators.

The amendment improves price transparency, prohibits round trip trading, and increases penalties for Federal Power Act and Natural Gas Act violations. The amendment also prohibits manipulation of the energy market and repeals the ''Enron exemption.''

The nation's consumer advocates urge you to support this important consumer protection amendment.

Sincerely,

CHARLES A. ACQUARD,
Executive Director.

The PRESIDING OFFICER. The Senator from Utah.

Mr. BENNETT. Madam President, as I understand the colloquy, it was either a vote on the amendment or in relation to the amendment, and that a motion to table is determined as being in relation to the amendment.

Now, out of courtesy to the Senator from California, I will not make the motion to table. But I want to make it clear, I am reserving the right to make a motion to table in future situations similar to this. I do not want to be discourteous to her for her understanding, but it is my understanding that I do, indeed, have the right to make that motion.

The PRESIDING OFFICER. The Senator from California.

Mrs. FEINSTEIN. Madam President, the extraordinary courtesy of the Senator is appreciated because he is actually correct. It did say ''in relation to.'' But I quickly accept his offer to have an up-or-down vote.

Mr. REID. Madam President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is on agreeing to amendment No. 2083.

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 necessarily absent.

I further announce that, if present and voting, the Senator from Massachusetts (Mr. KERRY) would vote ''yea.''

The PRESIDING OFFICER (Mr. ENSIGN). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 41, nays 56, as follows:

[Rollcall Vote No. 436 Leg.]

YEAS—41

Akaka	Durbin	Levin
Baucus	Feingold	Lugar
Biden	Feinstein	McCain
Bingaman	Fitzgerald	Mikulski
Boxer	Graham (FL)	Murray
Byrd	Harkin	Nelson (FL)
Cantwell	Hollings	Reed
Clinton	Inouye	Reid
Conrad	Jeffords	Rockefeller
Corzine	Johnson	Sarbanes
Daschle	Kennedy	Schumer
Dayton	Kohl	Stabenow
Dodd	Lautenberg	Wyden
Dorgan	Leahy	

NAYS—56

Alexander	Crapo	Miller
Allard	DeWine	Murkowski
Allen	Dole	Nelson (NE)
Bayh	Domenici	Nickles
Bennett	Ensign	Pryor
Bond	Enzi	Roberts
Breaux	Frist	Santorum
Brownback	Graham (SC)	Sessions
Bunning	Grassley	Shelby
Burns	Gregg	Smith
Campbell	Hagel	Snowe
Carper	Hatch	Specter
Chafee	Hutchison	Stevens
Chambliss	Inhofe	Sununu
Cochran	Kyl	Talent
Coleman	Landrieu	Thomas
Collins	Lincoln	Voinovich
Cornyn	Lott	Warner
Craig	McConnell	

NOT VOTING—3

Edwards	Kerry	Lieberman

The amendment (No. 2083) was rejected.

Mr. COCHRAN. Mr. President, I move to reconsider the vote.

Mr. BENNETT. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

NATIONAL CONSUMER CREDIT REPORTING SYSTEM IMPROVEMENT ACT OF 2003—Resumed

The PRESIDING OFFICER. Under the previous order, the clerk will read S. 1753 for the third time.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. Under the previous order, the Banking Committee is discharged from further consideration of H.R. 2622, and the clerk will state the bill by title.

The assistant legislative clerk read as follows:

A bill (H.R. 2622) to amend the Fair Credit Reporting Act in order to prevent identity theft, to improve the use of and consumer access to consumer reports, to enhance the accuracy of consumer reports, to limit the sharing of certain consumer information, to improve financial education and literacy, and for other purposes.

The PRESIDING OFFICER. Under the previous order, all after the enacting clause is stricken and the text of S. 1753, as amended, is inserted in lieu thereof.

The clerk will read the bill for the third time.

The amendment was ordered to be engrossed and the bill to be read the third time.

The bill was read the third time.

Mrs. FEINSTEIN. Mr. President, I have decided to vote against the National Consumer Credit Reporting System Improvement Act because, bottom line, this bill reduces the privacy rights of 36 million Californians.

These rights were obtained through the passage of landmark legislation sponsored by Senator Jackie Speier earlier this year in California, which gave consumers the right to tell financial institutions that they don't want their most sensitive personal information shared with hundreds or even thousands of affiliated companies.

This practice—affiliate sharing—can include your most sensitive information—the stocks you own, the certificates of deposit you hold, or the amount of money in your checking account.

Importantly, California's financial industry signed off on Senator Speier's bill, rather than face a ballot initiative, which likely would have succeeded.

Industry executives said at the time that the California bill ''encompasses all aspects of the workability needed to ensure protection of customers' privacy'' and that it is ''a workable, reasonable compromise.'' In fact, the only major reservation expressed about that provision was that the bill did not represent a national standard. But now, given the opportunity to set such a national standard, these same companies worked to wipe out such protections—and I find this conduct particularly concerning. Attached is a letter from Senator Speier that attests to the behavior of California's financial industry.

So in response to calls for a national standard and to protect the rights of Californians, Senator BOXER and I developed an amendment that would have established a strong national standard on affiliate sharing, consistent with California's law, which would have given consumers a real voice in how their personal information is used.

This amendment came up for a vote and, unfortunately, it was defeated. I think time will show that this was the wrong vote, and I have no doubt that this issue will resurface as consumers learn more about the misuse of their most sensitive personal information.

I am disappointed that we did not achieve our main goal of adopting an amendment which would allow consumers to have control over their personal data, but I am pleased that the Senate approved two amendments, which I sponsored along with Senator BOXER, to protect consumers.

The first amendment, authorized by Senator BOXER, which I cosponsored, would give consumers greater protection against unwanted marketing.

Most importantly, the amendment would allow consumers to permanently opt-out of marketing by unrelated affiliates, while the underlying bill would have only limited the opt-out to 5 years. This means that if a consumer asks a corporation not to share information with its affiliates for the purpose of marketing, the affiliate cannot solicit them—forever. Without this amendment, a consumer would have been required to go back to the corporation and reiterate his request after 5 years.

Additionally, this amendment clarified what the bill meant by a ''pre-existing business relationship'', where there was no definition before. With this amendment, a company's affiliate would only be able to market to consumers who have:

One, purchased, rented or leased the seller's goods or services or completed a financial transaction between the consumer and seller, within the 18 months immediately preceding the date of a solicitation; or

Two, inquired about or applied for a product or service offered by the seller, within the 3 months immediately preceding the marketing contact.

Without this clarification, companies might have been able to market to customers who purchased goods as many as 5 or 10 years earlier, or who made the mildest inquiry a few years ago. It is the same definition developed by the Federal Trade Commission in creating a national ''Do Not Call'' registry for telemarketers.

The Senate also adopted a second amendment, which I authored and was cosponsored by Senators BOXER and KENNEDY, that essentially provided a far more encompassing definition of medical information than is contained in current law.

Simply put, this amendment will help ensure that consumers aren't discriminated against based on their medical or health information when they apply for credit, insurance, or employment. The amendment also has the support of the American Medical Association, the American Cancer Society, and the California Medical Association.

The Feinstein amendment would broadly expand the definition of ''medical information'' to read:

Information or data except age or gender, whether oral or recorded in any form or medium, created by or derived from a health care provider or the consumer that relates to:

(1) The past, present or future physical, mental or behavioral health or condition of an individual;

(2) The provision of health care to an individual; or

(3) Payment for the provision of health care to an individual.

This is the same definition of medical information established by the National Association of Insurance Commissioners in 2002. This definition has been implemented in a vast majority of our states.

Even with these modest amendments, however, I cannot support the reauthorization of the Fair Credit Reporting Act.

The Boxer-Feinstein marketing amendment will help prevent consumers from receiving unwanted solicitation, but it will do nothing to limit

the ability of companies to share information with their affiliates.

Affiliates, therefore, will continue to be able to use personal information to profile consumers in a way that leads to unfair increases in premiums or interest rates, to giving certain consumers inferior service, or to outrightly deny them credit cards, insurance policies, or other products.

Furthermore, the bill will do nothing to stop the creation of ''internal credit reports'' by large financial institutions. Unlike with traditional credit reports, consumers will continue to have no ability to access or correct errors in these documents.

Most Americans consider their personal information their private property. Yet, this bill will continue to deprive ordinary American consumers from having any choice over how their information is shared in the business world. This is the fundamental issue.

To give you a sense of the deep support for privacy, I would point to a survey of California voters completed on February 7 of this year.

The statewide survey found that by a 91-to-7 percent margin, California voters would favor a ballot proposition that ''would require a bank, a credit card company, insurance company, or other financial institution to notify a customer and receive a customer's permission before selling any financial information to any separate financial or non-financial company.''

This means that 9 out of 10 Californians support even stronger protections—where companies would have to gain your prior consent—opt-in—to share your financial data—than the amendment which Senator BOXER and I offered. And polls across the country reflected similar levels of support by Americans for stronger privacy laws.

This only underscores the need for strong federal standards. Clearly, businesses should be able to manage customer information in order to enhance services. But there must be strong rules that protect consumers. That is why Congress should have given consumers a choice—allowing them to tall companies that they don't want their most personal information shared.

So despite the fact that I support efforts in this legislation to combat identity theft and improve consumer access to credit report information, I believe that the bill doesn't do enough to protect consumer's privacy, and that is why I am voting against it.

Mr. President, I ask unanimous consent that a letter from Senator Jackie Speier be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CALIFORNIA STATE SENATE,
Sacramento, CA, October 24, 2003.

Hon. DIANNE FEINSTEIN,
U.S. Senator, California,
Hart Senate Office Building, Washington, DC.
Hon. BARBARA BOXER,
U.S. Senator, California,
Hart Senate Office Building, Washington, DC.

DEAR SENATORS FEINSTEIN AND BOXER: I wish to thank you for your efforts on behalf of consumer privacy rights, and urge you continue to do all that is possible to protect California's hard-fought consumer privacy gains.

It has recently come to my attention that the financial services industry has been criticizing the contents of your amendment to S. 1753, substituting the newly-enacted and stronger California privacy standard on affiliate sharing in the ''corporate family of companies,'' as unworkable and unreasonable. This same industry recently called my California bill ''workable and reasonable,'' specifically removing their opposition to my measure and lavishing praise on it, even helping to gather votes. Industry made it clear that my bill met their workability concerns, progress made with their active participation. If my bill was workable for industry in California, then why shouldn't it be the national standard? A transcript of their August 14, 2003, public comments bear this out and is attached.

One industry representative stood with me on that day and said my bill ''encompasses all aspects of the workability needed to ensure protection of customers' privacy,'' while another called it ''a balanced measure that will provide meaningful privacy protections to consumers while also addressing the workability concerns'' that industry had. Now the story is different, as industry sees a political opportunity to preempt California's standard on affiliate sharing with a weaker one.

The financial services industry appears to be acting in bad faith—it seems willing to say and do anything to erode California's recent progress on behalf of consumers, first to avoid a costly initiative battle and local ordinances limiting third-party sharing, now to pull the wool over Congress' eyes. Does the financial services industry really believe that millions of American consumers don't deserve a choice over what happens when their personal financial information, their financial DNA, is shared with thousands of affiliated companies? The industry's position is flawed public policy, weaker than their own standards abroad, and the kind of business practice that erodes consumer confidence.

I urge you to continue your efforts in making California's privacy standards those of the nation. California's affiliate standard was good enough for the financial industry two months ago; it certainly is acceptable now. Thank you again for your efforts; I stand ready to help you in any way possible.

All the best,

JACKIE SPEIER,
California State Senator.

Mr. DODD. Mr. President, I rise today to urge my strong support for S. 1753, the National Consumer Credit Reporting System Improvement Act of 2003. I would like to commend both Chairman SHELBY and Ranking Member SARBANES on this legislation and the thoroughness of the hearings which preceded this legislation. I applaud their deep commitment and thank them for their strong leadership on this issue.

This legislation is not perfect. It is not the bill that I would have written. Nor do I believe that this legislation represents a perfect bill from the perspective of the chairman or ranking member. However, I believe that it is a bipartisan bill that does a lot of very good things, and was put together in a very balanced manner.

The Banking Committee, both during the hearing process and the mark-up of this legislation examined the numerous issues surrounding the Fair Credit Reporting Act: accuracy, privacy, security, financial literacy, among others.

We learned some critical information during this process. I believe that the hearing process shed significant light on the positives of the Fair Credit Reporting Act and gave us insight on how to enhance its effectiveness. The consumer credit system is critically important to our nation's economy, and this legislation attempts to balance the greater access to credit for consumers, more efficiency in the credit granting process and the needs of consumers to have greater accuracy and privacy protections.

Numerous witnesses testified to the need to improve accuracy in the credit reporting process. Concerns were raised that currently the critical information that is used in the credit granting process is not as timely and accurate as is necessary. Accurate credit reporting is essential to the proper functioning of our credit system and to the financial security of American consumers. Also, consumers must have a clearly articulated remedy for correcting errors when they do occur.

Additionally, consumers must be given greater knowledge and control over their personal financial information. The hearing on affiliate sharing shed light on current practices and the positives and negatives associated with those practices.

The committee heard from numerous witnesses that consumers were not provided with the tools necessary to fully understand the credit reporting process and become adept to using it to their maximum advantage. Financial literacy is not a one time event—it is a long process—educating more and more Americans as they become consumers.

Of special concern, we learned about the epidemic of identity theft. Identity theft is a growing problem affecting millions of Americans and that we must devote our full attention to increasing the security of financial information. We heard from a witness named John Harrison, a retired Army Captain from Connecticut who was the victim of identity theft. His credit reports clearly contained false information—misinformation that was planted there by a criminal—but Captain Harrison has had—and continues to have—enormous difficulty restoring his credit worthiness.

These are just some of the lessons regarding the current operation of the Fair Credit Reporting Act.

This legislation addresses many, if not all, of the concerns raised throughout the six hearings conducted by the committee.

This legislation strengthens consumers' ability to control both their personal financial and medical information. I have long supported the need to improve the privacy rights of consumers with respect to genetic, medical, and financial information. I am a cosponsor of legislation which would

provide greater choices for consumers to prevent sharing of information between affiliates and unaffiliated third parties. While this legislation does not go far enough to completely protect consumers, I believe it is an important step in the right direction.

This legislation provides consumers with the ability to prohibit affiliates from using their personal financial information for solicitations and other marketing purposes. In addition, an important amendment was adopted on the floor to provide consumers with additional protections against the misuse of sensitive medical information. It also contains important provisions that will significantly enhance consumer protections against the growing problem of identify theft.

Additionally, it grants consumers with access to one free credit report per year from the credit reporting bureaus. This access will allow consumers to monitor the accuracy of the information contained in their credit files and ensure that information resulting from identity theft does not end up destroying their financial reputation.

And by providing consumers with a free credit report, and access to the information used by creditors to judge their creditworthiness, this bill equips consumers with the tools to competitively shop for sources of financing and will lead consumers to make better informed and more judicious, credit-related decisions.

I believe that we can do more to give consumers better control over their personal information and how financial institutions share their information with their affiliates, for marketing as well as other purposes. This legislation is an important step in the right direction.

Irrespective of any changes that I, or others, may wish to raise with regard to S. 1753, there is no doubt that this legislation significantly improves the current privacy and accuracy standards of our consumer credit reporting system.

Again, I would like to thank Senators SARBANES and SHELBY and their staffs for their hard work on this legislation. I urge my colleagues to support S. 1753.

Mr. BAUCUS. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Who yields time? There is 1 minute remaining on each side.

Mr. SHELBY. Mr. President, I yield myself 1 minute or less. We are getting ready to vote on the Fair Credit Reporting Act. We were able yesterday to move it to where we are today. We believe we have put together a bipartisan bill. We expect a heavy vote on both sides of the aisle. It is a complicated piece of legislation.

I commend Senator SARBANES, my colleague and the ranking Democrat, for his leadership in helping us to get where we are today.

I yield back the remainder of my time.

Mr. SARBANES. Mr. President, this is the legislation we spent all day yesterday on. We worked through the issues, I think, in a reasonable and collegial fashion and the measure is now before us for final passage. I thank the chairman of the committee for his many courtesies.

I yield back the remainder of my time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill pass?

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 Massachusetts (Mr. KERRY), and the Senator from Connecticut (Mr. LIEBERMAN) are necessarily absent.

I further announce that, if present and voting, the Senator from Massachusetts (Mr. KERRY) would vote ''aye.''

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 95, nays 2, as follows:

[Rollcall Vote No. 437 Leg.]

YEAS—95

Akaka	Dodd	Lugar
Alexander	Dole	McCain
Allard	Domenici	McConnell
Allen	Dorgan	Mikulski
Baucus	Durbin	Miller
Bayh	Ensign	Murkowski
Bennett	Enzi	Murray
Biden	Feingold	Nelson (FL)
Bingaman	Fitzgerald	Nelson (NE)
Bond	Frist	Nickles
Breaux	Graham (FL)	Pryor
Brownback	Graham (SC)	Reed
Bunning	Grassley	Reid
Burns	Gregg	Roberts
Byrd	Hagel	Rockefeller
Campbell	Harkin	Santorum
Cantwell	Hatch	Sarbanes
Carper	Hollings	Schumer
Chafee	Hutchison	Sessions
Chambliss	Inhofe	Shelby
Clinton	Inouye	Smith
Cochran	Jeffords	Snowe
Coleman	Johnson	Specter
Collins	Kennedy	Stabenow
Conrad	Kohl	Stevens
Cornyn	Kyl	Sununu
Corzine	Landrieu	Talent
Craig	Lautenberg	Thomas
Crapo	Leahy	Voinovich
Daschle	Levin	Warner
Dayton	Lincoln	Wyden
DeWine	Lott	

NAYS—2

Boxer	Feinstein

NOT VOTING—3

Edwards	Kerry	Lieberman

The bill (H.R. 2622), as amended, was passed, as follows:

H.R. 2622

Resolved, That the bill from the House of Representatives (H.R. 2622) entitled ''An Act to amend the Fair Credit Reporting Act, to prevent identity theft, improve resolution of consumer disputes, improve the accuracy of consumer records, make improvements in the use of, and consumer access to, credit information, and for other purposes.'', do pass with the following amendment:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''National Consumer Credit Reporting System Improvement Act of 2003''.

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

Sec. 1. Short title; table of contents.

TITLE I—IDENTITY THEFT PREVENTION AND CREDIT HISTORY RESTORATION

Subtitle A—Identity Theft Prevention

Sec. 111. Definitions.
Sec. 112. Fraud alerts and active duty alerts.
Sec. 113. Truncation of credit card and debit card account numbers.
Sec. 114. Establishment of procedures for the identification of possible instances of identity theft.
Sec. 115. Amendments to existing identity theft prohibition.
Sec. 116. Authority to truncate social security numbers.

Subtitle B—Protection and Restoration of Identity Theft Victim Credit History

Sec. 151. Summary of rights of identity theft victims.
Sec. 152. Blocking of information resulting from identity theft.
Sec. 153. Coordination of identity theft complaint investigations.
Sec. 154. Prevention of repollution of consumer reports.
Sec. 155. Notice by debt collectors with respect to fraudulent information.
Sec. 156. Statute of limitations.

TITLE II—IMPROVEMENTS IN USE OF AND CONSUMER ACCESS TO CREDIT INFORMATION

Sec. 211. Free credit reports.
Sec. 212. Credit scores.
Sec. 213. Enhanced disclosure of the means available to opt out of prescreened lists.
Sec. 214. Affiliate sharing.
Sec. 215. Study of effects of credit scores and credit-based insurance scores on availability and affordability of financial products.
Sec. 216. Disposal of consumer report information and records.

TITLE III—ENHANCING THE ACCURACY OF CONSUMER REPORT INFORMATION

Sec. 311. Risk-based pricing notice.
Sec. 312. Procedures to enhance the accuracy and completeness of information furnished to consumer reporting agencies.
Sec. 313. Federal Trade Commission and consumer reporting agency action concerning complaints.
Sec. 314. Ongoing audits of the accuracy of consumer reports.
Sec. 315. Improved disclosure of the results of reinvestigation.
Sec. 316. Reconciling addresses.
Sec. 317. FTC study of issues relating to the Fair Credit Reporting Act.

TITLE IV—LIMITING THE USE AND SHARING OF MEDICAL INFORMATION IN THE FINANCIAL SYSTEM

Sec. 411. Protection of medical information in the financial system.
Sec. 412. Confidentiality of medical contact information in consumer reports.

TITLE V—FINANCIAL LITERACY AND EDUCATION IMPROVEMENT

Sec. 511. Short title.
Sec. 512. Definitions.
Sec. 513. Establishment of Financial Literacy and Education Commission.

Sec. 514. Duties of the Commission.
Sec. 515. Powers of the Commission.
Sec. 516. Commission personnel matters.
Sec. 517. Study by the Comptroller General.
Sec. 518. Authorization of appropriations.
TITLE VI—RELATION TO STATE LAW
Sec. 611. Relation to State law.
TITLE VII—MISCELLANEOUS
Sec. 711. Clerical amendments.

TITLE I—IDENTITY THEFT PREVENTION AND CREDIT HISTORY RESTORATION

Subtitle A—Identity Theft Prevention

SEC. 111. DEFINITIONS.

Section 603 of the Fair Credit Reporting Act (15 U.S.C. 1681a) is amended by adding at the end the following:

''(q) DEFINITIONS RELATING TO FRAUD ALERTS.—

''(1) ACTIVE DUTY MILITARY CONSUMER.—The term 'active duty military consumer' means a consumer in military service who—

''(A) is on active duty (as defined in section 101(d)(1) of title 10, United States Code) or is a reservist performing duty under a call or order to active duty under a provision of law referred to in section 101(a)(13) of title 10, United States Code; and

''(B) is assigned to service away from the usual duty station of the consumer.

''(2) FRAUD ALERT; ACTIVE DUTY ALERT.—The terms 'fraud alert' and 'active duty alert' mean a statement in the file of a consumer that—

''(A) notifies all prospective users of a consumer report relating to the consumer that the consumer may be a victim of fraud, including identity theft, or is an active duty military consumer, as applicable;

''(B) provides to all prospective users of a consumer report relating to the consumer, a telephone number or other reasonable contact method designated by the consumer for the user to obtain authorization from the consumer before establishing new credit (including providing any increase in a credit limit with respect to an existing credit account) in the name of the consumer; and

''(C) is presented in a manner that facilitates a clear and conspicuous view of the statement described in subparagraph (A) or (B) by any person requesting such consumer report.

''(r) CREDIT CARD.—The term 'credit card' has the same meaning as in section 103 of the Truth in Lending Act.

''(s) DEBIT CARD.—The term 'debit card' means any card issued by a financial institution to a consumer for use in initiating an electronic fund transfer from the account of the consumer at such financial institution, for the purpose of transferring money between accounts or obtaining money, property, labor, or services.

''(t) ACCOUNT AND ELECTRONIC FUND TRANSFER.—The terms 'account' and 'electronic fund transfer' have the same meanings as in section 903 of the Electronic Fund Transfer Act.

''(u) CREDIT AND CREDITOR—The terms 'credit' and 'creditor' have the same meanings as in section 702 of the Equal Credit Opportunity Act.

''(v) FEDERAL BANKING AGENCIES.—The term 'Federal banking agencies' has the same meaning as in section 3 of the Federal Deposit Insurance Act.

''(w) FINANCIAL INSTITUTION.—The term 'financial institution' means a State or National bank, a State or Federal savings and loan association, a mutual savings bank, a State or Federal credit union, or any other person that, directly or indirectly, holds an account belonging to a consumer.

''(x) RESELLER.—The term 'reseller' means a consumer reporting agency that—

''(1) assembles and merges information contained in the database of another consumer reporting agency or multiple consumer reporting agencies concerning any consumer for purposes of furnishing such information to any third party, to the extent of such activities; and

''(2) does not maintain a database of the assembled or merged information from which new consumer reports are produced.

''(y) DEFINITIONS RELATING TO CREDIT SCORES.—

''(1) CREDIT SCORE AND KEY FACTORS.—When used in connection with an application for an extension of credit for a consumer purpose that is to be secured by a dwelling—

''(A) the term 'credit score'—

''(i) means a numerical value or categorization derived from a statistical tool or modeling system used to predict the likelihood of certain credit behaviors, including default; and

''(ii) does not include—

''(I) any mortgage score or rating of an automated underwriting system that considers 1 or more factors in addition to credit information, including the loan-to-value ratio, the amount of down payment, or the financial assets of a consumer; or

''(II) other elements of the underwriting process or underwriting decision; and

''(B) the term 'key factors' means all relevant elements or reasons affecting the credit score for a consumer, listed in the order of their importance, based on their respective effects on the credit score.

''(2) DWELLING.—The term 'dwelling' has the same meaning as in section 103 of the Truth in Lending Act.

''(z) IDENTITY THEFT REPORT.—The term 'identity theft report' means a report—

''(1) that alleges an identity theft;

''(2) that is filed by a consumer with an appropriate Federal, State, or local government agency, including the United States Postal Inspection Service and any law enforcement agency; and

''(3) the filing of which subjects the person filing the report to criminal penalties relating to the filing of false information if, in fact, the information in the report is false.''.

SEC. 112. FRAUD ALERTS AND ACTIVE DUTY ALERTS.

The Fair Credit Reporting Act (15 U.S.C. 1681 et seq.) is amended by inserting after section 605 the following:

''§ 605A. Identity theft prevention; fraud alerts and active duty alerts

''(a) ONE-CALL FRAUD ALERTS.—

''(1) INITIAL ALERTS.—Upon the request of a consumer who asserts in good faith a suspicion that the consumer has been or is about to become a victim of fraud or related crime, including identity theft, a consumer reporting agency described in section 603(p) that maintains a file on the consumer and has received appropriate proof of the identity of the requester shall—

''(A) include a fraud alert in the file of that consumer for a period of not less than 90 days, beginning on the date of such request, unless the consumer requests that such fraud alert be removed before the end of such period, and the agency has received appropriate proof of the identity of the requester for such purpose; and

''(B) refer the information regarding the fraud alert under this paragraph to each of the other consumer reporting agencies described in section 603(p), in accordance with procedures developed under section 621(f).

''(2) ACCESS TO FREE REPORTS.—In any case in which a consumer reporting agency includes a fraud alert in the file of a consumer pursuant to this subsection, the consumer reporting agency shall—

''(A) disclose to the consumer that the consumer may request a free copy of the file of the consumer pursuant to section 612(d); and

''(B) provide to the consumer all disclosures required to be made under section 609, without charge to the consumer, not later than 3 business days after any request described in subparagraph (A).

''(b) EXTENDED ALERTS.—

''(1) IN GENERAL.—Upon the request of a consumer who submits an identity theft report to a consumer reporting agency described in section 603(p) that maintains a file on the consumer, if the agency has received appropriate proof of the identity of the requester, the agency shall—

''(A) include a fraud alert in the file of that consumer during the 7-year period beginning on the date of such request, unless the consumer requests that such fraud alert be removed before the end of such period and the agency has received appropriate proof of the identity of the requester for such purpose;

''(B) during the 7-year period beginning on the date of such request, exclude the consumer from any list of consumers prepared by the consumer reporting agency and provided to any third party to offer credit or insurance to the consumer as part of a transaction that was not initiated by the consumer, unless the consumer requests that such exclusion be rescinded before the end of such period; and

''(C) refer the information regarding the extended fraud alert under this paragraph to each of the other consumer reporting agencies described in section 603(p), in accordance with procedures developed under section 621(f).

''(2) VERIFICATION OF IDENTITY THEFT CLAIM.—For purposes of paragraph (1), a consumer reporting agency shall accept as proof of a claim of identity theft, in lieu of an identity theft report—

''(A) a properly completed copy of a standardized affidavit of identity theft developed and made available by the Federal Trade Commission; or

''(B) any affidavit of fact that is acceptable to the consumer reporting agency for that purpose.

''(3) ACCESS TO FREE REPORTS.—In any case in which a consumer reporting agency includes a fraud alert in the file of a consumer pursuant to this subsection, the consumer reporting agency shall—

''(A) disclose to the consumer that the consumer may request 2 free copies of the file of the consumer pursuant to section 612(d) during the 12-month period beginning on the date on which the fraud alert was included in the file; and

''(B) provide to the consumer all disclosures required to be made under section 609, without charge to the consumer, not later than 3 business days after any request described in subparagraph (A).

''(c) ACTIVE DUTY ALERTS.—Upon the request of an active duty military consumer, a consumer reporting agency described in section 603(p) that maintains a file on the active duty military consumer and has received appropriate proof of the identity of the requester shall—

''(1) include an active duty alert in the file of that active duty military consumer during a period of not less than 12 months, beginning on the date of the request, unless the active duty military consumer requests that such fraud alert be removed before the end of such period, and the agency has received appropriate proof of the identity of the requester for such purpose;

''(2) during the 12-month period beginning on the date of such request, exclude the active duty military consumer from any list of consumers prepared by the consumer reporting agency and provided to any third party to offer credit or insurance to the consumer as part of a transaction that was not initiated by the consumer, unless the consumer

requests that such exclusion be rescinded before the end of such period; and

''(3) refer the information regarding the active duty alert to each of the other consumer reporting agencies described in section 603(p), in accordance with procedures developed under section 621(f).

''(d) PROCEDURES.—Each consumer reporting agency described in section 603(p) shall establish policies and procedures to comply with this section, including procedures that allow consumers and active duty military consumers to request temporary, extended, or active duty alerts (as applicable) in a simple and easy manner, including by telephone.

''(e) REFERRALS OF FRAUD ALERTS.—Each consumer reporting agency described in section 603(p) that receives a referral of a fraud alert or active duty alert from another consumer reporting agency pursuant to this section shall, as though the agency received the request from the consumer directly, follow the procedures required under—

''(1) paragraphs (1)(A) and (2) of subsection (a), in the case of a referral under subsection (a)(1)(B);

''(2) paragraphs (1)(A), (1)(B), and (3) of subsection (b), in the case of a referral under subsection (b)(1)(C); and

''(3) paragraphs (1) and (2) of subsection (c), in the case of a referral under subsection (c)(3).

''(f) DUTY OF RESELLER TO RECONVEY ALERT.—A reseller shall include in its report any fraud alert or active duty alert placed in the file of a consumer pursuant to this section by another consumer reporting agency.

''(g) DUTY OF OTHER CONSUMER REPORTING AGENCIES TO PROVIDE CONTACT INFORMATION.—If a consumer contacts any consumer reporting agency that is not described in section 603(p) to communicate a suspicion that the consumer has been or is about to become a victim of fraud or related crime, including identity theft, the agency shall provide information to the consumer on how to contact the Federal Trade Commission and the consumer reporting agencies described in section 603(p) to obtain more detailed information and request alerts under this section.''.

SEC. 113. TRUNCATION OF CREDIT CARD AND DEBIT CARD ACCOUNT NUMBERS.

Section 605 of the Fair Credit Reporting Act (15 U.S.C. 1681c) is amended by adding at the end the following:

''(g) TRUNCATION OF CREDIT CARD AND DEBIT CARD NUMBERS.—

''(1) IN GENERAL.—Except as otherwise specifically provided in this subsection, no person that accepts credit cards or debit cards for the transaction of business shall print more than the last 5 digits of the card account number or the expiration date upon any receipt provided to the cardholder at the point of the sale or transaction.

''(2) LIMITATION.—This subsection applies only to receipts that are electronically printed, and does not apply to transactions in which the sole means of recording a credit card or debit card account number is by handwriting or by an imprint or copy of the card.

''(3) EFFECTIVE DATE.—This subsection shall become effective—

''(A) 3 years after the date of enactment of this subsection, with respect to any cash register or other machine or device that electronically prints receipts for credit card or debit card transactions that is in use before January 1, 2005; and

''(B) 1 year after the date of enactment of this subsection, with respect to any cash register or other machine or device that electronically prints receipts for credit card or debit card transactions that is first put into use on or after January 1, 2005.''.

SEC. 114. ESTABLISHMENT OF PROCEDURES FOR THE IDENTIFICATION OF POSSIBLE INSTANCES OF IDENTITY THEFT.

(a) IN GENERAL.—Section 615 of the Fair Credit Reporting Act (15 U.S.C. 1681m) is amended—

(1) by striking ''(e)'' at the end; and

(2) by adding at the end the following:

''(e) RED FLAG GUIDELINES AND REGULATIONS REQUIRED.—

''(1) GUIDELINES.—The Federal banking agencies, the National Credit Union Administration, and the Federal Trade Commission shall, with respect to the entities that are subject to their respective enforcement authority under section 621, and in coordination as described in paragraph (2)—

''(A) establish and maintain guidelines for use by each financial institution and each other person that is a creditor or other user of a consumer report regarding identity theft with respect to account holders at, or customers of, such entities, and update such guidelines as often as necessary;

''(B) prescribe regulations requiring each financial institution and each other person that is a creditor or other user of a consumer report to establish reasonable policies and procedures for implementing the guidelines established pursuant to paragraph (1), to identify possible risks to account holders or to the safety and soundness of the institution or customers; and

''(C) prescribe regulations requiring each financial institution and each other person that is a creditor or other user of a consumer report to notify the Federal Trade Commission (and any other agency or person that such rulemaking agency determines appropriate) in any case in which there has been, or is reasonably believed to have been unauthorized access to computerized or physical records which compromises the security, confidentiality, or integrity of consumer information maintained by or on behalf of that entity, except that such regulations shall not apply to a good faith acquisition of information by an employee or agent of such entity for a business purpose of that entity, if the information is not subject to further unauthorized access.

''(2) COORDINATION.—Each agency required to prescribe regulations under paragraph (1) shall consult and coordinate with each other such agency so that, to the extent possible, the regulations prescribed by each such entity are consistent and comparable with the regulations prescribed by each other such agency.

''(3) CRITERIA.—In developing the guidelines required by paragraph (1)(A), the agencies described in paragraph (1) shall identify patterns, practices, and specific forms of activity that indicate the possible existence of identity theft.

''(4) CONSISTENCY WITH VERIFICATION REQUIREMENTS.—Policies and procedures established pursuant to paragraph (1) shall not be inconsistent with, or duplicative of, the policies and procedures required under section 5318(*l*) of title 31, United States Code.

''(f) INVESTIGATION OF CHANGES OF ADDRESS.—

''(1) IN GENERAL.—The Federal banking agencies, the National Credit Union Administration, and the Federal Trade Commission, in carrying out the responsibilities of such agencies under subsection (e) shall, with respect to the entities that are subject to their respective enforcement authority under section 621, and in coordination as described in paragraph (2), prescribe regulations applicable to card issuers to ensure that, if any such card issuer receives a request for an additional or replacement card for an existing account not later than 30 days after the card issuer has received notification of a change of address for the same account, the card issuer will follow reasonable policies and procedures that prohibit, as appropriate, the card issuer from issuing the additional or replacement card, unless the card issuer—

''(A) notifies the cardholder of the request at the former address of the cardholder and provides to the cardholder a means of promptly reporting incorrect address changes;

''(B) notifies the cardholder of the request by such other means of communication as the cardholder and the card issuer previously agreed to; or

''(C) uses other means of assessing the validity of the change of address, in accordance with reasonable policies and procedures established by the card issuer in accordance with the regulations prescribed under subsection (e).

''(2) COORDINATION.—Each agency required to prescribe regulations under paragraph (1) shall consult and coordinate with each other such agency so that, to the extent possible, the regulations prescribed by each such entity are consistent and comparable with the regulations prescribed by each other such agency.

''(3) DEFINITION OF CARD ISSUER.—For purposes of this subsection, the term 'card issuer' means—

''(A) any person who issues a credit card, or the agent of such person with respect to such card; and

''(B) any person who issues a debit card.''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect 1 year after the date of enactment of this Act.

SEC. 115. AMENDMENTS TO EXISTING IDENTITY THEFT PROHIBITION.

Section 1028 of title 18, United States Code, is amended—

(1) in subsection (a)(7)—

(A) by striking ''transfers'' and inserting ''transfers, possesses,''; and

(B) by striking ''abet,'' and inserting ''abet, or in connection with,'';

(2) in subsection (b)(1)(D), by striking ''transfer'' and inserting ''transfer, possession,''; and

(3) in subsection (b)(2), by striking ''three years'' and inserting ''5 years''.

SEC. 116. AUTHORITY TO TRUNCATE SOCIAL SECURITY NUMBERS.

Section 609(a)(1) of the Fair Credit Reporting Act (15 U.S.C. 1681g(a)(1)) is amended by striking ''except that nothing'' and inserting the following: ''except that—

''(A) if the consumer to whom the file relates requests that the first 5 digits of the social security number (or similar identification number) of the consumer not be included in the disclosure and the consumer reporting agency has received appropriate proof of the identity of the requester, the consumer reporting agency shall so truncate such number in such disclosure; and

''(B) nothing''.

Subtitle B—Protection and Restoration of Identity Theft Victim Credit History

SEC. 151. SUMMARY OF RIGHTS OF IDENTITY THEFT VICTIMS.

(a) IN GENERAL.—Section 609 of the Fair Credit Reporting Act (15 U.S.C. 1681g) is amended by adding at the end the following:

''(d) SUMMARY OF RIGHTS OF IDENTITY THEFT VICTIMS.—

''(1) IN GENERAL.—The Federal Trade Commission, in consultation with the Federal banking agencies and the National Credit Union Administration, shall prescribe the form and content of a summary of the rights of consumers under this title with respect to the procedures for remedying the effects of fraud or identity theft involving credit, electronic fund transfers, or accounts or transactions at or with a financial institution.

''(2) SUMMARY OF RIGHTS AND CONTACT INFORMATION.—If any consumer contacts a consumer reporting agency and expresses a belief that the consumer is a victim of fraud or identity theft involving credit, an electronic fund transfer, or an account or transaction at or with a financial institution, the consumer reporting agency shall, in addition to any other action that the agency may take, provide the consumer with the model summary of rights prepared by the Federal Trade Commission under paragraph (1) and information on how to contact the Commission to obtain more detailed information.

''(e) INFORMATION AVAILABLE TO VICTIMS.—

''(1) IN GENERAL.—For the purpose of documenting fraudulent transactions resulting from identity theft, not later than 20 days after the date of receipt of a request from a victim in accordance with paragraph (3), and subject to verification of the identity of the victim and the claim of identity theft in accordance with paragraph (2), a business entity that has provided credit to, provided for consideration products, goods, or services to, accepted payment from, or otherwise entered into a commercial transaction for consideration with, a person who has allegedly made unauthorized use of the means of identification of the victim, shall provide a copy of application and business transaction records in the control of the business entity, whether maintained by the business entity or by another person on behalf of the business entity, evidencing any transaction alleged to be a result of identity theft to—

''(A) the victim;

''(B) any Federal, State, or local governing law enforcement agency or officer specified by the victim in such a request; or

''(C) any law enforcement agency investigating the identity theft and authorized by the victim to take receipt of records provided under this subsection.

''(2) VERIFICATION OF IDENTITY AND CLAIM.—Before a business entity provides any information under paragraph (1), unless the business entity, at its discretion, is otherwise able to verify the identity of the victim making a request under paragraph (1), the victim shall provide to the business entity—

''(A) as proof of positive identification of the victim, at the election of the business entity—

''(i) the presentation of a government-issued identification card;

''(ii) personally identifying information of the same type as was provided to the business entity by the unauthorized person; or

''(iii) personally identifying information that the business entity typically requests from new applicants or for new transactions, at the time of the victim's request for information, including any documentation described in clauses (i) and (ii); and

''(B) as proof of a claim of identity theft, at the election of the business entity—

''(i) a copy of a police report evidencing the claim of the victim of identity theft; and

''(ii) a properly completed—

''(I) copy of a standardized affidavit of identity theft developed and made available by the Federal Trade Commission; or

''(II) an affidavit of fact that is acceptable to the business entity for that purpose.

''(3) PROCEDURES.—The request of a victim under paragraph (1) shall—

''(A) be in writing; and

''(B) be mailed to an address specified by the business entity, if any.

''(4) NO CHARGE TO VICTIM.—Information required to be provided under paragraph (1) shall be so provided without charge.

''(5) AUTHORITY TO DECLINE TO PROVIDE INFORMATION.—A business entity may decline to provide information under paragraph (1) if, in the exercise of good faith, the business entity determines that—

''(A) this subsection does not require disclosure of the information;

''(B) the request for the information is based on a misrepresentation of fact by the individual requesting the information relevant to the request for information; or

''(C) the information requested is Internet navigational data or similar information about a person's visit to a website or online service.

''(6) LIMITATION ON LIABILITY.—Except as provided in section 621, sections 616 and 617 do not apply to any violation of this subsection.

''(7) NO NEW RECORDKEEPING OBLIGATION.—Nothing in this subsection creates an obligation on the part of a business entity to obtain, retain, or maintain information or records that are not otherwise required to be obtained, retained, or maintained in the ordinary course of its business or under other applicable law.

''(8) RULE OF CONSTRUCTION.—

''(A) IN GENERAL.—No provision of Federal or State law (except a law involving the nondisclosure of information related to a pending Federal criminal investigation) prohibiting the disclosure of financial information by a business entity to third parties shall be used to deny disclosure of information to the victim under this subsection.

''(B) LIMITATION.—Except as provided in subparagraph (A), nothing in this subsection permits a business entity to disclose information, including information to law enforcement under subparagraphs (B) and (C) of paragraph (1), that the business entity is otherwise prohibited from disclosing under any other applicable provision of Federal or State law.

''(9) AFFIRMATIVE DEFENSE.—In any civil action brought to enforce this subsection, it is an affirmative defense (which the defendant must establish by a preponderance of the evidence) for a business entity to file an affidavit or answer stating that—

''(A) the business entity has made a reasonably diligent search of its available business records; and

''(B) the records requested under this subsection do not exist or are not available.

''(10) DEFINITION OF VICTIM.—For purposes of this subsection, the term 'victim' means a consumer whose means of identification or financial information has been used or transferred (or has been alleged to have been used or transferred) without the authority of that consumer, with the intent to commit, or to aid or abet, identity theft or any other violation of law.''.

(b) PUBLIC CAMPAIGN TO PREVENT IDENTITY THEFT.—Not later than 2 years after the date of enactment of this Act, the Federal Trade Commission shall establish and implement a media and distribution campaign to teach the public how to prevent identity theft. Such campaign shall include existing Federal Trade Commission education materials, as well as radio, television, and print public service announcements, video cassettes, interactive digital video discs (DVD's) or compact audio discs (CD's), and Internet resources.

(c) CONFORMING AMENDMENT.—Section 624(b)(3) of the Fair Credit Reporting Act (15 U.S.C. 1681t(b)(3), regarding relation to State laws) is amended by striking ''section 609(c)'' and inserting ''subsection (c) or (d) of section 609''.

SEC. 152. BLOCKING OF INFORMATION RESULTING FROM IDENTITY THEFT.

(a) IN GENERAL.—The Fair Credit Reporting Act (15 U.S.C. 1681 et seq.) is amended by inserting after section 605A, as added by this Act, the following:

''§ 605B. Block of information resulting from identity theft

''(a) BLOCK.—Except as otherwise provided in this section, a consumer reporting agency shall block the reporting of any information in the file of a consumer that the consumer identifies as information that resulted from an alleged identity theft, not later than 3 business days after the date of receipt by such agency of—

''(1) appropriate proof of the identity of the consumer;

''(2) a copy of an identity theft report; and

''(3) the identification of such information by the consumer.

''(b) NOTIFICATION.—A consumer reporting agency shall promptly notify the furnisher of information identified by the consumer under subsection (a)—

''(1) that the information may be a result of identity theft;

''(2) that an identity theft report has been filed;

''(3) that a block has been requested under this section; and

''(4) of the effective dates of the block.

''(c) AUTHORITY TO DECLINE OR RESCIND.—

''(1) IN GENERAL.—A consumer reporting agency may decline to block, or may rescind any block, of information relating to a consumer under this section, if the consumer reporting agency reasonably determines that—

''(A) the information was blocked in error or a block was requested by the consumer in error;

''(B) the information was blocked, or a block was requested by the consumer, on the basis of a material misrepresentation of fact relevant to the request to block; or

''(C) the consumer obtained possession of goods, services, or money as a result of the blocked transaction or transactions.

''(2) NOTIFICATION TO CONSUMER.—If a block of information is declined or rescinded under this subsection, the affected consumer shall be notified promptly, in the same manner as consumers are notified of the reinsertion of information under section 611(a)(5)(B).

''(3) SIGNIFICANCE OF BLOCK.—For purposes of this subsection, if a consumer reporting agency rescinds a block, the presence of information in the file of a consumer prior to the blocking of such information is not evidence of whether the consumer knew or should have known that the consumer obtained possession of any goods, services, or money as a result of the block.

''(d) EXCEPTION FOR RESELLERS.—

''(1) NO RESELLER FILE.—This section shall not apply to a consumer reporting agency, if the consumer reporting agency—

''(A) is a reseller;

''(B) is not, at the time of the request of the consumer under subsection (a), otherwise furnishing or reselling a consumer report concerning the information identified by the consumer; and

''(C) informs the consumer, by any means, that the consumer may report the identity theft to the Federal Trade Commission to obtain consumer information regarding identity theft.

''(2) RESELLER WITH FILE.—The sole obligation of the consumer reporting agency under this section, with regard to any request of a consumer under this section, shall be to block the consumer report maintained by the consumer reporting agency from any subsequent use, if—

''(A) the consumer, in accordance with the provisions of subsection (a), identifies, to a consumer reporting agency, information in the file of the consumer that resulted from identity theft; and

''(B) the consumer reporting agency is a reseller of the identified information.

''(3) NOTICE.—In carrying out its obligation under paragraph (2), the reseller shall

promptly provide a notice to the consumer of the decision to block the file. Such notice shall contain the name, address, and telephone number of each consumer reporting agency from which the consumer information was obtained for resale.

''(e) EXCEPTION FOR VERIFICATION COMPANIES.—The provisions of this section do not apply to a check services company, acting as such, which issues authorizations for the purpose of approving or processing negotiable instruments, electronic fund transfers, or similar methods of payments, except that, beginning 3 business days after receipt of information described in paragraphs (1) through (3) of subsection (a), a check services company shall not report to a national consumer reporting agency described in section 603(p), any information identified in the subject identity theft report as resulting from identity theft.

''(f) ACCESS TO BLOCKED INFORMATION BY LAW ENFORCEMENT AGENCIES.—No provision of this section shall be construed as requiring a consumer reporting agency to prevent a Federal, State, or local law enforcement agency from accessing blocked information in a consumer file to which the agency could otherwise obtain access under this title.''.

(b) CLERICAL AMENDMENT.—The table of sections for the Fair Credit Reporting Act (15 U.S.C. 1681 et seq.) is amended by inserting after the item relating to section 605 the following new items:

''605A. Identity theft prevention; fraud alerts and active duty alerts.
''605B. Block of information resulting from identity theft.''.

SEC. 153. COORDINATION OF IDENTITY THEFT COMPLAINT INVESTIGATIONS.

Section 621 of the Fair Credit Reporting Act (15 U.S.C. 1681s) is amended by adding at the end the following:

''(f) COORDINATION OF CONSUMER COMPLAINT INVESTIGATIONS.—

''(1) IN GENERAL.—Each consumer reporting agency described in section 603(p) shall develop and maintain procedures for the referral to each other such agency of any consumer complaint received by the agency alleging identity theft, or requesting a fraud alert under section 605A or a block under section 605B.

''(2) MODEL FORM AND PROCEDURE FOR REPORTING IDENTITY THEFT.—The Federal Trade Commission, in consultation with the Federal banking agencies and the National Credit Union Administration, shall develop a model form and model procedures to be used by consumers who are victims of identity theft for contacting and informing creditors and consumer reporting agencies of the fraud.

''(3) ANNUAL SUMMARY REPORTS.—Each consumer reporting agency described in section 603(p) shall submit an annual summary report to the Federal Trade Commission on consumer complaints received by the agency on identity theft or fraud alerts.''.

SEC. 154. PREVENTION OF REPOLLUTION OF CONSUMER REPORTS.

(a) PREVENTION OF REINSERTION OF ERRONEOUS INFORMATION.—

(1) DUTIES OF FURNISHERS UPON NOTICE OF IDENTITY THEFT-RELATED DISPUTES.—Section 623(b) of the Fair Credit Reporting Act (15 U.S.C. 1681s–2(b)) is amended—

(A) by redesignating paragraph (2) as paragraph (3);

(B) by inserting after paragraph (1) the following:

''(2) DUTIES OF FURNISHERS UPON NOTICE OF IDENTITY THEFT-RELATED DISPUTES.—A person that furnishes information to any consumer reporting agency shall—

''(A) have in place reasonable procedures to respond to any notification that it receives from a consumer reporting agency under section 605B relating to information resulting from identity theft, to prevent that person from refurnishing such blocked information; and

''(B) take the actions described in subparagraphs (A) through (D) of paragraph (1), if such person receives directly from a consumer, an identity theft report or a properly completed copy of a standardized affidavit of identity theft developed and made available by the Federal Trade Commission.''; and

(C) in paragraph (3), as redesignated, by striking ''paragraph (1)'' and inserting ''this subsection''.

(2) CONFORMING AMENDMENTS RELATING TO NOTICE OF IDENTITY THEFT DIRECTLY FROM CONSUMERS.—Section 623(b)(1) of the Fair Credit Reporting Act (15 U.S.C. 1681s–2(b)(1)) is amended—

(A) in the matter preceding subparagraph (A), by inserting ''or as described in paragraph (2)(B),'' after ''agency,'';

(B) subparagraph (B), by inserting before the semicolon the following: '', and by the consumer, and other documentation reasonably available to the person that is necessary to conduct a reasonable investigation''; and

(C) in subparagraph (C), by inserting before the semicolon at the end the following: '', and to the consumer, if notice of the dispute was received directly from the consumer, as described in paragraph (2)(B)''.

(b) PROHIBITION ON SALE OR TRANSFER OF DEBT CAUSED BY IDENTITY THEFT.—Section 615 of the Fair Credit Reporting Act (15 U.S.C. 1681m), as amended by this Act, is amended by adding at the end the following:

''(g) PROHIBITION ON SALE OR TRANSFER OF DEBT CAUSED BY IDENTITY THEFT.—

''(1) IN GENERAL.—No person shall sell, transfer for consideration, or place for collection a debt that such person has been notified under section 605B has resulted from identity theft.

''(2) APPLICABILITY.—The prohibitions of this subsection shall apply to all persons collecting a debt described in paragraph (1) after the date of a notification under paragraph (1).

''(3) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed to prohibit—

''(A) the repurchase of a debt in any case in which the assignee of the debt requires such repurchase because the debt has resulted from identity theft;

''(B) the securitization of a debt; or

''(C) the transfer of debt as a result of a merger, acquisition, purchase and assumption transaction, or transfer of substantially all of the assets of an entity.''.

SEC. 155. NOTICE BY DEBT COLLECTORS WITH RESPECT TO FRAUDULENT INFORMATION.

Section 615 of the Fair Credit Reporting Act (15 U.S.C. 1681m), as amended by this Act, is amended by adding at the end the following:

''(h) DEBT COLLECTOR COMMUNICATIONS CONCERNING IDENTITY THEFT.—If a person acting as a debt collector (as that term is defined in title VIII) on behalf of a third party that is a creditor or other user of a consumer report is notified that any information relating to a debt that the person is attempting to collect may be fraudulent or may be the result of identity theft, that person shall—

''(1) notify the third party that the information may be fraudulent or may be the result of identity theft; and

''(2) upon request of the consumer to whom the debt purportedly relates, provide to the consumer all information to which the consumer would otherwise be entitled if the consumer were not a victim of identity theft, but wished to dispute the debt under provisions of law applicable to that person.''.

SEC. 156. STATUTE OF LIMITATIONS.

Section 618 of the Fair Credit Reporting Act (15 U.S.C. 1681p) is amended to read as follows:

''§ 618. Jurisdiction of courts; limitation of actions

''An action to enforce any liability created under this title may be brought in any appropriate United States district court, without regard to the amount in controversy, or in any other court of competent jurisdiction, not later than the earlier of—

''(1) 2 years after the date of discovery by the plaintiff of the violation that is the basis for such liability; or

''(2) 5 years after the date on which the violation that is the basis for such liability occurs.''.

TITLE II—IMPROVEMENTS IN USE OF AND CONSUMER ACCESS TO CREDIT INFORMATION

SEC. 211. FREE CREDIT REPORTS.

(a) IN GENERAL.—Section 612 of the Fair Credit Reporting Act (15 U.S.C. 1681j) is amended—

(1) by redesignating subsection (a) as subsection (f), and transferring it to the end of the section;

(2) by inserting before subsection (b) the following:

''(a) FREE ANNUAL DISCLOSURE.—

''(1) IN GENERAL.—A consumer reporting agency described in section 603(p) shall make all disclosures pursuant to section 609 once during any 12-month period upon request of the consumer and without charge to the consumer, only if the request is made by mail or through an Internet website using the centralized system and the standardized form established for such requests in accordance with section 211(c) of the National Consumer Credit Reporting System Improvement Act of 2003.

''(2) TIMING.—A consumer reporting agency shall provide a consumer report under paragraph (1) not later than 15 days after the date on which the request is received under paragraph (1).

''(3) REINVESTIGATIONS.—Notwithstanding the time periods specified in section 611(a)(1), a reinvestigation under that section by a consumer reporting agency upon a request of a consumer that is made after receiving a consumer report under this subsection shall be completed not later than 45 days after the date on which the request is received.'';

(3) by redesignating subsection (d) as subsection (e);

(4) by inserting before subsection (e), as redesignated, the following:

''(d) FREE DISCLOSURES IN CONNECTION WITH FRAUD ALERTS.—Upon the request of a consumer, a consumer reporting agency described in section 603(p) shall make all disclosures pursuant to section 609 without charge to the consumer, as provided in subsections (a)(2) and (b)(3) of section 605A, as applicable.'';

(5) in subsection (e), as redesignated, by striking ''subsection (a)'' and inserting ''subsection (f)''; and

(6) in subsection (f), as redesignated, by striking ''Except as provided in subsections (b), (c), and (d), a'' and inserting ''In the case of a request from a consumer other than a request that is covered by any of subsections (a) through (d), a''.

(b) SUMMARY OF RIGHTS TO OBTAIN AND DISPUTE INFORMATION IN CONSUMER REPORTS AND TO OBTAIN CREDIT SCORES.—Section 609(c) of the Fair Credit Reporting Act (15 U.S.C. 1681g) is amended to read as follows:

''(c) SUMMARY OF RIGHTS TO OBTAIN AND DISPUTE INFORMATION IN CONSUMER REPORTS AND TO OBTAIN CREDIT SCORES.—

''(1) COMMISSION SUMMARY OF RIGHTS REQUIRED.—

''(A) IN GENERAL.—The Federal Trade Commission shall prepare a model summary of the rights of consumers under this title.

''(B) CONTENT OF SUMMARY.—The summary of rights prepared under subparagraph (A) shall include a description of—

''(i) the right of a consumer to obtain a copy of a consumer report under subsection (a) from each consumer reporting agency;

''(ii) the frequency and circumstances under which a consumer is entitled to receive a consumer report without charge under section 612;

''(iii) the right of a consumer to dispute information in the file of the consumer under section 611;

''(iv) the right of a consumer to obtain a credit score from a consumer reporting agency, and a description of how to obtain a credit score; and

''(v) the method by which a consumer can contact, and obtain a consumer report from, a consumer reporting agency without charge, as provided in the regulations of the Federal Trade Commission prescribed under section 211(c) of the National Consumer Credit Reporting System Improvement Act of 2003.

''(C) AVAILABILITY OF SUMMARY OF RIGHTS.—The Federal Trade Commission shall—

''(i) actively publicize the availability of the summary of rights prepared under this paragraph;

''(ii) conspicuously post on its Internet website the availability of such summary of rights; and

''(iii) promptly make such summary of rights available to consumers, on request.

''(2) SUMMARY OF RIGHTS REQUIRED TO BE INCLUDED WITH AGENCY DISCLOSURES.—A consumer reporting agency shall provide to a consumer, with each written disclosure by the agency to the consumer under this section—

''(A) the summary of rights prepared by the Federal Trade Commission under paragraph (1);

''(B) in the case of a consumer reporting agency described in section 603(p), a toll-free telephone number established by the agency, at which personnel are accessible to consumers during normal business hours;

''(C) a list of all Federal agencies responsible for enforcing any provision of this title, and the address and any appropriate phone number of each such agency, in a form that will assist the consumer in selecting the appropriate agency;

''(D) a statement that the consumer may have additional rights under State law, and that the consumer may wish to contact a State or local consumer protection agency or a State attorney general (or the equivalent thereof) to learn of those rights; and

''(E) a statement that a consumer reporting agency is not required to remove accurate derogatory information from the file of a consumer, unless the information is outdated under section 605 or cannot be verified.''.

(c) RULEMAKING REQUIRED.—

(1) IN GENERAL.—The Federal Trade Commission shall prescribe regulations applicable to consumer reporting agencies described in section 603(p) of the Fair Credit Reporting Act to require the establishment of—

(A) a centralized source, through which consumers may obtain a consumer report from each consumer reporting agency described in that section 603(p) using a single request and without charge to the consumer, as provided in section 612(a) of the Fair Credit Reporting Act (as amended by this Act);

(B) a standardized form for a consumer to make such a request for a consumer report by mail or through an Internet website; and

(C) streamlined methods by which such a consumer reporting agency shall provide such consumer reports, after consideration of—

(i) the significant demands that may be placed on consumer reporting agencies in providing such consumer reports;

(ii) appropriate means to ensure that consumer reporting agencies can satisfactorily meet those demands, including the efficacy of a system of staggering the availability to consumers of such consumer reports using a quarterly method based on the birth month of the consumer; and

(iii) the ease by which consumers should be able to contact consumer reporting agencies with respect to access to such consumer reports.

(2) TIMING.—Regulations required by this subsection shall—

(A) be issued in final form not later than 6 months after the date of enactment of this Act; and

(B) become effective not later than 6 months after the date on which they are issued in final form.

(d) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall become effective on the effective date of the regulations prescribed by the Federal Trade Commission in accordance with subsection (c).

SEC. 212. CREDIT SCORES.

(a) DUTIES OF CONSUMER REPORTING AGENCIES TO DISCLOSE CREDIT SCORES.—

(1) IN GENERAL.—Section 609(a) of the Fair Credit Reporting Act (15 U.S.C. 1681g(a)) is amended by adding at the end the following:

''(6) In connection with an application for an extension of credit for a consumer purpose that is to be secured by a dwelling—

''(A) the current, or most recent, credit score of the consumer that was previously calculated by the agency;

''(B) the range of possible credit scores under the model used;

''(C) the key factors, if any, not to exceed 4, that adversely affected the credit score of the consumer in the model used;

''(D) the date on which the credit score was created; and

''(E) the name of the person or entity that provided the credit score or the credit file on the basis of which the credit score was created.''.

(2) LIMITATIONS ON REQUIRED PROVISION OF CREDIT SCORE.—Section 609 of the Fair Credit Reporting Act (15 U.S.C. 1681g), as amended by this Act, is amended by adding at the end the following:

''(f) LIMITATIONS ON REQUIRED PROVISION OF CREDIT SCORE.—

''(1) IN GENERAL.—Subsection (a)(6) may not be construed—

''(A) to compel a consumer reporting agency to develop or disclose a credit score if the agency does not, in the ordinary course of its business—

''(i) distribute scores that are used in connection with extensions of credit secured by residential real property; or

''(ii) develop credit scores that assist creditors in understanding the general credit behavior of the consumer and predicting future credit behavior;

''(B) to require a consumer reporting agency that distributes credit scores developed by another person or entity to provide a further explanation of those scores, or to process a dispute arising pursuant to section 611(a), except that the consumer reporting agency shall be required to provide to the consumer the name and information for contacting the person or entity that developed the score;

''(C) to require a consumer reporting agency to maintain credit scores in its files; or

''(D) to compel disclosure of a credit score, except upon specific request of the consumer, except that if a consumer requests the credit file and not the credit score, then the consumer shall be provided with the credit file and a statement that the consumer may request and obtain a credit score.

''(2) PROVISION OF SCORING MODEL.—In complying with subsection (a)(6) and this subsection, a consumer reporting agency shall supply to the consumer—

''(A) a credit score that is derived from a credit scoring model that is widely distributed to users of credit scores by that consumer reporting agency in connection with any extension of credit secured by a dwelling; or

''(B) a credit score that assists the consumer in understanding the credit scoring assessment of the credit behavior of the consumer and predictions about future credit behavior.''.

(3) CONFORMING AMENDMENT.—Section 609(a)(1)(B) of the Fair Credit Reporting Act (15 U.S.C. 1681g(a)(1)(B)), as so designated by section 116, is amended by inserting before the period '', other than as provided in paragraph (6)''.

(b) DUTIES OF USERS OF CREDIT SCORES.—

(1) IN GENERAL.—Section 615 of the Fair Credit Reporting Act (15 U.S.C. 1681m), as amended by this Act, is amended by adding at the end the following:

''(i) DUTIES OF USERS OF CREDIT SCORES.—

''(1) DISCLOSURES.—Any person that makes or arranges extensions of credit for consumer purposes that are to be secured by a dwelling and that uses credit scores for that purpose, shall be required to provide to the consumer to whom the credit score relates, as soon as is reasonably practicable after such use—

''(A) a copy of the information described in section 609(a)(6) that was obtained from a consumer reporting agency or that was developed and used by that user of the credit score information; or

''(B) if the user of the credit score information obtained such information from a third party that developed such information (other than a consumer reporting agency or the user itself), only—

''(i) a copy of the information described in section 609(a)(6) provided to the user by the person or entity that developed the credit score; and

''(ii) a notice that generally describes credit scores, their use, and the sources and kinds of data used to generate credit scores.

''(2) RULE OF CONSTRUCTION.—This subsection may not be construed to require the user of a credit score described in paragraph (1)—

''(A) to explain to the consumer the information provided pursuant to section 609(a)(6), unless that information was developed by the user;

''(B) to disclose any information other than a credit score or the key factors required to be disclosed under section 609(a)(6)(C);

''(C) to disclose any credit score or related information obtained by the user after a transaction occurs; or

''(D) to provide more than 1 disclosure under this subsection to any 1 consumer per credit transaction.

''(3) LIMITATION.—Except as otherwise provided in this subsection, the obligation of a user of a credit score under this subsection shall be limited solely to providing a copy of the information that was received from the consumer reporting agency or other person. A user of a credit score has no liability under this subsection for the content of credit score information received from a consumer reporting agency or for the omission of any

information within the report provided by the consumer reporting agency.''.

(2) CONFORMING AMENDMENT.—Section 615 of the Fair Credit Reporting Act (15 U.S.C. 1681m) is amended in the section heading, by adding at the end the following: ''**and credit scores**''.

(c) CONTRACTUAL LIABILITY.—Section 616 of the Fair Credit Reporting Act (15 U.S.C. 1681n) is amended by adding at the end the following:

''(d) USE OF CREDIT SCORES.—Any provision of any contract that prohibits the disclosure of a credit score by a consumer reporting agency or a person who makes or arranges extensions of credit to the consumer to whom the credit score relates is void. A user of a credit score shall not have liability under any such contractual provision for disclosure of a credit score.''.

(d) RELATION TO STATE LAWS.—Section 624(b)(1) of the Fair Credit Reporting Act (15 U.S.C. 1681t(b)(1), regarding relation to State laws) is amended—

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

(2) by adding at the end the following:

''(G) subsections (a)(6) and (f) of section 609, relating to the disclosure of credit scores by consumer reporting agencies in connection with an application for an extension of credit that is to be secured by a dwelling;

''(H) section 615(i), relating to the duties of users of credit scores to disclose credit score information to consumers in connection with an application for an extension of credit that is to be secured by a dwelling; or''.

(e) EFFECTIVE DATE.—The amendments made by this section shall become effective 180 days after the date of enactment of this Act.

SEC. 213. ENHANCED DISCLOSURE OF THE MEANS AVAILABLE TO OPT OUT OF PRESCREENED LISTS.

(a) NOTICE AND RESPONSE FORMAT FOR USERS OF REPORTS.—Section 615(d)(2) of the Fair Credit Reporting Act (15 U.S.C. 1681m(d)(2)) is amended to read as follows:

''(2) DISCLOSURE OF ADDRESS AND TELEPHONE NUMBER; FORMAT.—A statement under paragraph (1) shall—

''(A) include the address and toll-free telephone number of the appropriate notification system established under section 604(e); and

''(B) be presented in such format and in such type size and manner as is established by the Federal Trade Commission, by rule, in consultation with the Federal banking agencies and the National Credit Union Administration.''.

(b) RULEMAKING SCHEDULE.—Regulations required by section 615(d)(2) of the Fair Credit Reporting Act, as amended by this section, shall be issued in final form not later than 1 year after the date of enactment of this Act.

(c) DURATION OF ELECTIONS.—Section 604(e) of the Fair Credit Reporting Act (15 U.S.C. 1681b(e)) is amended in each of paragraphs (3)(A) and (4)(B)(i)), by striking ''2-year period'' each place that term appears and inserting ''7-year period''.

(d) PUBLIC AWARENESS CAMPAIGN.—The Federal Trade Commission shall actively publicize and conspicuously post on its website any address and the toll-free telephone number established as part of a notification system for opting out of prescreening under section 604(e), and otherwise take measures to increase public awareness regarding the availability of the right to opt out of prescreening.

SEC. 214. AFFILIATE SHARING.

(a) LIMITATION.—The Fair Credit Reporting Act (15 U.S.C. 1601 et seq.) is amended—

(1) by redesignating section 624 (regarding relation to State laws), as so designated by section 2413(b) of the Consumer Credit Reporting Reform Act of 1996 (110 Stat. 3009–447), as section 625;

(2) by redesignating section 624 (regarding disclosures to FBI for counterintelligence purposes), as added by section 601(a) of the Intelligence Authorization Act for Fiscal Year 1996 (Public Law 104–93; 109 Stat. 974) (15 U.S.C. 1681u)), as section 626; and

(3) by inserting after section 623 the following:

''SEC. 624. AFFILIATE SHARING.

''(a) SPECIAL RULE FOR SOLICITATION FOR PURPOSES OF MARKETING.—

''(1) NOTICE.—Any person that receives from another person related to it by common ownership or affiliated by corporate control a communication of information that would be a consumer report, except for clauses (i) through (iii) of section 603(d)(2)(A), may not use the information to make a solicitation for marketing purposes to a consumer about its products or services, unless—

''(A) it is clearly and conspicuously disclosed to the consumer that the information may be communicated among such persons for purposes of making such solicitations to the consumer; and

''(B) the consumer is provided an opportunity and a simple method to prohibit the making of such solicitations to the consumer by such person.

''(2) CONSUMER CHOICE.—

''(A) IN GENERAL.—The notice required under paragraph (1) shall allow the consumer the opportunity to prohibit all such solicitations, and may allow the consumer to choose from different options when electing to prohibit the sending of such solicitations, including options regarding the types of entities and information covered, and which methods of delivering solicitations the consumer elects to prohibit.

''(B) FORMAT.—Notwithstanding subparagraph (A), the notice required under paragraph (1) must be clear, conspicuous, and concise, and any method provided under paragraph (1)(B) must be simple. The regulations prescribed to implement this section shall provide specific guidance regarding how to comply with such standards.

''(3) DURATION.—The election of a consumer pursuant to paragraph (1)(B) to prohibit the sending of solicitations shall be effective permanently, beginning on the date on which the person receives the election of the consumer, unless the consumer requests that such election be revoked.

''(4) DEFINITION.—For purposes of this section, the term 'pre-existing business relationship' means a relationship between a person and a consumer, based on—

''(A) the purchase, rental, or lease by the consumer of that person's goods or services, or a financial transaction between the consumer and that person during the 18-month period immediately preceding the date on which the consumer receives the notice required under this section; or

''(B) an inquiry or application by the consumer regarding a product or service offered by that person, during the 3-month period immediately preceding the date on which the consumer receives the notice required under this section.

''(5) SCOPE.—This section shall not apply to a person—

''(A) using information to make a solicitation for marketing purposes to a consumer with whom the person has a pre-existing business relationship;

''(B) using information to perform services on behalf of another person related by common ownership or affiliated by corporate control, except that this subparagraph shall not permit a person to send solicitations on behalf of another person if such other person would not be permitted to send the solicitation on its own behalf as a result of the election of the consumer to prohibit solicitations under paragraph (1)(B);

''(C) using information in direct response to a communication initiated by the consumer in which the consumer has requested information about a product or service; or

''(D) using information to directly respond to solicitations authorized or requested by the consumer.

''(b) NOTICE FOR OTHER PURPOSES PERMISSIBLE.—A notice or other disclosure that is equivalent to the notice required by subsection (a), and that is provided by a person described in subsection (a) to a consumer together with disclosures required by any other provision of law shall satisfy the requirements of subsection (a).''.

(b) RULEMAKING REQUIRED.—

(1) IN GENERAL.—The Federal banking agencies, the National Credit Union Administration, and the Federal Trade Commission shall, with respect to the entities that are subject to their respective enforcement authority under section 621 of the Fair Credit Reporting Act, and in coordination as described in paragraph (2), prescribe regulations to implement section 624 of the Fair Credit Reporting Act, as added by this section.

(2) COORDINATION.—Each agency required to prescribe regulations under paragraph (1) shall consult and coordinate with each other such agency so that, to the extent possible, the regulations prescribed by each such entity are consistent and comparable with the regulations prescribed by each other such agency.

(3) CONSIDERATIONS.—In promulgating regulations under this subsection, the Federal Trade Commission shall—

(A) ensure that affiliate sharing notification methods provide a simple means for consumers to make determinations and choices under section 624 of the Fair Credit Reporting Act, as added by this section; and

(B) consider the affiliate sharing notification practices employed on the date of enactment of this Act by persons that will be subject to that section 624.

(4) TIMING.—Regulations required by this subsection shall—

(A) be issued in final form not later than 6 months after the date of enactment of this Act; and

(B) become effective not later than 3 months after the date on which they are issued in final form.

(c) CONFORMING AMENDMENT.—Section 603(d)(2)(A) of the Fair Credit Reporting Act (15 U.S.C. 1681a(d)(2)(A)) is amended by inserting ''subject to section 624,'' after ''(A)''.

(d) CLERICAL AMENDMENT.—The Fair Credit Reporting Act (15 U.S.C. 1681 et seq.) is amended in the table of sections, by striking the items following the item relating to section 623 and inserting the following:

''624. Affiliate sharing.
''625. Relation to State laws.
''626. Disclosures to FBI for counterintelligence purposes.''.

(e) STUDIES OF INFORMATION SHARING PRACTICES.—

(1) IN GENERAL.—The Federal banking agencies, the National Credit Union Administration, and the Federal Trade Commission shall jointly conduct regular studies of the consumer information sharing practices by financial institutions and other persons that are creditors or users of consumer reports with their affiliates.

(2) MATTERS FOR STUDY.—In conducting the studies required by paragraph (1), the agencies described in paragraph (1) shall—

(A) identify—

(i) the purposes for which financial institutions and other creditors and users of consumer reports share consumer information;

(ii) the types of information shared by such entities with their affiliates;

(iii) the number of choices provided to consumers with respect to the control of such sharing, and the degree to and manner in which consumers exercise such choices, if at all; and

(iv) whether such entities share or may share personally identifiable transaction or experience information with affiliates for purposes—

(I) that are related to employment or hiring, including whether the person that is the subject of such information is given notice of such sharing, and the specific uses of such shared information; or

(II) of general publication of such information; and

(B) specifically examine the information sharing practices that financial institutions and other creditors and users of consumer reports and their affiliates employ for the purpose of making underwriting decisions or credit evaluations of consumers.

(3) REPORTS.—

(A) INITIAL REPORT.—Not later than 3 years after the date of enactment of this Act, the Federal banking agencies, the National Credit Union Administration, and the Federal Trade Commission shall jointly submit a report to the Congress on the results of the initial study conducted in accordance with this subsection, together with any recommendations for legislative or regulatory action.

(B) FOLLOWUP REPORTS.—The Federal banking agencies, the National Credit Union Administration, and the Federal Trade Commission shall, not less frequently than once every 3 years following the date of submission of the initial report under subparagraph (A), jointly submit a report to the Congress that, together with any recommendations for legislative or regulatory action—

(i) documents any changes in the areas of study referred to in paragraph (2)(A) occurring since the date of submission of the previous report;

(ii) identifies any changes in the practices of financial institutions and other creditors and users of consumer reports in sharing consumer information with their affiliates for the purpose of making underwriting decisions or credit evaluations of consumers occurring since the date of submission of the previous report; and

(iii) examines the effects that changes described in clause (ii) have had, if any, on the degree to which such affiliate sharing practices reduce the need for financial institutions, creditors, and other users of consumer reports to rely on credit reports for such decisions.

(f) DEFINITIONS.—As used in this section—

(1) the terms ''consumer'', ''consumer report'', ''consumer reporting agency'', ''creditor'', ''Federal banking agencies'', and ''financial institution'', have the same meanings as in section 603 of the Fair Credit Reporting Act, as amended by this Act; and

(2) the term ''affiliates'' means persons that are related by common ownership or affiliated by corporate control.

SEC. 215. STUDY OF EFFECTS OF CREDIT SCORES AND CREDIT-BASED INSURANCE SCORES ON AVAILABILITY AND AFFORDABILITY OF FINANCIAL PRODUCTS.

(a) DEFINED TERM.—As used in this section, the term ''credit score'' means a numerical value or a categorization derived from a statistical tool or modeling system used to predict the likelihood of certain credit or insurance behaviors, including default.

(b) STUDY REQUIRED.—The Federal Trade Commission shall conduct a study of—

(1) the effects of the use of credit scores and credit-based insurance scores on the availability and affordability of financial products and services, including credit cards, mortgages, auto loans, and property and casualty insurance;

(2) the degree of correlation between the factors considered by credit score systems and the quantifiable risks and actual losses experienced by businesses, including the extent to which each of the factors considered or otherwise taken into account by such systems correlated to risk or loss;

(3) the extent to which the use of credit scoring models, credit scores and credit-based insurance scores benefit or negatively impact persons based on geography, income, ethnicity, race, color, religion, national origin, age, sex, marital status, or creed; and

(4) the extent to which credit scoring systems are used by businesses, the factors considered by such systems, and the effects of variables which are not considered by such systems.

(c) PUBLIC PARTICIPATION.—The Federal Trade Commission shall seek public input about the prescribed methodology and research design of the study required by subsection (b).

(d) REPORT.—

(1) IN GENERAL.—Before the end of the 18-month period beginning on the date of enactment of this Act, the Federal Trade Commission shall submit a detailed report on the study conducted under this section to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate.

(2) CONTENTS.—The report submitted under paragraph (1) shall include—

(A) the findings and conclusions of the Commission;

(B) recommendations to address specific areas of concern that were identified in the study; and

(C) recommendations for legislative or administrative action that the Commission may determine to be necessary to ensure that credit and credit-based insurances score are used appropriately and fairly.

SEC. 216. DISPOSAL OF CONSUMER REPORT INFORMATION AND RECORDS.

(a) IN GENERAL.—The Fair Credit Reporting Act (15 U.S.C. 1681m) is amended by adding at the end the following:

''§ 627. Disposal of records

''(a) REGULATIONS.—

''(1) IN GENERAL.—Not later than 1 year after the date of enactment of this section, the Federal Trade Commission shall issue final regulations requiring any person that maintains or otherwise possesses consumer information or any compilation of consumer information derived from consumer reports for a business purpose to properly dispose of any such information or compilation.

''(2) EXEMPTION AUTHORITY.—In issuing regulations under this section, the Federal Trade Commission may exempt any person or class of persons from application of those regulations, as the Commission deems appropriate to carry out the purpose of this section.

''(b) RULE OF CONSTRUCTION.—Nothing in this section may be construed to alter or affect any requirement imposed under any other provision of law to maintain any record.''.

(b) CLERICAL AMENDMENT.—The table of sections for the Fair Credit Reporting Act (15 U.S.C. 1681 et seq.), as amended by this Act, is amended by adding at the end the following:

''627. Disposal of records.''.

TITLE III—ENHANCING THE ACCURACY OF CONSUMER REPORT INFORMATION

SEC. 311. RISK-BASED PRICING NOTICE.

(a) DUTIES OF USERS.—Section 615 of the Fair Credit Reporting Act (15 U.S.C. 1681m), as amended by this Act, is amended by adding at the end the following:

''(j) DUTIES OF USERS IN CERTAIN CREDIT TRANSACTIONS.—

''(1) IN GENERAL.—Subject to rules prescribed as provided in paragraph (5), if any person uses a consumer report in connection with a grant, extension, or other provision of credit on material terms that are materially less favorable than the most favorable terms available to a substantial proportion of consumers from or through that person, based in whole or in part on a consumer report, the person shall provide a notice to the consumer in the form and manner required by regulations prescribed in accordance with this subsection.

''(2) EXCEPTIONS.—No notice shall be required from a person under this subsection if—

''(A) the consumer applied for specific material terms and was granted those terms, unless those terms were initially specified by the person after the transaction was initiated by the consumer and after the person obtained a consumer report; or

''(B) the person has provided or will provide a notice to the consumer under subsection (a) in connection with the transaction.

''(3) OTHER NOTICE NOT SUFFICIENT.—A person that is required to provide a notice under subsection (a) cannot meet that requirement by providing a notice under this subsection.

''(4) CONTENT AND DELIVERY OF NOTICE.—A notice under this subsection shall include, at a minimum—

''(A) a statement informing the consumer that the terms offered to the consumer were set based on information from a consumer report;

''(B) identification of the consumer reporting agency that furnished that report;

''(C) a statement informing the consumer that the consumer may obtain a copy of a consumer report from that consumer reporting agency without charge; and

''(D) the contact information specified by that consumer reporting agency for obtaining such consumer reports (including a toll-free telephone number established by the agency in the case of a consumer reporting agency described in section 603(p)).

''(5) RULEMAKING.—

''(A) RULES REQUIRED.—The Federal Trade Commission and the Board of Governors of the Federal Reserve System shall jointly prescribe rules, in accordance with section 553 of title 5, United States Code, to carry out this subsection.

''(B) CONTENT.—Rules required by subparagraph (A) shall address, but are not limited to—

''(i) the form, content, time, and manner of delivery of any notice under this subsection;

''(ii) clarification of the meaning of terms used in this subsection, including what credit terms are material, and when credit terms are materially less favorable;

''(iii) exceptions to the notice requirement under this subsection for classes of persons or transactions regarding which the agencies determine that notice would not significantly benefit consumers; and

''(iv) a model notice that may be used to comply with this subsection.''.

(b) RELATION TO STATE LAWS.—Section 625(b)(1) of the Fair Credit Reporting Act (15 U.S.C. 1681t(b)(1), regarding relation to State laws), as so designated and amended by this Act, is amended by adding at the end the following:

''(I) section 615(j), relating to the duties of users of consumer reports to provide notice with respect to terms in certain credit transactions;''.

SEC. 312. PROCEDURES TO ENHANCE THE ACCURACY AND COMPLETENESS OF INFORMATION FURNISHED TO CONSUMER REPORTING AGENCIES.

(a) ACCURACY GUIDELINES AND REGULATIONS.—Section 623 of the Fair Credit Reporting Act (15 U.S.C. 15 U.S.C. 1681s–2) is amended by adding at the end the following:

''(e) ACCURACY GUIDELINES AND REGULATIONS REQUIRED.—

''(1) GUIDELINES.—The Federal banking agencies, the National Credit Union Administration, and the Federal Trade Commission shall, with respect to the entities that are subject to their respective enforcement authority under section 621, and in coordination as described in paragraph (2)—

''(A) establish and maintain guidelines for use by each person that furnishes information to a consumer reporting agency regarding the accuracy and completeness of the information relating to consumers that such entities furnish to consumer reporting agencies, and update such guidelines as often as necessary; and

''(B) prescribe regulations requiring each person that furnishes information to a consumer reporting agency to establish reasonable policies and procedures for implementing the guidelines established pursuant to subparagraph (A).

''(2) COORDINATION.—Each agency required to prescribe regulations under paragraph (1) shall consult and coordinate with each other such agency so that, to the extent possible, the regulations prescribed by each such entity are consistent and comparable with the regulations prescribed by each other such agency.

''(3) CRITERIA.—In developing the guidelines required by paragraph (1)(A), the agencies described in paragraph (1) shall—

''(A) identify patterns, practices, and specific forms of activity that can compromise the accuracy and completeness of information furnished to consumer reporting agencies;

''(B) review the methods (including technological means) used to furnish information relating to consumers to consumer reporting agencies;

''(C) determine whether persons that furnish information to consumer reporting agencies maintain and enforce policies to provide complete and accurate information to consumer reporting agencies; and

''(D) examine the policies and processes that persons that furnish information to consumer reporting agencies employ to conduct reinvestigations and correct inaccurate information relating to consumers that has been furnished to consumer reporting agencies.''.

(b) FURNISHER LIABILITY EXCEPTION.—Section 623(a)(5) of the Fair Credit Reporting Act (15 U.S.C. 1681s–2(a)(5)) is amended—

(1) by striking ''A person'' and inserting the following:

''(A) IN GENERAL.—A person'';

(2) by inserting ''date of delinquency on the account, which shall be the'' before ''month'';

(3) by inserting ''on the account'' before ''that immediately preceded''; and

(4) by adding at the end the following:

''(B) RULE OF CONSTRUCTION.—For purposes of this paragraph only, and provided that the consumer does not dispute the information, a person that furnishes information on a delinquent account that is placed for collection, charged for profit or loss, or subjected to any similar action, complies with this paragraph, if—

''(i) the person reports the same date of delinquency as that provided by the creditor to which the account was owed at the time at which the commencement of the delinquency occurred, if the creditor previously reported that date of delinquency to a consumer reporting agency;

''(ii) the creditor did not previously report the date of delinquency to a consumer reporting agency, and the person establishes and follows reasonable procedures to obtain the date of delinquency from the creditor or another reliable source and reports that date as the date of delinquency; or

''(iii) the creditor did not previously report the date of delinquency to a consumer reporting agency and the date of delinquency cannot be reasonably obtained as provided in clause (ii), the person establishes and follows reasonable procedures to ensure the date reported as the date of delinquency precedes the date on which the account is placed for collection, charged to profit or loss, or subjected to any similar action, and reports such date to the credit reporting agency.''.

(c) LIABILITY AND ENFORCEMENT.—

(1) CIVIL LIABILITY.—Section 623 of the Fair Credit Reporting Act (15 U.S.C. 1681s–2) is amended by striking subsections (c) and (d) and inserting the following:

''(c) LIMITATION ON LIABILITY.—Except as provided in section 621(c)(1)(B), sections 616 and 617 do not apply to any violation of—

''(1) subsection (a) of this section;

''(2) subsection (e) of this section, except that nothing in this paragraph shall limit, expand, or otherwise affect liability under section 616 or 617, as applicable, for violations of subsection (b) of this section;

''(3) subsection (e) or (f) of section 615; or

''(4) subparagraph (A) of subsection (b)(2) of this section that is based on the development of procedures required by that subparagraph, except that refurnishing information otherwise in violation of subsection (b) shall be subject to liability under sections 616 and 617, as applicable, to the same extent as such a refurnishing violation was subject to such liability on the day before the date of enactment of the National Consumer Credit Reporting System Improvement Act of 2003.

''(d) LIMITATION ON ENFORCEMENT.—The provisions of law described in paragraphs (1) through (4) of subsection (c) (other than with respect to the exceptions described in paragraphs (2) and (4) of subsection (c)) shall be enforced exclusively as provided under section 621 by the Federal agencies and officials and the State officials identified in section 621.''.

(2) STATE ACTIONS.—Section 621(c) of the Fair Credit Reporting Act (15 U.S.C. 1681s(c)) is amended—

(A) in paragraph (1)(B)(ii), by striking ''of section 623(a)'' and inserting ''described in any of paragraphs (1) through (4) of section 623(c) (other than with respect to the exception described in paragraph (4) of section 623(c))''; and

(B) in paragraph (5)—

(i) in each of subparagraphs (A) and (B), by inserting after ''section 623(a)(1)'' each place that term appears the following: ''or a violation described in any of paragraphs (2) through (4) of section 623(c) (other than with respect to the exception described in paragraph (4) of section 623(c))''; and

(ii) by amending the paragraph heading to read as follows:

''(5) LIMITATIONS ON STATE ACTIONS FOR CERTAIN VIOLATIONS.—''.

(d) RULE OF CONSTRUCTION.—Nothing in this section, the amendments made by this section, or any other provision of this Act shall be construed to affect any liability under section 616 or 617 of the Fair Credit Reporting Act (15 U.S.C. 1681n, 1681o) that existed on the day before the date of enactment of this Act.

SEC. 313. FEDERAL TRADE COMMISSION AND CONSUMER REPORTING AGENCY ACTION CONCERNING COMPLAINTS.

Section 611 of the Fair Credit Reporting Act (15 U.S.C. 1681i) is amended by adding at the end the following:

''(e) TREATMENT OF COMPLAINTS AND REPORT TO CONGRESS.—

''(1) IN GENERAL.—The Federal Trade Commission shall—

''(A) compile all complaints that it receives that a file of a consumer that is maintained by a consumer reporting agency described in section 603(p) contains incomplete or inaccurate information, with respect to which, the consumer appears to have disputed the completeness or accuracy with the consumer reporting agency or otherwise utilized the procedures provided by subsection (a); and

''(B) transmit each such complaint to each consumer reporting agency involved.

''(2) EXCLUSION.—Complaints received or obtained by the Federal Trade Commission pursuant to its investigative authority under the Federal Trade Commission Act shall not be subject to this paragraph (1).

''(3) AGENCY RESPONSIBILITIES.—Each consumer reporting agency described in section 603(p) that receives a complaint transmitted by the Federal Trade Commission pursuant to paragraph (1) shall—

''(A) review each such complaint to determine whether all legal obligations imposed on the consumer reporting agency under this title (including any obligation imposed by an applicable court or administrative order) have been met with respect to the subject matter of the complaint;

''(B) provide reports on a regular basis to the Commission regarding the determinations of and actions taken by the consumer reporting agency, if any, in connection with its review of such complaints; and

''(C) maintain, for a reasonable time period, records regarding the disposition of each such complaint that is sufficient to demonstrate compliance with this subsection.

''(4) RULEMAKING AUTHORITY.—The Federal Trade Commission may prescribe regulations in accordance with the requirements of section 553 of title 5, United States Code, as appropriate to implement this subsection.

''(5) ANNUAL REPORT.—The Federal Trade Commission shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives an annual report regarding information gathered by the Commission under this subsection.''.

SEC. 314. ONGOING AUDITS OF THE ACCURACY OF CONSUMER REPORTS.

(a) AUDITS REQUIRED.—The Board of Governors of the Federal Reserve System (in this section referred to as ''the Board'') shall conduct ongoing audits of the accuracy and completeness of information contained in consumer reports prepared or maintained by consumer reporting agencies. The Board shall independently verify the accuracy and completeness of information contained in consumer reports by evaluating information and data provided by consumer reporting agencies (as defined in section 603 of the Fair Credit Reporting Act).

(b) SUBJECT MATTERS.—In conducting audits under this section, the Board shall examine—

(1) the accuracy and completeness of information contained in consumer reports, including an analysis of the type of inaccurate or incomplete information, if any, that may have the most significant impact on the availability and terms of various credit products offered to borrowers; and

(2) the impact, if any, of incomplete and inaccurate information on the credit and credit-based insurance scores that are most widely used to determine borrower credit worthiness and to make insurance underwriting and rating decisions, including an analysis of how, if at all, changes to credit scores resulting from inaccurate or incomplete credit reporting information affect the availability and terms of various credit products offered to borrowers.

(c) BIENNIAL REPORTS REQUIRED.—

(1) IN GENERAL.—The Board shall submit a report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives at the end of the 2-year period beginning on the date of enactment of this Act. Thereafter, the Board shall conduct additional audits and submit additional reports once every 2 years.

(2) CONTENTS.—Each report submitted under this subsection shall contain a detailed summary of the findings and conclusions of the Board with respect to the audits required by this section, and such recommendations for legislative and administrative action as the Board may determine to be appropriate.

(d) PROVISION OF REPORTS TO THE BOARD FOR PURPOSES OF ANALYSIS.—Section 604(d) of the Fair Credit Reporting Act (12 U.S.C. 1681b(d)) is amended to read as follows:

''(d) FURNISHING CONSUMER REPORTS FOR ACCURACY OR COMPLIANCE AUDITS.—A consumer reporting agency shall provide consumer reports to the Board of Governors of the Federal Reserve System, upon request, for the purpose of conducting an accuracy or compliance audit in accordance with section 314 of the National Consumer Credit Reporting System Improvement Act of 2003.''.

SEC. 315. IMPROVED DISCLOSURE OF THE RESULTS OF REINVESTIGATION.

(a) IN GENERAL.—Section 611(a)(5)(A) of the Fair Credit Reporting Act (15 U.S.C. 1681i) is amended by striking ''shall'' and all that follows through the end of the subparagraph, and inserting the following: ''shall—

''(i) promptly delete that item of information from the file of the consumer, or modify that item of information, as appropriate, based on the results of the reinvestigation; and

''(ii) promptly notify the furnisher of that information that the information has been modified or deleted from the file of the consumer.''.

(b) FURNISHER REQUIREMENTS RELATING TO INACCURATE, INCOMPLETE, OR UNVERIFIABLE INFORMATION.—Section 623(b)(1) of the Fair Credit Reporting Act (15 U.S.C. 1681s–2(b)(1)) is amended—

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

(2) in subparagraph (D), by striking the period at the end and inserting the following: ''; and

''(E) if an item of any information disputed by a consumer is found to be inaccurate or incomplete or cannot be verified after any reinvestigation under paragraph (1), promptly delete that item of information from the furnisher's records or modify that item of information, as appropriate, based on the results of the reinvestigation.''.

SEC. 316. RECONCILING ADDRESSES.

Section 605 of the Fair Credit Reporting Act (15 U.S.C. 1681c), as amended by this Act, is amended by adding at the end the following:

''(h) NOTICE OF DISCREPANCY IN ADDRESS.—

''(1) IN GENERAL.—If a person has requested a consumer report relating to a consumer from a consumer reporting agency described in section 603(p), the request includes an address for the consumer that substantially differs from the addresses in the file of the consumer, and the agency provides a consumer report in response to the request, the consumer reporting agency shall notify the requester of the existence of the discrepancy.

''(2) REGULATIONS.—

''(A) REGULATIONS REQUIRED.—The Federal banking agencies, the National Credit Union Administration, and the Federal Trade Commission shall, with respect to the entities that are subject to their respective enforcement authority under section 621, and in coordination as described in subparagraph (B), prescribe regulations providing guidance regarding reasonable policies and procedures that a user of a consumer report should employ when such user has received a notice of discrepancy under paragraph (1).

''(B) COORDINATION.—Each agency required to prescribe regulations under subparagraph (A) shall consult and coordinate with each other such agency so that, to the extent possible, the regulations prescribed by each such entity are consistent and comparable with the regulations prescribed by each other such agency.

''(C) POLICIES AND PROCEDURES TO BE INCLUDED.—The regulations prescribed under subparagraph (A) shall describe reasonable policies and procedures for use by a user of a consumer report—

''(i) to form a reasonable belief that the user knows the identity of the person to whom the consumer report pertains; and

''(ii) if the user establishes a continuing relationship with the consumer, and the user regularly and in the ordinary course of business furnishes information to the consumer reporting agency from which the notice of discrepancy pertaining to the consumer was obtained, to reconcile the address of the consumer with the consumer reporting agency by furnishing such address to such consumer reporting agency as part of information regularly furnished by the user for the period in which the relationship is established.''.

SEC. 317. FTC STUDY OF ISSUES RELATING TO THE FAIR CREDIT REPORTING ACT.

(a) STUDY REQUIRED.—

(1) IN GENERAL.—The Federal Trade Commission shall conduct a study on ways to improve the operation of the Fair Credit Reporting Act.

(2) AREAS FOR STUDY.—In conducting the study under paragraph (1), the Federal Trade Commission shall review—

(A) the efficacy of increasing the number of points of identifying information that a credit reporting agency is required to match to ensure that a consumer is the correct individual to whom a consumer report relates before releasing a consumer report to a user, including—

(i) the extent to which requiring additional points of such identifying information to match would—

(I) enhance the accuracy of credit reports; and

(II) combat the provision of incorrect consumer reports to users;

(ii) the extent to which requiring an exact match of the first and last name, social security number, and address and ZIP Code of the consumer would enhance the likelihood of increasing credit report accuracy; and

(iii) the effects of allowing consumer reporting agencies to use partial matches of social security numbers and name recognition software on the accuracy of credit reports;

(B) requiring notification to consumers when negative information has been added to their credit reports, including—

(i) the potential impact of such notification on the ability of consumers to identify errors on their credit reports; and

(ii) the potential impact of such notification on the ability of consumers to remove fraudulent information from their credit reports;

(C) the effects of requiring that a consumer who has experienced an adverse action based on a credit report receives a copy of the same credit report that the creditor relied on in taking the adverse action, including—

(i) the extent to which providing such reports to consumers would increase the ability of consumers to identify errors in their credit reports; and

(ii) the extent to which providing such reports to consumers would increase the ability of consumers to remove fraudulent information from their credit reports;

(D) any common financial transactions that are not generally reported to the consumer reporting agencies, but would provide useful information in determining the credit worthiness of consumers; and

(E) any actions that might be taken within a voluntary reporting system to encourage the reporting of the types of transactions described in subparagraph (D).

(3) COSTS AND BENEFITS.—With respect to each area of study described in paragraph (2), the Federal Trade Commission shall consider the extent to which such requirements would benefit consumers, balanced against the cost of implementing such provisions.

(b) REPORT REQUIRED.—Not later than 270 days after the date of enactment of this Act, the chairman of the Federal Trade Commission shall submit a report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives containing a detailed summary of the findings and conclusions of the study under this section, together with such recommendations for legislative or administrative actions as may be appropriate.

TITLE IV—LIMITING THE USE AND SHARING OF MEDICAL INFORMATION IN THE FINANCIAL SYSTEM

SEC. 411. PROTECTION OF MEDICAL INFORMATION IN THE FINANCIAL SYSTEM.

(a) IN GENERAL.—Section 604(g) of the Fair Credit Reporting Act (15 U.S.C. 1681b(g)) is amended to read as follows:

''(g) PROTECTION OF MEDICAL INFORMATION.—

''(1) LIMITATION ON CONSUMER REPORTING AGENCIES.—A consumer reporting agency shall not furnish for employment purposes, or in connection with a credit or insurance transaction, a consumer report that contains medical information about a consumer, unless—

''(A) if furnished in connection with an insurance transaction, the consumer affirmatively consents to the furnishing of the report;

''(B) if furnished for employment purposes or in connection with a credit transaction—

''(i) the information to be furnished is relevant to process or effect the employment or credit transaction; and

''(ii) the consumer provides specific written consent for the furnishing of the report that describes in clear and conspicuous language the use for which the information will be furnished; or

''(C) such information is restricted or reported using codes that do not identify, or provide information sufficient to infer, the specific provider or the nature of such services, products, or devices to a person other than the consumer, unless the report is being provided to an insurance company for a purpose relating to engaging in the business of insurance, other than property and casualty insurance.

''(2) LIMITATION ON CREDITORS.—Except as permitted pursuant to paragraph (3)(C) or regulations prescribed under paragraph (5)(A), a creditor shall not obtain or use medical information pertaining to a consumer in

connection with any determination of the consumer's eligibility, or continued eligibility, for credit.

''(3) ACTIONS AUTHORIZED BY FEDERAL LAW, INSURANCE ACTIVITIES AND REGULATORY DETERMINATIONS.—Section 603(d)(3) shall not be construed so as to treat information or any communication of information as a consumer report if the information or communication is disclosed—

''(A) in connection with the business of insurance or annuities, including the activities described in section 18B of the model Privacy of Consumer Financial and Health Information Regulation issued by the National Association of Insurance Commissioners (as in effect on January 1, 2003);

''(B) for any purpose permitted without authorization under the Standards for Individually Identifiable Health Information promulgated by the Department of Health and Human Services pursuant to the Health Insurance Portability and Accountability Act of 1996, or referred to under section 1179 of such Act, or described in section 502(e) of Public Law 106–102; or

''(C) as otherwise determined to be necessary and appropriate, by regulation or order and subject to paragraph (6), by the Federal Trade Commission, any Federal banking agency or the National Credit Union Administration (with respect to any financial institution subject to the jurisdiction of such agency or Administration under paragraph (1), (2), or (3) of section 621(b), or the applicable State insurance authority (with respect to any person engaged in providing insurance or annuities).

''(4) LIMITATION ON REDISCLOSURE OF MEDICAL INFORMATION.—Any person that receives medical information pursuant to paragraph (1) or (3) shall not disclose such information to any other person, except as necessary to carry out the purpose for which the information was initially disclosed, or as otherwise permitted by statute, regulation, or order.

''(5) REGULATIONS AND EFFECTIVE DATE FOR PARAGRAPH (2).—

''(A) REGULATIONS REQUIRED.—Each Federal banking agency and the National Credit Union Administration shall, subject to paragraph (6) and after notice and opportunity for comment, prescribe regulations that permit transactions under paragraph (2) that are determined to be necessary and appropriate to protect legitimate operational, transactional, risk, consumer, and other needs, consistent with the intent of paragraph (2) to restrict the use of medical information for inappropriate purposes.

''(B) FINAL REGULATIONS REQUIRED.—The Federal banking agencies and the National Credit Union Administration shall issue the regulations required under subparagraph (A) in final form before the end of the 6-month period beginning on the date of enactment of the National Consumer Credit Reporting System Improvement Act of 2003.

''(6) COORDINATION WITH OTHER LAWS.—No provision of this subsection shall be construed as altering, affecting, or superseding the applicability of any other provision of Federal law relating to medical confidentiality.''.

(b) RESTRICTION ON SHARING OF MEDICAL INFORMATION.—Section 603(d) of the Fair Credit Reporting Act (15 U.S.C. 1681a(d)) is amended—

(1) in paragraph (2), by striking ''The term'' and inserting ''Except as provided in paragraph (3), the term''; and

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

''(3) RESTRICTION ON SHARING OF MEDICAL INFORMATION.—Except for information or any communication of information disclosed as provided in section 604(g)(3), the exclusions in paragraph (2) shall not apply with respect to information disclosed to any person related by common ownership or affiliated by corporate control, if the information is medical information, including information that is an individualized list or description based on the payment transactions of the consumer for medical products or services, or an aggregate list of identified consumers based on payment transactions for medical products or services.

(c) DEFINITION.—Section 603(i) of the Fair Credit Reporting Act (15 U.S.C. 1681a(i)) is amended to read as follows:

''(i) MEDICAL INFORMATION.—The term 'medical information' means information or data, other than age or gender, whether oral or recorded, in any form or medium, created by or derived from a health care provider or the consumer, that relates to—

''(1) the past, present, or future physical, mental, or behavioral health or condition of an individual;

''(2) the provision of health care to an individual; or

''(3) the payment for the provision of health care to an individual.''.

(d) EFFECTIVE DATES.—This section shall take effect at the end of the 180-day period beginning on the date of enactment of this Act, except that paragraph (2) of section 604(g) of the Fair Credit Reporting Act (as amended by subsection (a)) shall take effect on the later of—

(1) the end of the 90-day period beginning on the date on which the regulations required under paragraph (5)(B) of such section 604(g) (as added by subsection (a) of this section) are issued in final form; or

(2) the date specified in the regulations referred to in paragraph (1).

SEC. 412. CONFIDENTIALITY OF MEDICAL CONTACT INFORMATION IN CONSUMER REPORTS.

(a) DUTIES OF MEDICAL INFORMATION FURNISHERS.—Section 623(a) of the Fair Credit Reporting Act (15 U.S.C. 1681s–2(a)) is amended by adding at the end the following:

''(6) DUTY TO PROVIDE NOTICE OF STATUS AS MEDICAL INFORMATION FURNISHER.—A person whose primary business is providing medical services, products, or devices, or the person's agent or assignee, who furnishes information to a consumer reporting agency on a consumer shall be considered a medical information furnisher for purposes of this title, and shall notify the agency of such status.''.

(b) RESTRICTION OF DISSEMINATION OF MEDICAL CONTACT INFORMATION.—Section 605(a) of the Fair Credit Reporting Act (15 U.S.C. 1681c(a)) is amended by adding at the end the following:

''(6) The name, address, and telephone number of any medical information furnisher that has notified the agency of its status, unless—

''(A) such name, address, and telephone number are restricted or reported using codes that do not identify, or provide information sufficient to infer, the specific provider or the nature of such services, products, or devices to a person other than the consumer; or

''(B) the report is being provided to an insurance company for a purpose relating to engaging in the business of insurance other than property and casualty insurance.''.

(c) NO EXCEPTIONS ALLOWED FOR DOLLAR AMOUNTS.—Section 605(b) of the Fair Credit Reporting Act (15 U.S.C. 1681c(b)) is amended by striking ''The provisions of subsection (a)'' and inserting ''The provisions of paragraphs (1) through (5) of subsection (a)''.

(d) COORDINATION WITH OTHER LAWS.—No provision of any amendment made by this section shall be construed as altering, affecting, or superseding the applicability of any other provision of Federal law relating to medical confidentiality.

(e) FTC REGULATION OF CODING OF TRADE NAMES.—Section 621 of the Fair Credit Reporting Act (15 U.S.C. 1681s), as amended by this Act, is amended by adding at the end the following:

''(g) FTC REGULATION OF CODING OF TRADE NAMES.—If the Federal Trade Commission determines that a person described in paragraph (6) of section 623(a) has not met the requirements of such paragraph, the Commission shall take action to ensure the person's compliance with such paragraph, which may include issuing model guidance or prescribing reasonable policies and procedures as necessary to ensure that such person complies with such paragraph.''.

(f) TECHNICAL AND CONFORMING AMENDMENTS.—Section 604(g) of the Fair Credit Reporting Act (15 U.S.C. 1681b(g)), as amended by section 411 of this Act, is amended—

(1) in paragraph (1), by inserting ''(other than medical contact information treated in the manner required under section 605(a)(6))'' after ''a consumer report that contains medical information''; and

(2) in paragraph (2), by inserting ''(other than medical information treated in the manner required under section 605(a)(6))'' after ''a creditor shall not obtain or use medical information''.

(g) EFFECTIVE DATE.—The amendments made by this section shall take effect at the end of the 15-month period beginning on the date of enactment of this Act.

TITLE V—FINANCIAL LITERACY AND EDUCATION IMPROVEMENT

SEC. 511. SHORT TITLE.

This title may be cited as the ''Financial Literacy and Education Improvement Act''.

SEC. 512. DEFINITIONS.

As used in this title—

(1) the term ''Chairperson'' means the Chairperson of the Financial Literacy and Education Commission; and

(2) the term ''Commission'' means the Financial Literacy and Education Commission established under section 513.

SEC. 513. ESTABLISHMENT OF FINANCIAL LITERACY AND EDUCATION COMMISSION.

(a) IN GENERAL.—There is established a commission to be known as the ''Financial Literacy and Education Commission''.

(b) PURPOSE.—The Commission shall serve to improve the financial literacy and education of persons in the United States.

(c) MEMBERSHIP.—

(1) COMPOSITION.—The Commission shall be composed of—

(A) the Secretary of the Treasury;

(B) the respective head of each of the Federal banking agencies (as defined in section 3 of the Federal Deposit Insurance Act), the National Credit Union Administration, the Securities and Exchange Commission, each of the Departments of Education, Agriculture, Defense, Health and Human Services, Housing and Urban Development, Labor, and Veterans Affairs, the Federal Trade Commission, the General Services Administration, the Small Business Administration, the Social Security Administration, the Commodity Futures Trading Commission, and the Office of Personnel Management; and

(C) at the discretion of the President, not more than 5 individuals appointed by the President from among the administrative heads of any other Federal agencies, departments, or other Government entities, whom the President determines to be engaged in a serious effort to improve financial literacy and education.

(2) ALTERNATES.—Each member of the Commission may designate an alternate if the member is unable to attend a meeting of the Commission. Such alternate shall be an

individual who exercises significant decision-making authority.

(d) CHAIRPERSON.—The Secretary of the Treasury shall serve as the Chairperson.

(e) MEETINGS.—The Commission shall hold, at the call of the Chairperson, at least 1 meeting every 4 months. All such meetings shall be open to the public. The Commission may hold, at the call of the Chairperson, such other meetings as the Chairperson sees fit to carry out this title.

(f) QUORUM.—A majority of the members of the Commission shall constitute a quorum, but a lesser number of members may hold hearings.

(g) INITIAL MEETING.—The Commission shall hold its first meeting not later than 60 days after the date of enactment of this Act.

SEC. 514. DUTIES OF THE COMMISSION.

(a) DUTIES.—

(1) IN GENERAL.—The Commission, through the authority of the members referred to in section 513(c), shall take such actions as it deems necessary to streamline, improve, or augment the financial literacy and education programs, grants, and materials of the Federal Government, including curricula for all Americans.

(2) AREAS OF EMPHASIS.—To improve financial literacy and education, the Commission shall emphasize, among other elements, basic personal income and household money management and planning skills, including how to—

(A) create household budgets, initiate savings plans, and make strategic investment decisions for education, retirement, home ownership, wealth building, or other savings goals;

(B) manage spending, credit, and debt, including credit card debt, effectively;

(C) increase awareness of the availability and significance of credit reports and credit scores in obtaining credit, the importance of their accuracy (and how to correct inaccuracies), their effect on credit terms, and the effect common financial decisions may have on credit scores;

(D) ascertain fair and favorable credit terms;

(E) avoid abusive, predatory, or deceptive credit offers and financial products;

(F) understand, evaluate, and compare financial products, services, and opportunities;

(G) understand resources that ought to be easily accessible and affordable, and that inform and educate investors as to their rights and avenues of recourse when an investor believes his or her rights have been violated by unprofessional conduct of market intermediaries; and

(H) improve financial literacy and education through all other related skills.

(b) WEBSITE.—

(1) IN GENERAL.—The Commission shall establish and maintain a website, such as the domain name ''FinancialLiteracy.gov'', or a similar domain name.

(2) PURPOSES.—The website established under paragraph (1) shall—

(A) serve as a clearinghouse of information about Federal financial literacy and education programs;

(B) provide a coordinated entry point for accessing information about all Federal publications, grants, and materials promoting enhanced financial literacy and education;

(C) offer information on all Federal grants to promote financial literacy and education, and on how to target, apply for, and receive a grant that is most appropriate under the circumstances;

(D) as the Commission considers appropriate, feature website links to efforts that have no commercial content and that feature information about financial literacy and education programs, materials, or campaigns; and

(E) offer such other information as the Commission finds appropriate to share with the public in the fulfillment of its purpose.

(c) TOLL-FREE HOTLINE.—The Commission shall establish a toll-free telephone number that shall be made available to members of the public seeking information about issues pertaining to financial literacy and education.

(d) DEVELOPMENT AND DISSEMINATION OF MATERIALS.—The Commission shall—

(1) develop materials to promote financial literacy and education; and

(2) disseminate such materials to the general public.

(e) COORDINATION OF EFFORTS.—The Commission shall take such steps as are necessary to coordinate and promote financial literacy and education efforts at the State and local level, including promoting partnerships among Federal, State, and local governments, nonprofit organizations, and private enterprises.

(f) NATIONAL STRATEGY.—

(1) IN GENERAL.—The Commission shall—

(A) not later than 18 months after the date of enactment of this Act, develop a national strategy to promote basic financial literacy and education among all American consumers; and

(B) coordinate Federal efforts to implement the strategy developed under subparagraph (A).

(2) STRATEGY.—The strategy to promote basic financial literacy and education required to be developed under paragraph (1) shall provide for—

(A) participation by State and local governments and private, nonprofit, and public institutions in the creation and implementation of such strategy;

(B) the development of methods—

(i) to increase the general financial education level of current and future consumers of financial services and products; and

(ii) to enhance the general understanding of financial services and products;

(C) review of Federal activities designed to promote financial literacy and education, and development of a plan to improve coordination of such activities; and

(D) the identification of areas of overlap and duplication among Federal financial literacy and education activities and proposed means of eliminating any such overlap and duplication.

(3) NATIONAL STRATEGY REVIEW.—The Commission shall, not less than annually, review the national strategy developed under this subsection and make such changes and recommendations as it deems necessary.

(g) CONSULTATION.—The Commission shall actively consult with a variety of representatives from private and nonprofit organizations and State and local agencies, as determined appropriate by the Commission.

(h) REPORTS.—

(1) IN GENERAL.—Not later than 18 months after the date of the first meeting of the Commission, and annually thereafter, the Commission shall issue a report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives on the progress of the Commission in carrying out this title.

(2) CONTENTS.—The report required under paragraph (1) shall include—

(A) information concerning the implementation of the duties of the Commission under subsections (a) through (g);

(B) an assessment of the success of the Commission in implementing the national strategy developed under subsection (f);

(C) an assessment of the availability, utilization, and impact of Federal financial literacy and education materials;

(D) information concerning the content and public use of—

(i) the website established under subsection (b); and

(ii) the toll-free telephone number established under subsection (c);

(E) a brief survey of the financial literacy and education materials developed under subsection (d), and data regarding the dissemination and impact of such materials, as measured by improved financial decision making;

(F) a brief summary of any hearings conducted by the Commission, including a list of witnesses who testified at such hearings;

(G) information about the activities of the Commission planned for the next fiscal year;

(H) a summary of all Federal financial literacy and education activities targeted to communities that have historically lacked access to financial literacy materials and education, and have been underserved by the mainstream financial systems; and

(I) such other materials relating to the duties of the Commission as the Commission deems appropriate.

(3) INITIAL REPORT.—The initial report under paragraph (1) shall include information regarding all Federal programs, materials, and grants which seek to improve financial literacy, and assess the effectiveness of such programs.

(i) TESTIMONY.—The Commission shall provide, upon request, testimony by the Chairperson to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives.

SEC. 515. POWERS OF THE COMMISSION.

(a) HEARINGS.—The Commission may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Commission considers advisable to carry out this title.

(b) INFORMATION FROM FEDERAL AGENCIES.—The Commission may secure directly from any Federal department or agency such information as the Commission considers necessary to carry out this title. Upon request of the Chairperson, the head of such department or agency shall furnish such information to the Commission.

(c) PERIODIC STUDIES.—The Commission may conduct periodic studies regarding the state of financial literacy and education in the United States, as the Commission determines appropriate.

SEC. 516. COMMISSION PERSONNEL MATTERS.

(a) COMPENSATION OF MEMBERS.—Each member of the Commission shall serve without compensation in addition to that received for their service as an officer or employee of the United States.

(b) TRAVEL EXPENSES.—The members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Commission.

(c) ASSISTANCE.—

(1) IN GENERAL.—The Director of the Office of Financial Education of the Department of the Treasury shall provide assistance to the Commission, upon request of the Commission, without reimbursement.

(2) DETAIL OF GOVERNMENT EMPLOYEES.—Any Federal Government employee may be detailed to the Commission without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.

SEC. 517. STUDY BY THE COMPTROLLER GENERAL.

Not later than 3 years after the date of enactment of this Act, the Comptroller General

of the United States shall submit a report to Congress assessing the effectiveness of the Commission in promoting financial literacy and education.

SEC. 518. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Commission such sums as may be necessary to carry out this title, including administrative expenses of the Commission.

TITLE VI—RELATION TO STATE LAW

SEC. 611. RELATION TO STATE LAW.

Section 625(d) of the Fair Credit Reporting Act (15 U.S.C. 1681t(d), regarding relation to State laws), as so designated by section 214 of this Act, is amended—

(1) by striking paragraph (2);

(2) by striking ''(c)—'' and all that follows through ''do not affect'' and inserting ''(c) do not affect''; and

(3) by striking ''1996; and'' and inserting ''1996.''.

TITLE VII—MISCELLANEOUS

SEC. 711. CLERICAL AMENDMENTS.

(a) SHORT TITLE.—Section 601 of the Fair Credit Reporting Act (15 U.S.C. 1601 note) is amended by striking ''the Fair Credit Reporting Act.'' and inserting ''the 'Fair Credit Reporting Act'.''.

(b) SECTION 604.—Section 604(a) of the Fair Credit Reporting Act (15 U.S.C. 1681b(a)) is amended in paragraphs (1) through (5), other than subparagraphs (E) and (F) of paragraph (3), by moving each margin 2 ems to the right.

(c) SECTION 605.—

(1) Section 605(a)(1) of the Fair Credit Reporting Act (15 U.S.C. 1681c(a)(1)) is amended by striking ''(1) cases'' and inserting ''(1) Cases''.

(2)(A) Section 5(1) of Public Law 105–347 (112 Stat. 3211) is amended by striking ''Judgments which'' and inserting ''judgments which''.

(B) The amendment made by subparagraph (A) shall be deemed to have the same effective date as section 5(1) of Public Law 105–347 (112 Stat. 3211).

(d) SECTION 609.—Section 609(a) of the Fair Credit Reporting Act (15 U.S.C. 1681g(a)) is amended—

(1) in paragraph (2), by moving the margin 2 ems to the right; and

(2) in paragraph (3)(C), by moving the margins 2 ems to the left.

(e) SECTION 617.—Section 617(a)(1) of the Fair Credit Reporting Act (15 U.S.C. 1681o(a)(1)) is amended by adding ''and'' at the end.

(f) SECTION 621.—Section 621(b)(1)(B) of the Fair Credit Reporting Act (15 U.S.C. 1681s(b)(1)(B)) is amended by striking ''25(a)'' and inserting ''25A''.

(g) TITLE 31.—Section 5318 of title 31, United States Code, is amended by redesignating the second item designated as subsection (l) (relating to applicability of rules) as subsection (m).

(h) CONFORMING AMENDMENT.—Section 2411(c) of Public Law 104–208 (110 Stat. 3009–445) is repealed.

Mr. SHELBY. Mr. President, I move to reconsider the vote.

Mr. BENNETT. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Under the previous order, the Senate insists on its amendments, requests a conference with the House on the disagreeing votes of the two Houses, and the Chair is authorized to appoint the following conferees:

The Presiding Officer appointed Mr. SHELBY, Mr. BENNETT, Mr. ALLARD, Mr. ENZI, Mr. SARBANES, Mr. DODD, and Mr. JOHNSON, conferees on the part of the Senate.

The PRESIDING OFFICER. Under the previous order, S. 1753 is returned to the calendar.

EXECUTIVE SESSION

NOMINATION OF ROGER W. TITUS, OF MARYLAND, TO BE UNITED STATES DISTRICT JUDGE

The PRESIDING OFFICER. Under the previous order, the Senate will now go into executive session for the consideration of Executive Calendar item No. 402, which the clerk will report.

The legislative clerk read the nomination of Roger W. Titus, to be United States District Judge for the District of Maryland.

The PRESIDING OFFICER. There are 2 minutes evenly divided on the nomination.

Who yields time?

The Senator from Vermont.

Mr. LEAHY. Mr. President, I compliment the Republican leadership for finally agreeing to move to the nomination of Roger Titus, who has been cleared on this side for some time.

The nominee has won universal acclaim as a member of the Maryland bar. In fact, it was suggested that he was going to be nominated to the U.S. Court of Appeals for the Fourth Circuit. It would have been a consensus where both Republicans and Democrats would have agreed. I wish the administration had done that. Instead, they have moved him to fill this seat. It is not a confrontational one for the circuit. In any event, he should be supported. He will make the 168th judicial nominee of President Bush's to be confirmed, which sets an all-time record for this time in a President's term in office, surpassing even that of President Reagan, when we had a Republican majority.

Mr. Titus has been an active litigator in Maryland for over 37 years, and has litigated hundreds of cases, both civil and criminal. He has been a partner at the Venable law firm and is a former president of the Maryland Bar Association. He has also served as an adjunct professor at the Georgetown University Law Center. Mr. Titus earned a unanimous ''well-qualified'' rating from the ABA, and an AV rating from Martindale-Hubbell.

In 2001, Mr. Titus was honored with The Baltimore Daily Record's first Leadership in the Law Award, which recognizes members of the legal community for their devotion to the betterment of the profession and their communities. In 1999, Mr. Titus received the Century of Service Award from the Montgomery County Bar Association for his outstanding contributions to the legal profession and community during the 20th century.

According to an article in The Baltimore Sun, Mr. Titus was apparently in the running to be nominated for a seat on the U.S. Court of Appeals for the Fourth Circuit. In light of his stellar qualifications, deep roots in his legal community and ability to garner the bipartisan support of his elected officials he would have been a consensus choice for this important appellate seat. It is unfortunate that the President felt the need to nominate someone without any local ties to that Maryland vacancy.

There are reportedly 30,000 practicing attorneys in the State of Maryland. Instead of nominating a well-qualified Marylander like Mr. Titus to Judge Murnahan's vacant seat on the Fourth Circuit, the President selected a younger, more controversial nominee with very little litigation experience. Not surprisingly, that nominee, Claude Allen, received a partial ''not qualified'' rating by the American Bar Association and his selection for this prestigious lifetime appointment has garnered a significant amount of opposition from concerned citizens groups.

It is regrettable that this President has again chosen the course of confrontation and conflict for his appellate court nominations. Mr. Titus, with his many years of litigation experience and his well-deserved reputation as a leader among lawyers in Maryland, is the type of person who should have been chosen for Judge Murnahan's vacant seat on the Fourth Circuit. His nomination stands in sharp contrast to the inexperienced and divisive candidates chosen by the White House for too many appellate judgeships in what appear to be an effort to pack the court with ideological nominees and tilt these courts.

There is no doubt that Mr. Titus is a Republican, yet he has the support of both of his home-State Senators and has earned the unanimous support of the Members of the Judiciary Committee. I am happy to support his nomination today and I congratulate Mr. Titus and his family on his confirmation. I commend Senators SARBANES and MIKULSKI for their efforts to identify outstanding Maryland lawyers to maintain the high standards of the Federal bench in Maryland.

In less than 3 years' time, President George W. Bush exceeded the number of judicial nominees confirmed for President Reagan in all 4 years of his first term in office. Senate Democrats have cooperated so that this President already surpassed the record of the President Republicans acknowledge to be the ''all time champ'' at appointing Federal judges. Since July, 2001, despite the fact that the Senate majority has shifted twice, with today's vote, a total of 168 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 with Mr. Titus' nomination we will have confirmed 68 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 themselves for putting more lifetime appointed judges on the Federal bench than President Reagan did in his entire first term and doing it in three-quarters the time. But Republicans have a different partisan message and this truth is not consistent with their efforts to mislead the American people into thinking that Democrats have obstructed judicial nominations. That is why the President chose to criticize the Senate from the Rose Garden again last week rather than work with us and recognize what we can accomplish together.

Not only has this President been accorded more Senate confirmations than President Reagan achieved during his entire first term, but he has also achieved more confirmations this year than in any of the 6 years that Republicans controlled the Senate when President Clinton was in office. Not once was President Clinton allowed 68 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 1995, 1996, 1997, 1998, 1999, or 2000.

Last year alone, 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, consideration of nominations slows, the ''Thurmond rule'' is invoked and vacancies are left to the winner of the upcoming Presidential election. In 1992, Democrats proceeded to confirm 66 of former 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 circuit court.

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 most recent term 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's to be confirmed all year, including only 7 circuit court nominees. Those are close to the average totals for the 6 years 1995–2000 when a Republican Senate majority was determining how quickly to consider the judicial nominees of a Democratic President. By contrast, with today's confirmation, the Senate this year will have confirmed 68 judicial nominees, including 12 circuit court nominees, almost double the totals for 1999.

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 today to 40. More than 95 percent of the federal judgeships are filled. After inheriting 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 today's 68th confirmation 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. These facts stand in stark contrast to the false partisan rhetoric that demonize the Senate for having blocked all of this President's judicial nominations. The reality is that the Senate is proceeding at a record pace and achieving record numbers.

I congratulate Mr. Titus and his family on his confirmation today.

Mr. HATCH. Mr. President, I am especially pleased today to speak in support of our nominee to the United States District Court for the District of Maryland, Roger Titus.

When the White House nominated Mr. Titus last June, Judge Peter Messitte of the district of Maryland, who happens to be an old high school classmate of Mr. Titus, called him a ''first-class appointment and just a great guy. He is really one of the finest lawyers around.'' I agree wholeheartedly.

Not only is Mr. Titus a ''great guy'' and ''one of the finest lawyers around,'' he is extremely well qualified—and well-deserving of the ABA's unanimous Well Qualified rating. His credentials are impeccable.

Mr. Titus earned a B.A. from Johns Hopkins and a J.D. from Georgetown University Law Center. Following his graduation from law school in 1966, Mr. Titus entered public service. He was first appointed as an assistant city attorney for Rockville, Maryland. He served in that capacity until 1970, at which time he was appointed city attorney.

While serving as a committed public servant, Mr. Titus established a private and prestigious law practice specializing in complex civil and appellate litigation. And in between serving in public office and operating a successful law practice, he found the time to teach at his alma mater, Georgetown University Law Center.

In 1988, Mr. Titus and his law partner merged their practice into Venable, Baetjer and Howard, LLP, where he is currently a partner. His clients include the Board of Education of Montgomery County, the Montgomery County government, the Howard Hughes Medical Institute, Igen International, Inc., and Circuit City Stores, Inc.

Fellow members of the Maryland bar have recognized Mr. Titus's outstanding legal skills. He has received numerous accolades, among them fellowships in notable organizations such as the American Bar Foundation, the American College of Trial Lawyers, the American Academy of Appellate Lawyers, and the Maryland Bar Foundation. In 1989, he was appointed to the Standing Committee on Rules of Practice and Procedure of the Court of Appeals of Maryland. In 1999, he was one of seventeen living attorneys to be awarded the Century of Service Award by the Bar Association of Montgomery County. And in 2001, he was awarded the Leadership in Law Award of The Daily Record.

Mr. Titus brings sterling credentials, legal acumen, and nearly 40 years of experience to the Federal bench. He will undoubtedly be an excellent addition to the bench and I urge my colleagues to join me in supporting his confirmation.

Ms. MIKULSKI. Mr. President, I rise today to express my enthusiastic support for Roger Titus, a dedicated and well-qualified Maryland lawyer, to be a Federal district court judge for the District of Maryland.

When I review nominees for our Federal courts, I consider three criteria. They must have the utmost legal competence, the highest integrity and have a staunch dedication to protecting core constitutional values and guarantees. Mr. Titus meets all of these standards. I believe he will represent Maryland well on the District Court.

Mr. Titus is recognized as one of the best lawyers in Maryland. He has been awarded Century of Service Award by the Bar Association of Montgomery County and has been recognized for his leadership in the legal community with the Leadership on Law Award from The Baltimore Daily Record.

He is committed to serving the community and his profession. For over 16 years he served city attorney's office of Rockville, rising to position of city attorney. He is also a member of Board of Trustees of Suburban Hospital and pro bono counsel to Mobil Medical Care, Inc., a nonprofit dedicated to bringing health care services to Maryland's homeless population.

The position that Mr. Titus is nominated for is important to protecting the rights of all Marylanders. Mr. Titus will join two other distinguished nominees that the Senate confirmed earlier this year, whom I strongly supported, Judges Bennett and Quarles.

These nominees represent the types of lawyers that we should be putting on our Federal courts. They have strong bipartisan support, distinguished legal careers in the state from which they are selected and they are in the mainstream of legal thought.

One of the things that impresses me about Mr. Titus is his strong ties to the community. Mr. Titus was raised in Maryland, attended Bethesda/Chevy Chase high school and went to college at Johns Hopkins University. He was the first in his family to go to law school. In fact, he was an electrical engineering major and had not really had any exposure to lawyers until he eloped with the daughter of a lawyer in college. From there the rest is history. He is now one of many in a family of lawyers.

As a young lawyer, he worked as assistant city attorney in Rockville defending and representing the city. In 1972, he was appointed to be the city attorney of Rockville were he continued to represent the city in matters of complex municipal law. He also served as adjunct law professor at Georgetown Law School and then went on to establish his own successful law firm.

In 1988, his firm merged with one of the top law firms in the United States, based right here in Washington DC—the firm of Venable, Baetjer and Howard, LLP. Mr. Titus is a leader in the firm as the partner in charge of the Montgomery County office and as a member of firm's Management Board.

Roger Titus has had a distinguished legal career both working in the public sector as the advocate for the city of Rockville before the courts, and then in the private sector where he is known for his expertise in complex civil litigation. It is because of his service to the bar and his outstanding legal skills and intellect that Mr. Titus has received a ''well qualified'' rating from the American Bar Association.

Mr. Titus' dedication to the law is also seen in his work as a volunteer counsel for Mobile Medical Care, Inc. This is an organization that provides free medical services to poor and homeless persons. Some of the most vulnerable citizens in our society. As their legal counsel, he helped them resolve legal hurdles which enabled them to set up a headquarters in Bethesda, MD. His commitment to the law is also reflected in his service to the bar. As a member of the Standing Committee on Rules of Practice and Procedure of the Court of Appeals of Maryland, he worked to secure guidelines for legal representation of minors in proceedings terminating parental rights.

I mentioned before the awards that Mr. Titus has received. These accolades from his colleagues are proof of the respect he has in the legal community and his intellect and ability. They demonstrate his service to bar and community and how much he has accomplished in career.

I do not know how Mr. Titus will vote on every issue that comes before him. I know he has been nominated by a Republican President, and it is likely that my beliefs and Mr. Titus' beliefs on certain issues will differ. But I am confident that he will use his expertise and legal experience to guide him as he makes important decisions affecting Marylanders. I am also confident that his legal background and respect for the law will be his foundation as he serves on the Federal District Court in Maryland.

I am impressed with Mr. Titus' commitment, expressed during his hearing before the Judiciary Committee, to adhering to the law. His dedication to following precedent and a statute's requirements, even where it is inconsistent with his own personal beliefs or is unpopular. It is the ability to put the law first, to know that personal views are irrelevant, that will serve him and Maryland well when he is a Federal district judge

I am proud to support this distinguished Maryland lawyer for a seat on the prestigious Federal court in Maryland. It is well qualified, distinguished members of the bar, who are respected in their legal community and who are in the mainstream of legal thought, like Mr. Titus, that this administration should be nominating. These are nominees who have excelled in their profession and who are looked up to by Republicans and Democrats alike. Like Judges Quarles and Bennett, Mr. Titus is a nominee who both of Maryland's Senators can support. We support him because we are foremost concerned with protecting the integrity and excellence of the Maryland Federal judiciary.

That concern has lead both Senator SARBANES and myself to work with and support the choices of the administration for these District Court nominees. That concern is why I wish the administration had looked to the Maryland legal community when it nominated someone to fill the vacancy left by the death of Judge Francis Murnaghan, an esteemed jurist who served on the Fourth Circuit for over 20 years.

Today, as I rise to enthusiastically support the nomination of Mr. Titus and as I have risen to support the other nominees for the district court, I believe these individuals are a model of the types of lawyers that should be nominated to fill Judge Murnaghan's seat on the Fourth Circuit. These nominees show that the President could easily nominate someone from Maryland who is fit for the bench and will serve with pride and excellence. They also show that the administration would not have to look far for a qualified nominee from Maryland.

Mr. SARBANES. Mr. President, I would like to take this opportunity to express my support for the nomination of Roger W. Titus to the U.S. District Court for the District of Maryland.

I have always believed that one of the most important roles I have as a United States Senator is the responsibility to provide ''advice and consent'' with respect to nominees to the Federal judiciary, and it is with sober deliberation that I consider all nominations made by our Presidents. When considering nominees, I apply a high standard to determine whether to support them for the Federal bench. A candidate should have had a career that has provided the breadth and depth of experience necessary to be a Federal judge, have contributed to the legal profession of our State, and have been an active participant in Maryland's civic community. All of these factors taken together must have elevated the nominee to a position of respect and esteem in our State that demonstrates that the nominee is ready and worthy for the challenges of a Federal judgeship.

Applying these standards, I am pleased to speak today on behalf of Roger Titus and urge the Senate to confirm his nomination. Roger Titus clearly meets these requirements, and will make a valuable contribution on the District Court.

Roger Titus received his undergraduate degree from Johns Hopkins University and his juris doctorate from Georgetown University Law Center. His legal career has spanned more than 30 years, during which time he has held a variety of positions in the public sector; private sector, with more than 30 years in private practice at firms large and small; and the academic field, as an adjunct professor at Georgetown University Law Center.

Roger Titus' career in private practice has been broad in scope—a fact that will serve him well on the bench. Concentrating in litigation, he has significant experience in State and local government law, general litigation, constitutional litigation, complex commercial litigation, as well as appellate work. Roger Titus has also been a leader in Maryland's legal community, most notably serving as President of the Maryland State Bar Association, but also devoting his time to numerous other legal organizations on a State, local and national level including the Bar Association of Montgomery County, American Bar Association, Maryland Municipal Attorneys Association, and the National Conference of Bar Presidents, among others. During this busy career, he has been active in the Maryland community, devoting substantial time to the Maryland Bar Foundation and as Chairman and member of the Board of Trustees for Suburban Hospital.

Given this record, it is no surprise that the American Bar Association gave Roger Titus a unanimous ''well qualified'' rating in its evaluation of his nomination. He has also received a number of prestigious awards for his career and record of service, including the Daily Record's first Leadership in the Law Award, which recognizes members of the legal community for their devotion to the betterment of the profession and their communities, and the Century of Service Award from the Montgomery County Bar Association, for his outstanding contributions to the legal profession and community during the twentieth century.

I am pleased to have the opportunity to speak today on behalf of Roger Titus' nomination to the Federal

bench, and I would like to congratulate him and his family on his confirmation. It is truly indicative of the exemplary career he has had in the legal profession, his commitment to our State, and the esteem with which Marylanders view his accomplishments.

The PRESIDING OFFICER. The Senator's time has expired.

Who yields time for the majority?

Mr. MCCAIN. I yield back the time.

The PRESIDING OFFICER. Is all time yielded back? Without objection, all time is yielded back.

Mr. LEAHY. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is, Will the Senate advise and consent to the nomination of Roger W. Titus, of Maryland, to be United States District Judge for the District of Maryland?

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 necessarily absent.

I further announce that, if present and voting, the Senator from Massachusetts (Mr. KERRY) would vote ''yea.''

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 97, nays 0, as follows:

[Rollcall Vote No. 438 Leg.]

YEAS—97

Akaka	Dodd	Lugar
Alexander	Dole	McCain
Allard	Domenici	McConnell
Allen	Dorgan	Mikulski
Baucus	Durbin	Miller
Bayh	Ensign	Murkowski
Bennett	Enzi	Murray
Biden	Feingold	Nelson (FL)
Bingaman	Feinstein	Nelson (NE)
Bond	Fitzgerald	Nickles
Boxer	Frist	Pryor
Breaux	Graham (FL)	Reed
Brownback	Graham (SC)	Reid
Bunning	Grassley	Roberts
Burns	Gregg	Rockefeller
Byrd	Hagel	Santorum
Campbell	Harkin	Sarbanes
Cantwell	Hatch	Schumer
Carper	Hollings	Sessions
Chafee	Hutchison	Shelby
Chambliss	Inhofe	Smith
Clinton	Inouye	Snowe
Cochran	Jeffords	Specter
Coleman	Johnson	Stabenow
Collins	Kennedy	Stevens
Conrad	Kohl	Sununu
Cornyn	Kyl	Talent
Corzine	Landrieu	Thomas
Craig	Lautenberg	Voinovich
Crapo	Leahy	Warner
Daschle	Levin	Wyden
Dayton	Lincoln	
DeWine	Lott	

NOT VOTING—3

Edwards	Kerry	Lieberman

The nomination was confirmed.

The PRESIDING OFFICER. Under the previous order, the President will be notified of the Senate's action

LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will return to legislative session.

AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 2004—Continued

Mr. BENNETT. Mr. President, it is our intention to move next to the amendment of the Senator from Hawaii, Mr. AKAKA; and, after that, to the amendment of Senator CANTWELL. However, Senator SPECTER from Pennsylvania has an amendment which he wishes to propose. The time will not be long and he has another time commitment. I ask unanimous consent that Senator SPECTER be recognized before we proceed in the manner that I have outlined.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I thank the distinguished Senator from Utah.

AMENDMENT NO. 2080

Mr. SPECTER. Mr. President, I call up amendment No. 2080, which is at the desk.

The PRESIDING OFFICER. Without objection, the pending amendment is set aside. The clerk will report.

The legislative clerk read as follows:

The Senator from Pennsylvania [Mr. SPECTER] proposes an amendment numbered 2080.

Mr. SPECTER. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To limit the use of funds to allocate the rate of price support between the purchase prices for nonfat dry milk and butter in a manner that does not support the price of milk at the rate prescribed by law)

On page 79, between lines 7 and 8, insert the following:

SEC. 7___. LIMITATION ON ALLOCATION OF PURCHASE PRICES FOR BUTTER AND NONFAT DRY MILK.

None of the funds made available by this Act may be used to pay the salaries or expenses of employees of the Department of Agriculture to allocate the rate of price support between the purchase prices for nonfat dry milk and butter in a manner does not support the price of milk in accordance with section 1501(b) of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 7981(b)).

Mr. SPECTER. Mr. President, this is an amendment which I am offering following a letter on July 8, 2003, to the Secretary of Agriculture, cosigned by some 20 Senators. This amendment provides that the Secretary must take immediate action concerning the Commodity Credit Corporation's purchase price for dairy products. The market price for individual products has fallen below the support levels, thus allowing the price of milk products to fall below the statutory level of $9.90 per hundredweight.

In the year 2000, 7 out of 12 months the price was below the $9.90 set at $8.57. In 2002, 4 out of 12 months were below the support price, and currently, in 2003, 6 out of 12 months were below the support price set at $9.11.

This amendment prohibits the expenditures in the Department of Agriculture unless they follow the clear-cut mandate of existing law, which is to have the prices set.

I had understood a few moments ago that this was cleared on both sides, but it may be that there are some objections to be lodged. It is my hope that this can be worked out in the course of the afternoon.

I thank my colleagues for yielding these few minutes. I yield the floor.

Mr. BENNETT. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BENNETT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2088

Mr. AKAKA. Mr. President, I rise today to offer an amendment to H.R. 2673, the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act for fiscal year 2004, that will help protect the health of the American public. This amendment would prohibit the U.S. Department of Agriculture (USDA) from utilizing funds under this Act to approve downed animals for human consumption. I thank Senators LEVIN, CANTWELL, and LIEBERMAN for cosponsoring this amendment.

Downed animals are livestock such as cattle, sheep, swine, goats, horses, mules, or other equines that are too sick to stand or walk unassisted. Many of these animals are dying from infectious diseases and present a significant pathway for the spread of disease.

I commend USDA and livestock organizations for their efforts to address the issue of downed animals. However, I am deeply concerned about diseases such as BSE, Bovine Spongiform Encephalopathy, more commonly known as mad cow disease, that pose a serious risk to the United States cattle industry and human health. A food inspection study conducted in Germany in 2001 found that BSE is present in a higher percentage of downed livestock than in the general cattle population. USDA stated that downed animals are one of the most significant potential pathways that have not been addressed in previous efforts to reduce risks from BSE. Stronger legislation is needed to ensure that these animals do not enter our food chain. My amendment prevents downed animals from being approved for consumption at our dinner tables.

On January 21st of this year, USDA's Animal and Plant Health Inspection

Service (APHIS) proposed rules in the Federal Register asking for comments on reducing the risks of BSE from downed and dead livestock. In the proposed rules, USDA acknowledges that downed animals serve as a potential pathway for the spread of BSE. Currently, before slaughter, USDA's Food Safety Inspection Service (FSIS) diverts downer livestock that exhibit clinical signs associated with BSE or other types of diseases until further tests may be taken. However, this does not mean that downed livestock cannot be processed for human consumption. If downer cattle presented for slaughter pass both the pre- and post-inspection process, meat and meat by-products from such cattle can be used for human consumption. Routinely, BSE is not correctly distinguished from many other diseases and conditions that show similar symptoms. This was demonstrated by the surveillance of a similar inspection process in Europe, showing that the process is inadequate for detecting BSE. Consequently, BSE-infected cattle can be approved for human and animal consumption.

Although USDA increased the number of cattle tested for BSE from 5,200 during the year 2001 to 19,990 in the year 2002, this still represents less than one percent of the industry that is tested. Of the 5,200 cattle tested for BSE in fiscal year 2001, approximately 87 percent of the animals targeted for testing were downed. Today, USDA has increased its efforts to test approximately 10 percent of downed cattle per year for BSE. It is interesting to note, however, that Japan currently tests each of its 1.3 million beef cattle slaughtered annually for BSE. While I am not asking the industry and Federal Government to test every slaughtered cow, I am asking the Federal Government to address and reduce the real risks associated with BSE and similar diseases in the U.S.

Some individuals fear that my amendment would place an excessive financial burden on the livestock industry. I want to remind my colleagues that one single downed cow in Canada diagnosed with BSE this year shut down the world's third largest beef exporter. It is estimated that the Canadian beef industry lost over $1 billion as a result of the discovery of BSE and more than 30 countries banned Canadian cattle and beef. As the Canadian cattle industry continues to recover from its economic loss, it is prudent for the United States to be proactive in preventing BSE and other animal diseases from entering our food chain.

We must protect our livestock industry and human health from diseases such as BSE. My amendment reduces the threat of passing diseases from downed livestock to our food supply. USDA only tests a small sample of downed animals for diseases. This is not enough. My amendment ensures downed animals will not be used for human consumption. It also requires higher standards for food safety and protects human health from diseases and the livestock industry from economic distress.

I urge my colleagues to support this important amendment.

Mr. BENNETT. Mr. President, it would be my intention on this side to accept this amendment.

Mr. AKAKA. I ask my amendment be set aside momentarily and we return to it at a future time.

The PRESIDING OFFICER. The Senator has not formally sent up the amendment.

Mr. BENNETT. I assumed we would go to the amendment from the Senator from Washington.

The PRESIDING OFFICER. The Senator from Hawaii has not sent his amendment to the desk.

Without objection, the pending amendments are set aside.

The clerk will report.

The legislative clerk read as follows:

The Senator from Hawaii [Mr. AKAKA], for himself, and Mr. LEVIN, Mr. LIEBERMAN, and Ms. CANTWELL, proposes an amendment numbered 2088.

The amendment is as follows:

(Purpose: To restrict funding for the approval for human consumption of meat produced from downed animals)

On page 79, between lines 7 and 8, insert the following:

SEC. 7___. PROTECTION OF DOWNED ANIMALS.

None of the funds appropriated or otherwise made available by this Act to pay the salaries or expenses of employees or agents of the Department of Agriculture may be used to approve for human consumption under the Federal Meat Inspection Act (21 U.S.C. 601 et seq.) any cattle, sheep, swine, goats, horses, mules, or other equines that are unable to stand or walk unassisted at an establishment subject to inspection at the point of examination and inspection, as required by section 3(a) of that Act (21 U.S.C. 603(a)).

Mr. BENNETT. I ask unanimous consent that this amendment be set aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Washington.

AMENDMENT NO. 2087

Ms. CANTWELL. Mr. President, I call up my amendment and I send it to the desk.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Washington [Ms. CANTWELL] proposes an amendment numbered 2087.

Ms. CANTWELL. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To prohibit energy market manipulation)

On page 79, between lines 7 and 8, insert the following:

SEC. 7___. PROHIBITION OF ENERGY MARKET MANIPULATION.

(a) PROHIBITION.—Part II of the Federal Power Act (16 U.S.C. 824 et seq.) is amended by adding at the end the following:

"SEC. 215. PROHIBITION OF MARKET MANIPULATION.

''It shall be unlawful for any person, directly or indirectly, to use or employ, in connection with the purchase or sale of electric energy or the purchase or sale of transmission services subject to the jurisdiction of the Commission, any manipulative or deceptive device or contrivance in contravention of such regulations as the Commission may promulgate as appropriate in the public interest or for the protection of electric ratepayers.''.

(b) RATES RESULTING FROM MARKET MANIPULATION.—Section 205(a) of the Federal Power Act (16 U.S.C. 824d(a)) is amended by inserting after ''not just and reasonable'' the following: ''or that result from a manipulative or deceptive device or contrivance''.

Ms. CANTWELL. I ask unanimous consent that Senators BINGAMAN, HOLLINGS, JEFFORDS, DORGAN, and FEINGOLD be added as cosponsors to this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Ms. CANTWELL. Mr. President, I appreciate the time to discuss this issue.

Some colleagues may wonder why we are talking about energy legislation and market manipulation on the Agriculture appropriations bill. As my colleague from California pointed out in the previous amendment on derivatives legislation and market manipulation prevention, this was part of an agreement that the Western Senators worked out when we were discussing the Energy bill prior to our August recess. The fact that we were willing to move off that debate on a variety of amendments was because we had a commitment for a chance to have further discussion on important issues that impacted the economies of Western States.

That was the agreement made at that time, and today is the moment in which Senator FEINSTEIN and I both have our opportunities to discuss what we consider very important legislation and to get the Congress on the record and make sure the Senate takes a stand against market manipulation.

Many Members know a lot has happened since the time of discussion of these issues about the energy crisis and what we should do. But we should be clear about the sequencing of things that the United States now knows and understands. The Senate knows and understands that Enron has admitted market manipulation. They have executives who have said, yes, these contracts were manipulated and prices were faulty.

We have a report by the Federal Energy Regulatory Commission so thick it is hard for me to hold in one hand that goes through a variety of issues in relation to market manipulation in which FERC found there was not only manipulation, but a demonstration for the need of explicit prohibitions on this kind of harmful and fraudulent market behavior.

That is exactly what this amendment tries to address. The amendment I have offered, and Senator BINGAMAN and others have offered, says something very basic and simple that probably many Americans, and I guarantee many Washingtonians, assumed would

already be in a Federal statute such as the Federal Power Act. The amendment simply says that manipulation or manipulated contracts under the Federal Power Act cannot be just and reasonable.

Some of my colleagues may have remembered an earlier amendment where we prescribed some solutions. This amendment has been compromised and offers no specific remedies to the legislation but is specific in saying that market manipulation, in fact, is not something that can be just and reasonable under the Federal Power Act and it is not the kind of activity that the Commission should consider as lawful activity.

Most of my colleagues would say that manipulation and fraud surely has no place in the Federal Power Act; sanctioning those activities is somehow legal. But the absence of that prohibition in the Federal Power Act is leaving some doubt in people's minds that, in fact, manipulation is unlawful.

I bring that up because Washingtonians—as Ohio, Indiana, Nevada, California, Utah—have been suffering from high energy costs related to these manipulations of Enron contracts. Not only will they be stuck with paying those Enron contracts over a long period of time, but my State, the State of Washington, had utilities as much as a 50-percent rate increase because of Enron's contracts, and we will be stuck with those contracts over 5 years.

While Ken Lay remains uncharged, or at least not paying any dues for the crime he perpetrated, and he keeps the millions of dollars of money that he has gotten from Enron, my ratepayers in Washington State for the next 5 years will end up paying the high prices of those manipulated contracts. Not only will we end up paying the high prices of those manipulated contracts, but the utilities in my State and other States—Nevada, California, Oregon, some of the other Midwest States I mentioned—have tried to basically deal with Enron. They have been basically sued by the company. So not only is my ratepayer stuck with paying those high utility bills, they are actually trying to fight the legal battle against Enron, which is turning around and suing them.

My amendment does something very simple today. It basically says in the Federal Power Act that for the prospective issue of making sure it is clear to people throughout the country that the Senate does not tolerate market manipulation.

I have to say we have done great work on this issue as it relates to the Securities and Exchange Commission, and as it relates to making sure that accounting practices have been changed. But nowhere have we been specific in saying that market manipulation is an unlawful practice and cannot be just and reasonable under the Power Act. That is simply what we are trying to say today.

Why is that needed? I have a letter I circulated to my colleagues from one of the newest nominees to the Federal Energy Regulatory Commission, a Republican nominee who spent many hours in the legislative branch working under Energy Secretary Abraham and spent time in the House Energy and Commerce Committee, to whom I posed this question as a nominee before FERC because I wanted to understand where FERC nominees were going in the future.

Mr. Kelliher responded exactly where I think the input needs to be to the Senate. He said:

I agree with much of what you have said. I agree that the markets subject to manipulation cannot operate properly and there is an urgent need to proscribe manipulation of electricity markets.

He further states:

You have correctly noted that there is no express prohibition of market manipulation in the Federal Power Act and have proposed legislation to establish that prohibition. This is a critical point. The Federal Regulatory Commission only has the tools Congress chooses to give it, and Congress has never given the Commission express authority to prohibit market manipulation. I believe the time has come for Congress to take that step.

That is an exact quote from a letter by the FERC nominee Joseph Kelliher from the administration saying, ''You want me to be a FERC commissioner? I am telling you exactly what I think about the FERC rules. And I am telling you we need the language that is in this amendment.''

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:

NOVEMBER 5, 2003.

Hon. MARIA CANTWELL,
U.S. Senate,
Washington, DC.

DEAR SENATOR CANTWELL: I am writing at your request to explain at greater length my views on legislation to prohibit manipulation of electricity markets.

I have followed your comments on market manipulation with great interest during the two years since my nomination was announced. I agree with much of what you have said. I agree that markets subject to manipulation cannot operate properly and there is an urgent need to proscribe manipulation of electricity markets. You have correctly noted there is no express prohibition of market manipulation in the Federal Power Act and have proposed legislation to establish an express prohibition. This is a critical point. The Federal Energy Regulatory Commission only has the tools that Congress chooses to give it, and Congress has never given the Commission express authority to prohibit market manipulation. I believe the time has come for Congress to take that step.

Market manipulation is a relatively recent development in electricity markets, but it is not a new problem. Manipulation has occurred in other markets, and Congress has enacted laws to proscribe manipulation in these markets. These laws can serve as models for legislation to prohibit manipulation of electricity markets.

Securities and commodities law establish an express prohibition of market manipulation and authorize a regulatory agency to prohibit specific manipulative practices by rulemaking. That approach allows an agency to act quickly once manipulative practices are identified. These models have worked well over time and could serve as the basis for legislation to prohibit manipulation of electricity markets.

The penalties authorized by congress in the Federal Power Act are unlikely to discourage criminal behavior. For that reason, tougher penalties—both higher monetary penalties and longer prison terms—are needed. Legislation is necessary to accomplish this. I should note that I advocated tougher penalties well before the Western electricity crisis and subsequent release of the Enron marketing memoranda. In addition to higher monetary penalties and longer prison terms, I recommend Congress grant the Commission authority to impose a lifetime ban on individuals found guilty of criminal violations of market manipulation laws. That authority exists at the regulatory agencies that oversee securities and commodities markets, and I see no reason why market manipulation in electricity markets should be subject to lesser sanction.

This is not to say that the Commission cannot take steps to prevent market manipulation under its existing legal authority. For example, the Commission can revoke the authorization of a public utility to sell electricity at market-based rates if it determines the public utility engaged in market manipulation. Further, I believe the Commission could prohibit manipulative practices under section 206 of the Federal Power Act if it determined that such practices were inherently unjust, unreasonable, unduly discriminatory or preferential. Since there would likely be legal challenges to any such effort to proscribe manipulative practices, it would be helpful for Congress to give the Commission clear authority to prohibit market manipulation.

At you request, I have reviewed your marked manipulation amendment. I support the goals of your amendment and believe it would go far towards effectively prohibiting manipulation of electricity markets.

I appreciate the opportunity to share my views on this subject with you.

Sincerely,

JOSEPH T. KELLIHER.

Ms. CANTWELL. Mr. President, I think the Kelliher letter and the report we have seen by the Federal Energy Regulatory Commission on price manipulation in western markets is the evidence we need. We have all admitted this manipulation has taken place. What is not clear to the American public is if we plan to do anything about it or if we plan to prohibit it in the future.

I think we need to be clear. The language I have offered in this amendment, as I said, is very simple and straightforward. It is that way because we want to make sure the Federal Energy Regulatory Commission does not misinterpret the intent of Congress, that Congress needs to say manipulating prices cannot be just and reasonable or in the public interest, and their job is to basically protect electric ratepayers from these kinds of manipulation.

I am not going to continue to take up the time of my colleagues who have heard about this amendment and have had an opportunity to review it. I urge them, as part of our further understanding of where the Energy bill is, that it is being set aside. This is the opportunity before us to make sure we

take a stand against market manipulation and we need to make it clear to the Federal Energy Regulatory Commission, which seems to be unclear about what authority they currently have, and to make it explicit that market manipulation cannot be tolerated.

I yield the floor.

The PRESIDING OFFICER. The Senator from Utah.

Mr. BENNETT. Mr. President, quick housekeeping.

AMENDMENT NO. 2088

Mr. President, I ask unanimous consent that we go back to the Akaka amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BENNETT. I call for a vote on the Akaka amendment.

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to amendment No. 2088.

The amendment (No. 2088) was agreed to.

Mr. BENNETT. 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.

AMENDMENT NO. 2087

Mr. BENNETT. Mr. President, I move that we go back to the Cantwell amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Ms. CANTWELL. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from Utah.

Mr. BENNETT. Mr. President, I am not familiar with this issue, but I have asked members of the Energy Committee about it, and they have indicated opposition to the Cantwell amendment. There are some members of that committee who are on their way here. In the meantime, I will share with my colleagues the contents of a memorandum with respect to the Cantwell amendment that has been provided to Senator DOMENICI.

In this memorandum, the following objections are raised.

First:

FERC has and is using its authority to stop fraud and manipulation. . . .

FERC has demonstrated that it will use the full extent of its authority to assure honest, fair wholesale electricity markets.

FERC has taken a number of initiatives which are listed in the memo and which I will share with Members if the appropriate members of the Energy Committee do not arrive.

The second objection to the Cantwell amendment is that it is too vague. It is suggested that:

It is written in such general terms that it will lead to greater uncertainty. A general ban on manipulation will not help companies determine what conduct amounts to manipulation and what conduct is appropriate behavior in a competitive market. . . . [A] blanket prohibition on ''manipulation,'' without defining the elements of what constitutes manipulation . . . could have a chilling effect on the market without meaningfully adding to the protections already available to electricity customers under existing law.

The third objection is that:

The Cantwell Amendment could lead to duplication and confusion among the agencies.

The enabling statutes of the Commodity and Futures Trading Commission (CFTC) and the Securities Exchange Commission (SEC) already contain broad prohibitions against conduct that is intended to manipulate markets. Adding such another broad general prohibition to the Federal Power Act would only lead to unnecessary duplication and potential conflict between various enforcement agencies.

In addition, the Federal Power Act already prohibits wholesale electricity prices that are not ''just and reasonable.'' Therefore, FERC has the authority to investigate electricity prices and to require refunds if prices are not ''just or reasonable'' or modify contracts if it is in the public interest to do so.

The House and Senate Energy bills both would enhance FERC's existing refund authority and increase civil and criminal penalties for violations of the Federal Power Act.

The memo makes the point that this issue has been addressed in the Energy bill, and that is the place for it to be done.

The next objection raised is:

The number of Federal investigations and prosecutions by a broad array of agencies demonstrates there is no need for the Cantwell Amendment.

Federal agencies have been and continue to be active in investigating criminal offenses in the energy industry.

These agencies as listed in the memorandum include the President's Corporate Fraud Task Force, the Federal Bureau of Investigation, the Federal Energy Regulatory Commission, the Securities and Exchange Commission, the Commodity Futures Trading Commission, the United States Postal Service, and numerous U.S. Attorney's offices across the country.

Through ''cooperative enforcement,'' these agencies have focused on investigations of possible round trip trading, false reporting and fraud and manipulation by energy companies and their affiliates, employees and agents. There have been a number of arrests, settlements and continued investigations and prosecutions reported based on these agencies' efforts.

And the argument is made that:

The Cantwell Amendment will not improve or change these actions.

Then reference is made to:

The Domenici Electricity Amendment effectively deals with market manipulation.

This is the amendment that is part of the Energy bill that is now in conference. The memo outlines all the reasons why that particular amendment is sufficient.

As I say, I am waiting for a member of the Energy Committee to come make these arguments with perhaps a little more background than I have. I would like to move to a vote on this amendment, so I ask, before I would suggest the absence of a quorum, if the Senator from Washington would agree to a vote, let us say, at 4:20. Would that be a sufficient period of time for the Senator?

The PRESIDING OFFICER (Mr. CORNYN). The Senator from Washington.

Ms. CANTWELL. Mr. President, I have not taken up a significant amount of time because I think Members have been educated on this issue, so I would suggest we just go ahead and vote on the issue and move ahead.

Mr. BENNETT. The Senator is suggesting we vote right now? I am willing. I am anxious to move as much time as possible. If the Senator is ready, if there is no one else who wants to speak on this issue——

Ms. CANTWELL. Mr. President, I am sure there are Members who, if they had the time, would come and speak, but I think to make this process move as smoothly as possible, I see no need to continue to wait for Members of the Energy Committee to show up. If Members are here who want to speak on behalf of the amendment, one way or another——

Mr. BENNETT. I see the Senator from Nevada is on the floor, and he may wish to speak.

I would ask, then, following the remarks of the Senator from Nevada, if no other Senator has come wishing to speak, we proceed directly to the vote.

Mr. REID. I object.

The PRESIDING OFFICER. Objection is heard.

The Senator from Nevada.

Mr. REID. Mr. President, I have always been a great admirer of the Senator from the State of Washington. She always steps forward with amendments that are extremely important.

Mr. BENNETT. Mr. President, will the Senator yield for another unanimous consent request?

Mr. REID. I am happy to yield for a question.

Mr. BENNETT. I would propound a unanimous consent request that the vote occur at 4:30.

Mr. REID. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. BENNETT. I thank the Senator.

Mr. REID. Mr. President, I do not think there is going to be a vote very soon on this matter. I think it is going to be quite a long time before we vote. We have a lot of things we need to talk about.

(The remarks of Mr. REID are located in today's RECORD under ''Morning Business.'')

Mr. REID. Mr. President, I believe maybe we need a vote.

So when would my friend from Utah like to vote?

Mr. BENNETT. Mr. President, I would be happy to vote on the Cantwell amendment immediately and then go on to other business connected to the bill.

Mr. REID. I think the Senator should move forward.

The PRESIDING OFFICER. Is there further debate?

If not, the question is on agreeing to the Cantwell amendment No. 2087. The yeas and nays have been ordered. 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 Massachusetts (Mr. KERRY), and the Senator from Connecticut (Mr. LIEBERMAN) are necessarily absent.

I further announce that, if present and voting, the Senator from Massachusetts (Mr. KERRY) would vote ''yea''.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 57, nays 40, as follows:

[Rollcall Vote No. 439 Leg.]

YEAS—57

Akaka	Durbin	McCain
Baucus	Ensign	Mikulski
Bayh	Feingold	Murray
Biden	Feinstein	Nelson (FL)
Bingaman	Fitzgerald	Nelson (NE)
Boxer	Graham (FL)	Pryor
Breaux	Gregg	Reed
Byrd	Harkin	Reid
Cantwell	Hollings	Rockefeller
Carper	Inouye	Santorum
Chafee	Jeffords	Sarbanes
Clinton	Johnson	Schumer
Collins	Kennedy	Smith
Conrad	Kohl	Snowe
Corzine	Landrieu	Specter
Daschle	Lautenberg	Stabenow
Dayton	Leahy	Sununu
Dodd	Levin	Voinovich
Dorgan	Lincoln	Wyden

NAYS—40

Alexander	Crapo	Lugar
Allard	DeWine	McConnell
Allen	Dole	Miller
Bennett	Domenici	Murkowski
Bond	Enzi	Nickles
Brownback	Frist	Roberts
Bunning	Graham (SC)	Sessions
Burns	Grassley	Shelby
Campbell	Hagel	Stevens
Chambliss	Hatch	Talent
Cochran	Hutchison	Thomas
Coleman	Inhofe	Warner
Cornyn	Kyl	
Craig	Lott	

NOT VOTING—3

Edwards	Kerry	Lieberman

The amendment (No. 2087) was agreed to.

Ms. CANTWELL. Mr. President, I move to reconsider the vote.

Mrs. MURRAY. 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 Utah.

Mr. BENNETT. Mr. President, I understand there are several Senators who have amendments they would like to offer. Senator DAYTON has one. Senator BINGAMAN has one. We have not yet had an opportunity to go through the Bingaman amendment which came to us relatively recently. So I would prefer to go to Senator DAYTON to give us a little more time to examine the Bingaman amendment, but that could be the decision of the minority. I prefer to go to Senator DAYTON's amendment next if that is agreeable.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. BINGAMAN. Mr. President, I defer to the manager of the bill. If he would like time to review the amendment that I have given him, I have no problem with that course of action.

Mr. BENNETT. Mr. President, I ask Senator DAYTON if he would give us some indication of how long he thinks he will take on his amendment and see if we cannot enter into a time agreement so that we can know when we might be able to vote.

Mr. DAYTON. Mr. President, responding to the distinguished manager of the bill, I myself will take less than 10 minutes. It is my understanding there may be one or two other Senators who wish to speak on this matter. I do not have their requests before me.

Mr. BENNETT. Mr. President, I ask unanimous consent then that we vote on the Dayton amendment at 5:15.

Mr. REID. I object. I object.

The PRESIDING OFFICER. Objection is heard.

The Senator from Minnesota.

Mr. DAYTON. It is my understanding then that I have the floor to proceed but there is no further agreement thereafter; is that correct?

The PRESIDING OFFICER. There is no agreement.

AMENDMENT NO. 2089

(Purpose: To provide emergency disaster assistance to Agricultural producers)

Mr. DAYTON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, the pending amendment is laid aside. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Minnesota [Mr. DAYTON] proposes an amendment numbered 2089.

Mr. DAYTON. 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 printed in today's RECORD under ''Text of Amendments.'')

Mr. DAYTON. Mr. President, this summer farmers in my State of Minnesota suffered one of the worst droughts in the State's history. Throughout the critical months of July and August, Minnesota received no rain whatsoever. Those cloudless blue skies with lots of warm sunshine which are considered good summer weather become deadly when it becomes relentless. Ninety-five percent of Minnesota's crop acres suffered some loss as a result, and 62 of our 87 counties were declared by the Secretary of Agriculture to be disaster area counties. Yields, moisture content, and overall quality of crops were all adversely affected by this drought.

To add misery to injury, insect infestation attacked thousands of soybean acres in southern Minnesota, further destroying plants, lowering yields, and forcing already hard-pressed growers to spend $10,000, $20,000, or even more to spray their fields in order to fight off total devastation.

In total, Minnesota farmers lost more than $1.1 billion in expected crop revenues. That is over 30 percent of our State's total crop revenue.

Yet, tragically, another disaster afflicts those unfortunate farmers and thousands of other farmers who suffered similar losses in other States this year. That disaster is that there is no disaster aid funding in the current farm law which was enacted last year. The Senate bill that we passed here provided disaster aid. The House bill did not. The conference report, regrettably, took the House and the administration's position, with the result that if you are hurt by low prices, you are helped under the current law, but if you are devastated, you are on your own and receive no assistance whatsoever.

My amendment provides assistance when disaster does strike. It does so by starting with the formula that was used in last year's disaster aid bill; from losses exceeding 35 percent of total value, farmers received disaster aid payments equal to 65 percent of the losses above the 35 percent threshold. It is a survival payment. It is not a break-even and certainly not a profit payment.

My amendment also adds a lower reimbursement for losses between 25 percent and 35 percent of value. Formerly, those losses would have received no assistance whatsoever. This formula pays 40 percent of those losses between 20 percent and 35 percent of total value.

The amendment also covers unreimbursed losses during the 2001 and 2002 seasons. As my colleagues will recall, farmers who suffered disasters in both of those years were allowed to receive payments from losses in only one of them. In other words, disaster aid is Sophie's choice. This amendment would compensate those farmers for their losses in the second year.

My amendment as written covered program crop losses and specialty crop losses throughout the country. However, I have also added, at the request of other Members, losses suffered during the year, which means the amendment now covers losses of shrimp in Louisiana, North Carolina, South Carolina, Georgia, Florida, Alabama, Mississippi, and Texas, and other losses which occurred in the States of Michigan, Florida, and California, as well as other national specialty crops.

The total cost of my amendment, as estimated by the Congressional Budget Office, is approximately $6.3 billion. Because it is, in my view, an emergency expenditure, I do not believe it requires, under the Budget Act, an offset, and I am not providing one.

I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceed to call the roll.

Mr. DURBIN. 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. DURBIN. I ask the chairman if this is an appropriate time for me to make a 10- or 15-minute statement relative to an amendment which you have accepted on the FDA and dietary supplements.

Mr. BENNETT. I ask the Senator if he would withhold for just a moment. We are trying to pull a few things together. But I am more than happy to have the time appropriately spent other than in a quorum call.

If the Senator will withhold for just a few moments, I will be in a position to respond.

Mr. DURBIN. I thank the Chair and 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. BINGAMAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BENNETT. Mr. President, the chairman of the Budget Committee is anxious to come over to develop the issue of the budget point of order for emergency designation with respect to the amendment offered by Senator DAYTON. As he has indicated, it is $6.3 billion, and there is no offset in the bill. Our bill is $1 billion below last year's fiscal year 302(b) allocation, and therefore this is obviously a very significant number.

Until the Senator from Oklahoma, the chairman of the Budget Committee, has an opportunity to be here to review this matter with us, I would be willing to allow the Senator from New Mexico to begin the description of his amendment because I understand he would like to get that done. He has a timeframe tonight. And we could view the possibility of voting on both amendments at some point when the debate on both amendments has subsided rather than keeping the time tied up in a quorum call.

With recognition of the pressures the Senator from New Mexico is under, I would like to perhaps move ahead on both of those amendments on a double track situation.

Mr. REID. I object. If there is going to be a request to set aside the Dayton amendment, I object.

Mr. BENNETT. All right. There is objection. Therefore, I do not pursue that. I suggest to the Senator from Illinois this might be a good time to hear from him.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. I thank the Chair of the committee and the ranking member, Senator KOHL of Wisconsin, for agreeing to an amendment which will be offered here in a moment as part of a managers' amendment, to my understanding. This is an amendment with which I tried to construct a deal, facing what I consider to be an extremely serious situation.

We now have a body of law in America relative to products which are sold for human consumption, and there are different laws and standards for different products. The ordinary American walking into a pharmacy or drugstore or health food store or nutrition store may not know that, depending on which product you take off the shelf, there is a different standard of care, a different legal requirement.

I would like to spend a moment to discuss the differences.

If you were to go into your local pharmacy and have a prescription filled—which many of us have—this is what you know. This prescription drug has been tested for three things before it was sold to you. First, that it is safe, that you can consume it without injuring yourself; second, that it is efficacious, meaning it will do what it is supposed to do; and, third, it has been packaged and manufactured in a fashion so when they say it is 200 milligrams, it is in fact 200 milligrams. You know that. The Food and Drug Administration has required clinical tests to make sure it is safe—efficacious—and packaged in a fashion as it is represented. With that assurance, your doctor prescribes it and you take the medicine.

Now you walk down from the pharmacy counter in the drugstore and you decide to pick up some cough syrup such as this. You have bought this cough syrup. The question is: What standard of care, what body of law governed the manufacture of this over-the-counter drug, in this case, Robitussin DM, which was previously a prescription drug. It went through the same test for safety and efficacy to determine whether or not it met those tests and could be sold. Then it reached a point where a medical decision was made that you no longer needed a prescription and the component parts of this drug meet the same test of safety and efficacy and it is packaged in such a fashion that you know what you are buying.

I might also add for both the prescription drug and the over-the-counter drugs, which I have just described, if something happens—if you take this prescription, for example, and have a bad health result or this over-the-counter drug with a bad health report and you report it to the company or to your doctor, it is expected and required that adverse event, as it is known, will be reported to the Food and Drug Administration. They keep track of those. If they find out what they thought was a safe drug turns out to have a bad reaction, they will pull it from the market. The same is true with an over-the-counter drug. You know the standard of care for both prescription drugs and over-the-counter drugs.

We have other things which you will find in that same drugstore. One of them would be ordinary vitamin pills, the kind I took this morning. What are the standards for these vitamins—vitamin C or ordinary multivitamins? Unfortunately, the standards are much different. In this case, they are basically being manufactured and sold without the same clinical tests. No one has tested them for safety, for efficacy. Frankly, the standards for many are questionable as to even how they are packaged and sold to the public. But the belief is most of these naturally occurring minerals and vitamins and this type of supplement are generally good for your health. Those who believe in them take them for a variety of conditions. It is believed they cause no great harm; in fact, that they may have real health benefits.

We passed a law about 9 years ago which established a standard for something we call dietary supplements which are also for sale in the same drugstore with prescription drugs, over-the-counter drugs, and vitamins. These dietary supplements might be one such as this, natural herbal formula to promote energy and diet. What kind of standard of testing went into this product? The answer is none. There was no testing in advance required by law that what is included in this bottle is safe for human consumption or in fact even helps you when it comes to your energy or diet, and few, if any, standards about whether or not when they say this is 200 grams of one thing or another, in fact, are included. When you buy a dietary supplement, frankly, there are no standards of testing and care before the product is put on the shelf for the consumers.

I tell you this by way of background because that is why this amendment is important. When we passed the Dietary Supplement Health Education Act, we said we were dealing with natural supplements like vitamin C and garlic, multivitamins and the like. What has happened over the past 8 or 9 years is we have gone way beyond the basic vitamins. We now find a witches brew of a variety of different dietary supplements way beyond vitamins and minerals that are being sold under the same law with no testing standards, with no establishment of their safety or efficacy, no standards as to how they are packaged, and no requirement that they report adverse events to the FDA. As you walk into the drugstore and fill your prescription and walk past the counters, the American consumer has no idea that at end of the counter, the standard of protection and care changes depending on what you are buying.

That is why I am offering an amendment to this bill which earmarks $250,000 for the Food and Drug Administration to examine one particular compound being sold in dietary supplements. The compound is ephedrine. Ephedrine is a naturally occurring chemical that one finds similar to the synthetic chemical ephedra. Ephedrine is very closely monitored by FDA in

both prescription drugs and over-the-counter drugs. But when it is sold in these types of dietary supplements, it isn't tested for safety, it isn't tested for efficacy, and it isn't tested in terms of how much is included in the bottle, and certainly no requirement for adverse events to be reported to the FDA.

Sadly, this product I have in my hand, known as Yellow Jackets, is sold as an extreme energizer, an herbal dietary supplement containing ephedrine. The reason I have kept this bottle is because 30 miles from my hometown in Springfield, IL, just last year a young man who was a high school senior and a football player in preparation for a football game decided he needed a shot of energy, a boost of strength to go out and play for his team. He went into a local gas station and bought these Yellow Jacket energizers and washed them down with Mountain Dew, which is heavy in caffeine, had a heart attack, and died. Ephedra products, as a consequence, have been under suspicion for a long time.

The sad reality is the United States is almost last in the world when it comes to dealing with ephedra products. You may not know it, but almost 2 years ago Canada banned ephedra products for sale in their country. They said it is too dangerous. Over a year ago, the American Medical Association said to the Food and Drug Administration, take these ephedra products off the shelf; they are dangerous. After 30 service men and women had serious adverse health effects, we have removed all ephedra products from military commissaries across the United States. The National Football League, the NCAA, the National Basketball Association, and major league baseball have banned the use of these products. You can't use them if you want to compete in Olympic competition. Yet kids in junior high and high school can walk into a gas station and still buy this in most States, with the exception of Illinois, and I believe New York and California have joined suit in banning ephedra products.

Over a year ago, I wrote to Secretary Tommy Thompson of Health and Human Services and said you have to do something. If Canada believes they are dangerous, if we think they are dangerous for service men and women, if the American Medical Association says they are dangerous, and if major sports have banned them, why in the world do we allow them to be sold in America?

What happened in the meantime is the Government did absolutely nothing—issued a press release and did nothing to take these products off the shelf.

What happened was a lot of the victims and their families went into courtrooms. A lot of people are critical of people filing lawsuits. This is a clear example where that was the only place to turn to protect innocent families and victims across America. Because of the class action lawsuits that were filed, we have now determined there were over 16,500 adverse events reports related to ephedra products that had been accumulated by all the companies that were selling them. Now they had to turn them over and disclose them.

Within those 16,500 adverse events there were events including seizures, strokes, and 155 deaths. I think, frankly, we all know what is at stake here. We realize major drugstores see liability if they continue to sell products like these Yellow Jackets and they will take them off the shelf. Walgreen's, CVS, Eckerd, Rite Aid, and Wal-Mart, representing 17,300 stores nationwide, have pulled these ephedra-containing dietary supplements from shelves. GNC, the largest specialty retailer of nutritional supplements in the country, with 5,300 stores nationwide, stopped selling ephedra products in June.

One of the largest sellers of ephedra products, Metabolite—I am sure you have heard that name—sold ephedra compounds and was sued right and left because of these compounds. They said at one point they didn't have any adverse event reports. After they were pressed in a lawsuit they turned over thousands of examples of people who had bad health events because they took Metabolite's ephedra products.

Metabalife is now advertising what they are selling is ''Ephedra free.'' Despite all this having taken place, our Government has done nothing, absolutely nothing. I have written over and over again to Secretary Thompson. I have met with Dr. McClellan, the doctor in charge of the Food and Drug Administration, and asked: When are you going to start protecting Americans? We have a clinical trial in America today. We are selling Ephedra to innocent people and seeing if they have a seizure or heart attack.

Secretary Thompson, in April, said he was concerned about Ephedra and had taken more and stronger actions to address public health issues raised by Ephedra alkaloid than in the previous decade.

That was his letter to me in April. Since Secretary Thompson wrote that letter to me, another 38 reports of death related to Ephedra have been accumulated, bringing the total to 155.

A representative of the FDA spoke in front of the Senate Commerce Committee last week and said the Agency is in the process of analyzing 30,000 comments they have received in response to the reopening of the 1997 proposed rule on Ephedra and they are reviewing scientific evidence. Of course, delay means death, delay means injury, and delay is evidence that the Food and Drug Administration is not meeting its obligation under the law to protect American families from dangerous products.

We had a hearing in the Senate Commerce Committee before Senator MCCAIN last week. A case was made very clearly that it is time to change the law. But first, get Ephedra off the shelves. That is why I introduced this amendment, put $250,000 in the FDA, earmarked to deal with Ephedra, to get an answer, get a conclusion and get it off the shelf as quickly as possible.

When that is done, we will have made progress. But we need to do more. The makers of dietary supplements such as this one must be required by law to report to the Food and Drug Administration if people are dying from their products. That is not too much to ask in this society. Those who say that, because I am going after a deadly product like yellow jackets, that my real war is against vitamin C just do not understand the reality. The reality is vitamin C can help. Vitamin C is not going to kill you.

This product killed a 16-year-old high school football player in Lincoln, IL. It has been attributed to the death of a Major League baseball player of the Baltimore Orioles.

I asked the committee to earmark this money. I am glad the chairman has accepted. I hope that finally this will push Health and Human Services into doing the right thing and banning this dangerous substance.

I yield the floor.

The PRESIDING OFFICER (Ms. COLLINS). The Senator from Nebraska.

Mr. NELSON of Nebraska. Madam President, thank you very much for this opportunity to speak on an issue important not only to my State but also to other States in my country as it continues to plague agricultural producers all over the United States. I thank Senator DAYTON, my colleague from Minnesota, for offering this amendment and for his continuing good work on this important issue.

Last year at this time this Chamber had a prolonged debate on whether to provide much needed emergency drought assistance to those hurt by continuing record drought. Some argued that there should be no assistance; others argued that, unlike with every other national disaster, assistance for drought victims should be funded through offsets. Some even argued we could always come back to take care of these victims at a later date.

Still some argued that a drought is no less devastating than a hurricane or flood for those who are affected and it should be treated as we would treat other natural disasters, by providing full assistance, treat it as an emergency, which, in fact, it is.

It took a while to get any help to our agricultural producers. Despite the plague of bankruptcies and the anticipated loss of thousands of family farms across the country, we could not get drought assistance passed until last spring, nearly 2 years after the worst of the drought had begun. That assistance came at a cost.

It covered less than half of the damage the USDA estimated had been caused by the drought, and it was paid for out of elements of the new farm

bill, robbing Paul to pay Paul. To survive, our farmers would have to sacrifice their future for their present.

Despite all that, despite waiting months for Congress to act, despite getting what assistance was offered at the expense of the farm bill, even now, more than 7 months after the passage of that inadequate bill, many of those hurt are just beginning to receive emergency payments. Some have received nothing while the least fortunate went bankrupt during the wait.

The drought package passed last spring offered a little over $3 billion for drought losses, half the estimated $6 billion in actual damages. By October 1, $1.85 billion had been distributed, just over a quarter of actual damages through 2002. Nebraska, which alone had $1.2 billion in damages, has received only $138 million in crop disaster payments, barely 10 cents on the $1 of what it lost. As of September 15, the sugar beet program had not even been implemented, leaving those producers with nothing.

Still, the drought continues. That is why I am here today. And still, because that drought continues, our farmers and ranchers need help.

I am here today to remind those who settle for less that we still need to do more. This map reflects the current drought impact in the United States. The red and brown areas are those areas that have been labeled as a drought area by the U.S. Drought Monitor at the University of Nebraska. The red areas within the regions have been declared as drought areas by the State or Federal Government. The brown areas have not been declared. As I said, they are considered to be declared drought areas by the U.S. Drought Monitor. The green areas are recovering from drought but could be impacted by recurring or lingering conditions. The yellow areas are under drought watch.

This map is for the time period of September 5 through October 2 of this year, less than 60 days ago. We can see this drought continues.

As is clear from this map, 16 States have seen at least half of their counties declared drought disasters and another 5 have some declared drought area and 2 additional States are considered drought States by the U.S. Drought Monitor but not all declared drought regions. All told, 23 States at the present time have at least some drought regions as labeled by the U.S. Drought Monitor. Another six States have some areas under drought watch.

This map makes it very clear, and it should be clear for everyone to see, the drought has not ended. It remains a national problem and has taken another planting season, another growing season, and another harvest. We need to provide more assistance for our farmers and our ranchers. We need to do more to mitigate the effects of this drought.

Finally, we need to take seriously the fact that a drought is no less devastating to those afflicted than of any other natural disaster.

The unfortunate thing on a comparison basis, some natural disasters are immediate or nearly immediate. This natural disaster takes time to develop. In this case, it is continuing.

If some believe this drought is not as damaging as other natural disasters, I invite them to visit Nebraska and the other States, visit farmers and ranchers who are selling their lands, selling their herds or those who have already sold their land and herds. I invite them to tour our rural communities to see how damaging this drought has been to small businesses, Main Street America, small communities that comprise those Main Streets that are connected to the land and the economic activity that it produces. I invite them to talk to the Governor of Nebraska who a few days ago asked the Department of Agriculture to declare our entire State a disaster area because of drought damages.

I tried a number of measures to focus some attention on the plight of our agricultural producers. I even tried to name the drought, Drought David, thinking that would give it some sort of focus, just as we name hurricanes. I even brought drought ribbons that some of my colleagues were good enough to wear a year ago because they understood the national impact of this drought as well as the impact on their particular States. I worked with leaders in this area such as Senators DASCHLE, HARKIN, BAUCUS, DAYTON, and JOHNSON, who also pushed for comprehensive drought assistance. But still it has not been enough. We need to do more. With economic conditions being what they are, we cannot risk losing more family farms, we cannot risk losing rural businesses, and we cannot risk agricultural bankruptcies and foreclosures.

This issue has not been resolved—not through the rains these counties and States need, and not through the paltry assistance provided by the Federal Government. We need to do more.

So today I rise in support of Senator DAYTON's amendment to provide more support for our family farmers. In fact, I considered offering an amendment myself on this very issue. And that, again, shows the breadth of the disaster. Such States as Nebraska and Minnesota, and everything in between, and all around, are still in dire trouble. Our Nation is at economic risk.

If we dislike importing 50 to 60 percent of our oil for our energy needs, let me assure you, we will hate importing our food if it ever gets to the point that we lose agriculture as we have it today.

So we must act. We must act now or it will be too late for tens of thousands of more family farms and the rural way of life.

I thank you, Madam President. I thank the chairman, and I yield the floor.

Mr. BAUCUS. Mr. President, I would like to thank Senator DAYTON for offering this amendment to secure emergency agricultural disaster assistance for our drought stricken agricultural producers.

I worked the past 2 years to pass meaningful disaster assistance. For 2 years, I worked to attach a disaster assistance package onto every piece of legislation I could. It passed twice in the Senate—once with 70 votes. Unfortunately, the House and the administration failed to see the necessity of disaster assistance for our Nation's agricultural producers.

A disaster package was eventually signed into law, but this package was a mere ghost of the original disaster package and did little to help those who were hurt the most by drought. Producers in my State of Montana experienced devastating drought in 2001 and 2002, but the package that was signed into law only provided relief for one of those years. I don't know many businessmen who would stay in business after 2 years of more than 35 percent losses.

Our Nation's agricultural producers are still hurting. I can count on one hand how many days it has rained in Billings, MT since June. The lack of moisture in my State combined with consecutive days of 100-plus temperatures during the summer exasperated the multiyear drought conditions.

The effects of the drought have gone beyond our farmers and ranchers. Businesses are closing their doors, employees are being laid off, and main streets are literally drying up.

When drought hits, it affects everyone in the area. In Geraldine, MT, which is located in Choteau County—right in the heart of the drought—students who qualify for free and reduced meals increased from 47 percent to 64 percent over the past year. This signals a dramatic fall in income for this area. Farmers who grow food for a living are asking for help to feed their families.

As a Nation, we provide emergency assistance when a hurricane smashes into the East Coast, when a tornado rips through the Midwest, or when a flood destroys southern communities. We step in and help our neighbors who are in need and offsets are not required. There is no reason that a double standard should apply to drought.

The agricultural producers in Montana hung on to strings of hope last year as we were fighting for disaster assistance for drought. After witnessing the atrocity of a package that passed, many of them were forced to sell their farms, their livelihood, their way of life. It was heartbreaking. Many people are still hanging on by their fingertips though and that is why I support this amendment. We need to save these producers—the people who wake up at the crack of dawn every day to ensure that our Nation has a safe, abundant, and inexpensive food supply.

This is about providing relief for the small businessmen and women who raise our food and experienced a natural disaster.

I urge my colleagues to do what is right and what is fair and to vote for this amendment.

The PRESIDING OFFICER. The Senator from Utah.

Mr. BENNETT. Madam President, I see no other Senators wishing to speak on this matter. The chairman of the Budget Committee has not presented himself. But speaking on his behalf, I will raise a budget point of order about the emergency designation.

Utah is at the bull's eye of the drought. We have more drought problems in Utah perhaps than any other State, and it is with some reluctance that I raise this point of order. But this is $6.3 billion, and there is no offset for it.

I think if it is of value, it is of sufficient value that it is worthwhile to have a supermajority to support going $6.3 billion into an emergency. I think an emergency designation for this much money is something for which this procedure is designed.

Therefore, I raise a point of order against the emergency designation contained in the pending amendment, that it violates section 502 of the concurrent budget resolution on the budget for fiscal year 2004, and therefore is not in order.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. DAYTON. Madam President, with due respect to the Senator from Utah, it seems to me that if we are going to measure whether something is an emergency by the extent of the emergency, we are misperceiving those situations.

I regret that the cost of this measure is estimated to be $6.3 billion, but that is a function of the extent of the disaster which has occurred nationwide. If disaster aid is not itself considered to be an emergency, frankly, I don't know what possibly could be under the Budget Act.

So, Madam President, I move to waive the budget point of order and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The question is on agreeing to the motion.

The clerk will call the roll.

The assistant 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 Massachusetts (Mr. KERRY), the Senator from Connecticut (Mr. LIEBERMAN), and the Senator from Georgia (Mr. MILLER) are necessarily absent.

I further announce that, if present and voting, the Senator from Massachusetts (Mr. KERRY) would vote ''yea.''

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 40, nays 55, as follows:

[Rollcall Vote No. 440 Leg.]

YEAS—40

Akaka	Dodd	Murray
Baucus	Dorgan	Nelson (FL)
Bayh	Durbin	Nelson (NE)
Bingaman	Feinstein	Pryor
Bond	Graham (FL)	Reed
Boxer	Harkin	Reid
Breaux	Inouye	Rockefeller
Byrd	Jeffords	Sarbanes
Cantwell	Johnson	Schumer
Clinton	Kennedy	Stabenow
Coleman	Landrieu	Talent
Conrad	Levin	Wyden
Daschle	Lincoln	
Dayton	Mikulski	

NAYS—55

Alexander	Dole	Lugar
Allard	Ensign	McCain
Allen	Enzi	McConnell
Bennett	Feingold	Murkowski
Biden	Fitzgerald	Nickles
Brownback	Frist	Roberts
Bunning	Graham (SC)	Santorum
Burns	Grassley	Sessions
Campbell	Gregg	Shelby
Carper	Hagel	Smith (OR)
Chafee	Hatch	Snowe
Chambliss	Hollings	Specter
Cochran	Hutchison	Stevens
Collins	Inhofe	Sununu
Cornyn	Kohl	Thomas
Corzine	Kyl	Voinovich
Craig	Lautenberg	Warner
Crapo	Leahy	
DeWine	Lott	

NOT VOTING—5

Domenici	Kerry	Miller
Edwards	Lieberman	

The PRESIDING OFFICER. On this vote, the yeas are 40, the nays are 55. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected. The point of order is sustained. The emergency designation is stricken.

The question is on agreeing to the amendment.

The Senator from Utah.

Mr. BENNETT. Madam President, the amendment is still pending. It is now $6.3 billion for which there is no offset. Therefore, I believe we should vote the amendment down. We have already said this was the last vote today, but if the Senator wants a vote, I suppose there could be one. This is now $6.3 billion for which there is no offset with the emergency designation stricken.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. DAYTON. Madam President, I will agree to a voice vote if the Senator from Utah concurs.

Mr. BENNETT. Under those circumstances, Madam President, I raise the point of order that this is in violation of the Budget Act since there is no emergency designation and urge a ''no'' vote on this amendment.

The PRESIDING OFFICER. The point of order is well taken, and it is sustained. The amendment falls.

Mr. BENNETT. Madam President, we now have a group of amendments which have been offered by a number of Senators and examined by a number of Senators on both sides of the aisle, all of which have been agreed to and cleared. I would like to send them to the desk, asking for a voice vote on each one. In every case, the amendment is in behalf of myself and Senator KOHL—I apologize, Madam President, there are other Senators involved. It is just the first amendment that is in behalf of myself and Senator KOHL.

AMENDMENT NO. 2091

Mr. BENNETT. Madam President, I send an amendment to the desk on behalf of myself and Senator KOHL and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Utah [Mr. BENNETT], for himself and Mr. KOHL, proposes an amendment numbered 2091.

Mr. BENNETT. Madam President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 50, line 14, strike ''$27,745,981,000'' and insert in lieu thereof ''$29,945,981,000''.

Mr. BENNETT. Madam President, due to increased projections of unemployment which result in higher participation and food inflation, it is necessary that we increase the Food Stamp Program by $2.2 billion, and this amendment will enable all qualified applicants to participate in this mandatory program. I ask for a voice vote.

The PRESIDING OFFICER. Is there further debate on the amendment?

The question is on agreeing to the amendment.

The amendment (No. 2091) was agreed to.

AMENDMENT NO. 2092

Mr. BENNETT. Madam President, I send an amendment to the desk on behalf of Senator DURBIN and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Utah [Mr. BENNETT], for Mr. DURBIN, proposes an amendment numbered 2092.

Mr. BENNETT. Madam President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 79, between lines 7 and 8, insert the following new section:

''SEC. . Hereafter, no funds provided in this or any other Act shall be available to the Secretary of Agriculture acting through the Foreign Agricultural Service to promote the sale or export of tobacco or tobacco products.''.

Mr. BENNETT. Madam President, this amendment will ensure that USDA funding is not used to promote the sale or export of tobacco or tobacco products. This provision was inadvertently left out of the subcommittee bill. I ask for a voice vote.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2092) was agreed to.

AMENDMENT NO. 2093

Mr. BENNETT. Madam President, I send an amendment to the desk on behalf of myself and Senator KOHL and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Utah [Mr. BENNETT], for himself and Mr. KOHL, proposes amendment numbered 2093.

Mr. BENNETT. Madam President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 51, lines 14 through 17, strike ''special'' and all that follows through ''1985,'' and insert in lieu thereof ''special assistance (in a form determined by the Secretary of Agriculture) for the nuclear affected islands, as authorized by section 103(h)(2) of the Compact of Free Association Act of 1985 (48 U.S.C. 1903(h)(2)) (or a successor law),''.

Mr. BENNETT. Madam President, this technical amendment clarifies the statutory authority for special assistance to the nuclear affected islands. I ask for a voice vote.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2093) was agreed to.

AMENDMENT NO. 2094

Mr. BENNETT. Madam President, I send an amendment to the desk on behalf of Senators MURKOWSKI, STEVENS, INOUYE, and AKAKA, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Utah [Mr. BENNETT], for Ms. MURKOWSKI for herself and Mr. STEVENS, Mr. INOUYE, and Mr. AKAKA, proposes an amendment numbered 2094.

The amendment is as follows:

On page 33, line 9, strike ''$769,479,000'' and insert in lieu thereof ''767,479,000'' and on page 37, line 2, strike $25,000,000'' and insert in lieu thereof ''$23,000,000''.

On page 79, between lines 7 and 8, insert the following new section:

''SEC. . (a) IN GENERAL.—Section 3(o)(4) of the Food Stamp Act of 1977, as amended, (7 U.S.C. 2012(o)(4)) is amended by inserting before the period at the end the following: '', and except that on October 1, 2003 in the case of households residing in Alaska and Hawaii the Secretary may not reduce the cost of such diet in effect on September 30, 2002.''

''(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall be effective beginning on September 30, 2003.''.

Mr. BENNETT. Madam President, this amendment will prohibit the food stamp benefit for participants in Alaska and Hawaii from decreasing in the fiscal year 2004. The amendment has been cleared by the Agriculture Committee, and I ask for a voice vote.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2094) was agreed to.

AMENDMENT NO. 2095

Mr. BENNETT. Madam President, I send an amendment to the desk on behalf of Senators SNOWE and DORGAN and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Utah [Mr. BENNETT], for Ms. SNOWE, for herself and Mr. DORGAN, proposes an amendment numbered 2095.

The amendment is as follows:

On page 79, between lines 7 and 8, insert the following new section:

''SEC. __. MODIFICATION OF BOUNDARIES OF AROOSTOOK COUNTY AND GRIGGS-STEELE EMPOWERMENT ZONES.

''(a) AROOSTOOK COUNTY EMPOWERMENT ZONE.—Notwithstanding any other provision of law, the Aroostook County empowerment zone shall include for the period such empowerment zone remains designated, in addition to the area designated as of the date of the enactment of this Act, the remaining area of the county not included in such designation.

''(b) GRIGGS-STEELE EMPOWERMENT ZONE.—Notwithstanding any other provision of law, the Griggs-Steele empowerment zone shall include for the period such empowerment zone remains designated, in addition to the area designated as of the date of the enactment of this Act, the remaining area of Griggs County not included in such designation.''.

Ms. COLLINS. Mr. President, I am pleased to join my colleague, Senator OLYMPIA SNOWE, in offering an amendment that will expand the borders of the Aroostook County Empowerment Zone to include the entire county, so that the benefits of empowerment zone designation can be fully realized throughout the northernmost county in Maine.

The Department of Agriculture's Empowerment Zone program addresses a comprehensive range of community challenges, including many that have traditionally received little Federal assistance, reflecting the fact that rural problems do not come in standardized packages but can vary widely from one place to another. The Empowerment Zone Program represents a long-term partnership between the Federal Government and rural communities—10 years in most cases—so that communities have enough time to implement projects to build the capacity to sustain their development beyond the term of the partnership. An Empowerment Zone designation gives designated regions potential access to millions of dollars in Federal grants for social services and community redevelopment as well as tax and regulatory relief over a ten-year period.

Aroostook County is the largest county east of the Mississippi River. Yet, despite the impressive character and work ethic of its citizens, the County has fallen on hard times. The 2000 Census indicated a 15 percent loss in population since 1990. Loring Air Force Base, which was closed in 1994, also caused an immediate out-migration of 8,500 people and a further outmigration of families and businesses that depended on Loring for their customer base.

Unfair trade practices have also struck a blow to the County's economy. Aroostook shares more border miles with Canada than most northern states. It is bordered for approximately 280 miles to the west, north and east by Canada. Canadian farmers and businesses have been extremely competitive in Aroostook's traditional business markets; as a result, Aroostook's farmers have experienced a loss in sales which has caused additional job loss, and still more people migrating from Aroostook County. Aroostook's economic situation has been further worsened by the strong value of the Canadian dollar in relation to the U.S. dollar and the restrictive personal exemption duty limits that Canada imposes on its citizens when they make shopping trips to U.S. businesses on the border.

In response to these developments, the Northern Maine Development Commission and other economic development organizations, the private business sector, and community leaders in Aroostook County have joined forces to stabilize, diversify, and grow the area's economy. The designation of Aroostook as an Empowerment Zone has been a vital element of this ongoing effort to enhance both the present and the future economic prosperity of the county.

There is, however, a restriction in the law governing empowerment zones that prevents this tremendous program from benefitting all of the small rural communities in Aroostook. Currently, the law limits the Aroostook empowerment zone to 1,000 square miles, despite the fact that Aroostook covers some 6,672 square miles and only has a population of approximately 72,000 people. Including all of the county in the empowerment zone will guarantee that parts of the county will not be left behind as economic prosperity returns to the area. It does little good to have a company move from one community to another within the County simply to take advantage of empowerment zone benefits.

America's greatest success can only be achieved when everyone has the opportunity to enjoy the fruits of a strong economy. It is only fair that all of Aroostook County's population be given the opportunity to fully benefit from the Empowerment Zone Program.

Mr. BENNETT. Madam President, this amendment would expand the boundaries of the Arrostook Empowerment Zone in the State of Maine and the Griggs-Steele Empowerment Zone in the State of North Dakota to encompass the remaining area of the respective counties not currently included in the empowerment zone designation. I ask for a voice vote.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2095) was agreed to.

AMENDMENT NO. 2096

Mr. BENNETT. Madam President, I send an amendment to the desk on behalf of Senator LEVIN and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Utah [Mr. BENNETT], for Mr. LEVIN and Ms. STABENOW, proposes an amendment numbered 2096.

The amendment is as follows:

(Purpose: To prohibit the use of funds to issue to implement the proposed rule on cost-sharing for animal and plant health emergency programs)

On page 79, between lines 7 and 8, insert the following:

SEC. 7___. COST-SHARING FOR ANIMAL AND PLANT HEALTH EMERGENCY PROGRAMS.

None of the funds made available by this Act may be used to issue a final rule in furtherance of, or otherwise implement, the proposed rule on cost-sharing for animal and plant health emergency programs of the Animal and Plant Health Inspection Service published on July 8, 2003 (Docket No. 02–062–1; 68 Fed. Reg. 40541).

Mr. BENNETT. Madam President, this amendment prohibits APHIS from requiring affected States to match emergency funding provided by the Federal Government. Many States are currently experiencing their own fiscal problems and may not have sufficient funds to provide a match. If a State is unable to provide matching funds, Federal funds would not be released to address the emergency situation under this proposed rule. I ask for a voice vote.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2096) was agreed to.

AMENDMENT NO. 2097

Mr. BENNETT. Madam President, I send an amendment to the desk on behalf of Senator INHOFE and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Utah [Mr. BENNETT], for Mr. INHOFE, proposes an amendment numbered 2097.

The amendment is as follows:

On page 77, line 18, strike the comma and insert ''; the City of Guymon, Oklahoma; the City of Shawnee, Oklahoma; and the City of Altus, Oklahoma,''.

Mr. BENNETT. This amendment would allow three communities in the State of Oklahoma to be eligible for the Rural Community Advancement Program. I ask for a voice vote.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2097) was agreed to.

AMENDMENT NO. 2098

Mr. BENNETT. Madam President, I send an amendment to the desk on behalf of myself and Senator KOHL and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Utah [Mr. BENNETT], for himself, and Mr. KOHL, proposes an amendment numbered 2098.

The amendment is as follows:

On page 79, between lines 7 and 8, insert the following new section:

''SEC. . Section 601(b)(2) of the rural Electrification Act of 1936 (7 U.S.C. 950bb(b)(2) is amended to read as follows:

'(2) ELIGIBLE RURAL COMMUNITY.—The term 'eligible rural community' means any area of the United States that is not contained in an incorporated city or town with a population in excess of 20,000 inhabitants.'.''.

Mr. BENNETT. Madam President, the amendment would allow rural communities with a population of less than 20,000 people to be eligible for broadband grants and loans. This amendment has been cleared by the Senate Agriculture Committee. I ask for a voice vote.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2098) was agreed to.

AMENDMENT NO. 2099

Mr. BENNETT. Madam President, I send an amendment to the desk on behalf of Senator INOUYE and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Utah [Mr. BENNETT], for Mr. INOUYE, proposes an amendment numbered 2099.

The amendment is as follows:

On page 79, between lines 7 and 8, insert the following new section:

''SEC. . Notwithstanding any other provision of law, for all activities under programs of the Rural Development Mission Area within the County of Honolulu, Hawaii, the Secretary may designate any portion of the county as a rural area or eligible rural community that the Secretary determines is not urban in character.''.

Mr. BENNETT. The amendment allows the Secretary of Agriculture to designate any portion of Honolulu County as a rural area for purposes of programs under the rural development mission area. I ask for a voice vote.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2099) was agreed to.

AMENDMENT NO. 2100

Mr. BENNETT. I send an amendment to the desk on behalf of myself and Senator KOHL and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Utah [Mr. BENNETT], for himself, and Mr. KOHL, proposes an amendment numbered 2100.

The amendment is as follows:

On page 79, between lines 7 and 8, insert the following new section:

''SEC. . The first sentence of section 306(g)(1) of the National Housing Act (12 U.S.C. 1721(g)(1)) is amended—

''(1) by striking 'or title V of the Housing Act of 1949'; and

''(2) by inserting after '1944' the following: ', title V of the Housing Act of 1949,'.''.

Mr. BENNETT. The amendment would allow the Government National Mortgage Association, Ginnie Mae, to join other financial institutions in participating in the Multifamily Housing Guarantee Program. I ask for a voice vote.

The PRESIDING OFFICER. The question is on agreeing to amendment.

The amendment (No. 2100) was agreed to.

AMENDMENT NO. 2101

Mr. BENNETT. Madam President, I send an amendment to the desk on behalf of Senator KOHL and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Utah [Mr. BENNETT], for Mr. KOHL, proposes an amendment numbered 2101.

The amendment is as follows:

On page 79, between lines 7 and 8, insert the following new section:

''SEC. . Notwithstanding the provisions of the Consolidated Farm and Rural Development Act (including the associated regulations) governing the Community Facilities Program, the Secretary shall allow all Community Facility Program facility borrowers and grantees to enter into contracts with not-for-profit third parties for services consistent with the requirements of the Program, grant, and/or loan: *Provided*, That the contracts protect the interests of the Government regarding cost, liability, maintenance, and administrative fees.''.

Mr. BENNETT. This amendment would allow a small town which does not have sufficient internal resources to utilize an outside not-for-profit party to perform the service for which the grant was made. For instance, if a community received a grant for a childcare facility, the community could contract with a third party to provide the childcare.

I ask for a voice vote.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2101) was agreed to.

AMENDMENT NO. 2102

Mr. BENNETT. Madam President, I send an amendment to the desk on behalf of Senator BROWNBACK and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Utah [Mr. BENNETT], for Mr. BROWNBACK, proposes an amendment numbered 2102.

The amendment is as follows:

On page 72, line 20, after the word ''Utah'' insert the following: '', and four flood control structures in Marmaton, Kansas''.

Mr. BENNETT. This amendment adds four flood control structures in Kansas to the list of projects which may receive financial and technical assistance through the Watershed and Flood Prevention Operations Program. I ask for a voice vote.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2102) was agreed to.

AMENDMENT NO. 2103

Mr. BENNETT. Madam 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 Utah [Mr. BENNETT] proposes an amendment numbered 2103.

The amendment is as follows:

On page 42, line 1, insert ''Utah,'' after ''Mississippi,''.''.

Mr. BENNETT. This amendment adds the State of Utah to the list of States in which a processing worker demonstration pilot project is to be initiated. I ask for a voice vote.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2103) was agreed to.

AMENDMENT NO. 2104

Mr. BENNETT. Madam President, I send an amendment to the desk on behalf of myself and Senator KOHL and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Utah [Mr. BENNETT], for himself, and Mr. KOHL, proposes an amendment numbered 2104.

The amendment is as follows:

On page 74, line 7, insert ''(a)'' before the word ''Notwithstanding'' and on line 15 insert the following new subsection:

''(b) The Secretary shall publish a proposed rule to carry out Section 313A of the Rural Electrification Act of 1936 within 60 days of enactment of this Act.''.

Mr. BENNETT. This amendment directs the Secretary to move forward with the implementation of the Rural Economic Development Loan and Grant Program authorized in the 2002 farm bill. I ask for a voice vote.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2104) was agreed to.

AMENDMENT NO. 2105

Mr. BENNETT. Madam President, I send an amendment to the desk on behalf of Senators GRASSLEY and DORGAN and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Utah [Mr. BENNETT], for Mr. GRASSLEY, and Mr. DORGAN, proposes an amendment numbered 2105.

The amendment is as follows:

(Purpose: To limit payments under the environmental quality incentives program)

On page 79, between lines 7 and 8, insert the following:

SEC. 7___. EQIP PAYMENT LIMIT.

None of the funds made available under this Act or any other Act shall be used to pay the salaries and expenses of personnel to carry out chapter 4 of subtitle D of the Food Security Act of 1985 (16 U.S.C. 3839aa et seq.) to make payments to an individual, entity, or agricultural operation, directly or indirectly, in excess of an aggregate of $300,000 for all contracts entered into by the individual, entity, or agricultural operation during the period of fiscal years 2002 through 2007.

Mr. BENNETT. Madam President, in recognition that this is the last one of this stack, I ask for a voice vote.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2105) was agreed to.

The PRESIDING OFFICER (Mr. ALEXANDER). The Senator from North Dakota.

Mr. DORGAN. I wonder if the Senator from Utah will yield for a question.

Mr. BENNETT. I would be happy to yield.

Mr. DORGAN. I am not certain exactly what the status of the bill is. I know we have been working on it all day. My understanding is that we have had the last vote of the day so that may suggest that other amendments will not be offered, or certainly not voted on. I did want to inquire of the Senator from Utah about his plans for this bill.

I have a sense-of-the-Senate amendment that deals with the importation of live cattle from Canada. As my colleagues know, last week the Secretary of Agriculture took some action to put Canada on a minimum risk category. This is a country within the last 6 or 8 months that has had one case of mad cow disease. I am very concerned about that, and I want to offer a sense-of-the-Senate amendment dealing with the importation of live cattle from Canada and my concerns about that.

I would certainly be available to do that in the morning or at a time appropriate. I wanted to inquire what the Senator anticipates may happen on this legislation this evening.

Mr. BENNETT. Mr. President, I say to the Senator and to all Senators that I was prepared to go on further tonight but I have been informed that no amendments will be offered tonight. Therefore, no more debate and certainly no more votes. I would be happy to welcome the amendment from the Senator when he is prepared to offer it. It is certainly my intention to go forward tomorrow. I hope the decision not to offer any amendments tonight will be lifted by tomorrow and that we will have amendments before us and therefore items to debate and vote on.

Mr. DORGAN. Mr. President, if the Senator would yield further for an inquiry.

I have worked with the Senator from Utah as a ranking member when he chaired the subcommittee. He is easy to work with and I know we will be able to work with the Senator from Utah and the Senator from Wisconsin on this issue.

Especially in the last week or so, I have been immensely concerned about this issue of the importation of live cattle from Canada, only because the circumstances of live cattle coming across borders from a country in which there has been a case of mad cow disease is a very difficult situation. We want to be very careful about our country's beef herd and the potential devastation to that herd were we to have an outbreak or a case of mad cow disease.

We belong to an organization called the Office of International Des Epizooties, which establishes the guidelines that our country and others follow with respect to animal health. I want to talk about that at some length and then offer the sense-of-the-Senate resolution because I think all of us ought to be very concerned about when and how we decide to take action with respect to the import of live cattle from Canada.

Finally, I might say I regret Canada has suffered this problem. It is a devastating problem for them to have had a mad cow case, but we ought to be very concerned and very careful about our beef herd in this country, and my amendment will address that subject.

I thank the Senator from Utah for his courtesy.

Mr. BENNETT. Mr. President, I say to the Senator, if he wanted to offer that amendment tonight and debate it tonight, certainly that would be very much in order. It has been made very clear there will be no further votes tonight.

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. CORNYN. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CORNYN. Mr. President, I ask unanimous consent to speak for a period not exceeding 10 minutes as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The remarks of Mr. CORNYN pertaining to the introduction of S.J. Res. 23 are printed in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

AMENDMENT NO. 2106

Mr. BENNETT. Mr. President, I send an amendment to the desk on behalf of Senator CRAIG.

The PRESIDING OFFICER. The clerk will report.

The assistant clerk read as follows:

The Senator from Utah [Mr. BENNETT], for Mr. CRAIG, proposes an amendment numbered 2106.

Mr. BENNETT. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To facilitate cooperative agreements for wildlife services programs of the Animal and Plant Health Inspection Service of the Department of Agriculture)

At the appropriate place insert the following:

Notwithstanding any other provision of law, the Secretary of Agriculture may use appropriations available to the Secretary for activities authorized under 7 U.S.C. 426–426c, under this or any other Act, to enter into cooperative agreements, with a State, political subdivision, or agency thereof, a public or private agency, organization, or any other person, to lease aircraft if the Secretary determines that the objectives of the agreement will: (1) serve a mutual interest of the parties to the agreement in carrying out the programs administered by the Animal Plant Health Inspection Service, Wildlife Service; and (2) all parties will contribute resources to the accomplishment of these objectives; award of a cooperative agreement authorized by the Secretary may be made for an initial term not to exceed 5 years.

Mr. BENNETT. Mr. President, I ask for a voice vote.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2106) was agreed to.

AMENDMENT NO. 2107

Mr. BENNETT. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Utah [Mr. BENNETT], for Mr. GRAHAM of Florida, and Mr. NELSON of Florida, proposes an amendment numbered 2107.

Mr. BENNETT. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To make a technical amendment to ensure that assistance is provided for tree replacement for losses due to citrus canker)

On page 79, between lines 7 and 8, insert the following:

SEC. 7___. CITRUS CANKER ASSISTANCE.

Section 211 of the Agricultural Assistance Act of 2003 (117 Stat. 545) is amended—

(1) in the section heading, by inserting ''**TREE REPLACEMENT AND**'' after ''**FOR**''; and

(2) in subsection (a), by inserting ''tree replacement and'' after ''Florida for''.

Mr. BENNETT. Mr. President, I ask for a voice vote.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2107) was agreed to.

AMENDMENT NO. 2108

Mr. BENNETT. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Utah [Mr. BENNETT], for Mr. BURNS, and Mrs. CLINTON, proposes an amendment numbered 2108.

Mr. BENNETT. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To permit the use of certain unoblogated carryover funds to carry out the 911 access loan program)

On page 79, between lines 7 and 8, insert the following:

SEC. 7___. RURAL ELECTRIFICATION.

For fiscal year 2004, the Secretary of Agriculture may use any unobligated carryover funds made available for any program administered by the Rural Utilities Service (not including funds made available under the heading ''RURAL COMMUNITY ADVANCEMENT PROGRAM'' in any Act of appropriation) to carry out section 315 of the Rural Electrification Act of 1936 (7 U.S.C. 940e).

Mr. BENNETT. Mr. President, I ask for a voice vote.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2108) was agreed to.

AMENDMENT NO. 2109

Mr. BENNETT. Mr. President, I call up an amendment which is at the desk on behalf of Senator DURBIN.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Utah [Mr. BENNETT], for Mr. DURBIN, proposes an amendment numbered 2109.

Mr. BENNETT. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To insert a provision relating to funding the processing of comments in response to a Federal Register item concerning ephedra)

At the appropriate place, insert the following:

SEC. . The Commissioner of the Food and Drug Administration shall provide no less than $250,000, from within funds appropriated or otherwise made available in this Act for the Food and Drug Administration, to process comments submitted in response to Docket No. 95N–0304 published in the Federal Register on March 5, 2003 (68 FR 10417). Provided further, the Commission should expedite and complete review of available scientific evidence of ephedra's pharmacology and mechanism of action.

Mr. BENNETT. Mr. President, I ask for a voice vote.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2109) was agreed to.

AMENDMENT NO. 2110

Mr. BENNETT. Mr. President, I send an amendment to the desk on behalf of Senator SCHUMER.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Utah [Mr. BENNETT], for Mr. SCHUMER, proposes an amendment numbered 2110.

Mr. BENNETT. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To ensure that amounts are made available for the generic drugs program)

On page 57, line 4, insert ''and of which no less than $52,845,000 shall be available for the generic drugs program'' before the semicolon.

Mr. BENNETT. Mr. President, I ask for a voice vote.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2110) was agreed to.

AMENDMENT NO. 2111

Mr. BENNETT. Mr. President, I send an amendment to the desk on behalf of Senator MILLER.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Utah [Mr. BENNETT], for Mr. MILLER, proposes an amendment numbered 2111.

Mr. BENNETT. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To restrict the expenditure of funds for the salary of the Under Secretary for Farm and Foreign Agricultural Services)

On page 79, between lines 7 and 8, insert the following:

SEC. 7___. WORKLOAD ANALYSIS OF FARM SERVICE AGENCY.

None of the funds made available by this Act may be used to pay more than ½ of the salary of the Under Secretary for Farm and Foreign Agricultural Services after January 31, 2004, unless and until the Secretary of Agriculture provides to the Committee on Agriculture of House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a workload analysis of employees of the Farm Service Agency for each of fiscal years 2001, 2002, and 2003 (including an analysis of the number of workload items and required man-years, by State).

Mr. BENNETT. Mr. President, I ask for a voice vote.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2111) was agreed to.

AMENDMENT NO. 2112

Mr. BENNETT. Mr. President, I send an amendment to the desk on behalf of Senators FRIST and DASCHLE.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Utah [Mr. BENNETT], for Mr. FRIST and Mr. DASCHLE, proposes an amendment numbered 2112.

Mr. BENNETT. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To require the Secretary of Agriculture to establish university-based research, extension, and educational programs to implement biobased energy technologies, products, and economic diversification in rural areas of the United States)

On page 79, between lines 7 and 8, insert the following:

SEC. 7___. SUN GRANT RESEARCH INITIATIVE.

(a) SHORT TITLE.—This section may be cited as the ''Sun Grant Research Initiative Act of 2003''.

(b) RESEARCH, EXTENSION, AND EDUCATIONAL PROGRAMS ON BIOBASED ENERGY TECHNOLOGIES AND PRODUCTS.—Title IX of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 8101 et seq.) is amended by adding at the end the following:

''SEC. 9011. RESEARCH, EXTENSION, AND EDUCATIONAL PROGRAMS ON BIOBASED ENERGY TECHNOLOGIES AND PRODUCTS.

''(a) PURPOSES.—The purposes of the programs established under this section are—

''(1) to enhance national energy security through the development, distribution, and implementation of biobased energy technologies;

''(2) to promote diversification in, and the environmental sustainability of, agricultural production in the United States through biobased energy and product technologies;

''(3) to promote economic diversification in rural areas of the United States through biobased energy and product technologies; and

''(4) to enhance the efficiency of bioenergy and biomass research and development programs through improved coordination and collaboration between the Department of Agriculture, the Department of Energy, and the land-grant colleges and universities.

''(b) DEFINITIONS.—In this section:

''(1) LAND-GRANT COLLEGES AND UNIVERSITIES.—The term 'land-grant colleges and universities' means—

''(A) 1862 Institutions (as defined in section 2 of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7601));

''(B) 1890 Institutions (as defined in section 2 of that Act) and West Virginia State College; and

''(C) 1994 Institutions (as defined in section 2 of that Act).

''(2) SECRETARY.—The term 'Secretary' means the Secretary of Agriculture.

''(c) ESTABLISHMENT.—To carry out the purposes described in subsection (a), the Secretary shall establish programs under which—

''(1) the Secretary shall provide grants to sun grant centers specified in subsection (d); and

''(2) the sun grant centers shall use the grants in accordance with this section.

''(d) GRANTS TO CENTERS.—The Secretary shall use amounts made available for a fiscal year under subsection (j) to provide a grants in equal amounts to each of the following sun grant centers:

''(1) NORTH-CENTRAL CENTER.—A north-central sun grant center at South Dakota State University for the region composed of the States of Illinois, Indiana, Iowa, Minnesota, Montana, Nebraska, North Dakota, South Dakota, Wisconsin, and Wyoming.

''(2) SOUTHEASTERN CENTER.—A southeastern sun grant center at the University of Tennessee at Knoxville for the region composed of—

''(A) the States of Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee, and Virginia;

''(B) the Commonwealth of Puerto Rico; and

''(C) the United States Virgin Islands.

''(3) SOUTH-CENTRAL CENTER.—A south-central sun grant center at Oklahoma State University for the region composed of the States of Arkansas, Colorado, Kansas, Louisiana, Missouri, New Mexico, Oklahoma, and Texas.

''(4) WESTERN CENTER.—A western sun grant center at Oregon State University for the region composed of—

''(A) the States of Alaska, Arizona, California, Hawaii, Idaho, Nevada, Oregon, Utah, and Washington; and

''(B) territories and possessions of the United States (other than the territories referred to in subparagraphs (B) and (C) of paragraph (2)).

''(5) NORTHEASTERN CENTER.—A northeastern sun grant center at Cornell University for the region composed of the States of Connecticut, Delaware, Massachusetts, Maryland, Maine, Michigan, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Vermont, and West Virginia.

''(e) USE OF FUNDS.—

''(1) CENTERS OF EXCELLENCE.—Of the amount of funds that are made available for a fiscal year to a sun grant center under subsection (d), the center shall use not more than 25 percent of the amount for administration to support excellence in science, engineering, and economics at the center to promote the purposes described in subsection (a) through the State agricultural experiment station, cooperative extension services, and relevant educational programs of the university.

''(2) GRANTS TO LAND-GRANT COLLEGES AND UNIVERSITIES.—

''(A) IN GENERAL.—The sun grant center established for a region shall use the funds that remain available for a fiscal year after expenditures made under paragraph (1) to provide competitive grants to land-grant colleges and universities in the region of the sun grant center to conduct, consistent with the purposes described in subsection (a), multiinstitutional and multistate—

''(i) research, extension, and educational programs on technology development; and

''(ii) integrated research, extension, and educational programs on technology implementation.

''(B) PROGRAMS.—Of the amount of funds that are used to provide grants for a fiscal year under subparagraph (A), the center shall use—

''(i) not less than 30 percent of the funds to carry out programs described in subparagraph (A)(i); and

''(ii) not less than 30 percent of the funds to carry out programs described in subparagraph (A)(ii).

''(3) INDIRECT COSTS.—A sun grant center may not recover the indirect costs of making grants under paragraph (2) to other land-grant colleges and universities.

''(f) PLAN.—

''(1) IN GENERAL.—Subject to the availability of funds under subsection (j), in cooperation with other land-grant colleges and universities and private industry in accordance with paragraph (2), the sun grant centers shall jointly develop and submit to the Secretary, for approval, a plan for addressing at the State and regional levels the bioenergy, biomass, and gasification research priorities of the Department of Agriculture and the Department of Energy for the making of grants under paragraphs (1) and (2) of subsection (e).

''(2) GASIFICATION COORDINATION.—

''(A) IN GENERAL.—In developing the plan under paragraph (1) with respect to gasification research, the sun grant centers identified in paragraphs (1) and (2) of subsection (d) shall coordinate with land grant colleges and universities in their respective regions that have ongoing research activities with respect to the research.

''(B) FUNDING.—Funds made available under subsection (d) to the sun grant center identified in subsection (e)(2) shall be available to carry out planning coordination under paragraph (1) of this subsection.

''(g) GRANTS TO OTHER LAND-GRANT COLLEGES AND UNIVERSITIES.—

''(1) PRIORITY FOR GRANTS.—In making grants under subsection (e)(2), a sun grant center shall give a higher priority to programs that are consistent with the plan approved by the Secretary under subsection (f).

''(2) TERM OF GRANTS.—The term of a grant provided by a sun grant center under subsection (e)(2) shall not exceed 5 years.

''(h) GRANT INFORMATION ANALYSIS CENTER.—The sun grant centers shall maintain a Sun Grant Information Analysis Center at the sun grant center specified in subsection (d)(1) to provide sun grant centers analysis and data management support.

''(i) ANNUAL REPORTS.—Not later than 90 days after the end of a year for which a sun grant center receives a grant under subsection (d), the sun grant center shall submit to the Secretary a report that describes the policies, priorities, and operations of the program carried out by the center during the year, including a description of progress made in facilitating the priorities described in subsection (f).

''(j) AUTHORIZATION OF APPROPRIATIONS.—

''(1) IN GENERAL.—There are authorized to be appropriated to carry out this section—

''(A) $25,000,000 for fiscal year 2005;

''(B) $50,000,000 for fiscal year 2006; and

''(C) $75,000,000 for each of fiscal years 2007 through 2010.

''(2) GRANT INFORAMTION ANALYSIS CENTER.—Of amounts made available under paragraph (1), not more than $4,000,000 for each fiscal year shall be made available to carry out subsection (h).''.

Mr. DASCHLE. Mr. President, today Senator FRIST and I are offering an amendment to authorize a new program that we call the Sun Grant Initiative. The Sun Grant Initiative—or SGI—is an effort to provide an innovative approach to creating new biobased products and markets for farmers, thereby enhancing the environment and developing new industries in our Nation's rural communities.

The SGI would establish five Sun Grant Centers across the Nation to stimulate needed research and development projects, while providing leadership and coordination for a regional competitive grant program that will address national research issues and educational needs at the regional and local levels. This new program will provide a much-needed bridge between our Government's current national research efforts and the State-based research education networks of the Land-Grant universities. The SGI will forge a new partnership between the national leadership and energy expertise of the

Federal Government and the agricultural and rural community development expertise of the Agricultural Experiment Stations and the Cooperative Extension System.

The United States has steadily increased its reliance on imported oil. Alternative sources of energy and industrial chemicals must be developed as soon as possible. The Sun Grant Initiative will stimulate the production of bioenergy resources to complement and augment petroleum energy resources, while helping to reduce our dependence on imported oil and constrain energy costs for American industries and consumers.

Additionally, American farmers need new products and viable market alternatives. Sun Grant research, development and education programs will stimulate the development bioenergy and bioproducts on American farms, creating an opportunity for an additional, significant source of income to farmers. The SGI will encourage new biobased industries and new capital investments, stimulating the economies of these rural communities.

I want to thank Senator FRIST, Chairman BENNETT, and Senators KOHL, COCHRAN, HARKIN and SMITH for their support of this innovative and exciting effort to build a biobased economy that can assist our Nation in so many ways.

Mr. BENNETT. Mr. President, I ask for a voice vote.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2112) was agreed to.

AMENDMENT NO. 2090

Mr. BENNETT. Mr. President, I call up amendment No. 2090.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Utah [Mr. BENNETT] for Mr. HATCH, Mr. HARKIN, and Mr. DURBIN, proposes an amendment numbered 2090.

Mr. BENNETT. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To specify a minimum level of funding for regulation of dietary supplements)

On page 79, between lines 7 and 8, insert the following:

SEC. 7___. DIETARY SUPPLEMENTS.

The Commissioner of Food and Drugs shall provide not less than $11,400,000 from within funds appropriated or otherwise made available by this Act for regulation by the Food and Drug Administration of dietary supplements.

Mr. HATCH. Mr. President, I thank the managers, Chairman BENNETT and Senator KOHL, for agreeing to the amendment that Senators HARKIN, DURBIN and I offer today.

The purpose of our amendment is simple. The Food and Drug Administration has advised us that, in fiscal year 2004, it will spend $10.4 million to regulate dietary supplements. The Hatch-Harkin-Durbin amendment would increase those activities by 10 percent, or $1 million.

Let me explain why this amendment is necessary. First, I will explain the pertinent law that the FDA administers.

There is no question that tens of millions of Americans rely daily on safe dietary supplements to maintain and improve their healthy lifestyles. The popularity of these products and the concern over their regulation are what led to enactment of the Dietary Supplement Health and Education Act, DSHEA, in 1994, a bill that Senator HARKIN and I were proud to author with now-Governor of New Mexico Bill Richardson. DSHEA is a strong law that properly implemented will protect the interests of consumers. But, as with any law, it has to be implemented for it to work.

Enactment of DSHEA followed literally decades of Food and Drug Administration animosity toward dietary supplement products. This animosity and the lack of a clear regulatory structure for supplements were clearly demonstrated prior to passage of DSHEA. That is why two-thirds of the Senate cosponsored our bill. That is why a majority of the House cosponsored the bill. And that is why it passed so overwhelmingly.

The basic structure of DSHEA allowed all products marketed as dietary supplements when the bill was enacted to stay on the market unless the FDA could show safety problems with a particular product or line of products—this is the so-called ''grandfather'' provision; manufacturers must notify the FDA before any new ingredients are marketed. At the same time, we provided the FDA with the full range of enforcement mechanisms to act against unsafe or misbranded supplements, including seizure, injunction, civil monetary penalties and even criminal penalties.

When Chairman DINGELL and Chairman WAXMAN expressed lingering concerns that an unsafe product might be marketed and FDA would not have adequate authority to act against it, we added a new tool—imminent hazard—so that the Secretary could take immediate action against a product that he believed poses an imminent hazard to public health. I might add, the definition as to what constitutes an ''imminent hazard'' is entirely up to the Department of Health and Human Services, so this is a very broad authority.

Even so, there are some who believe that dietary supplements should not be marketed in the United States without a preclearance similar to that for pharmaceuticals. We who drafted and passed DSHEA along with millions of Americans were persuaded that was not necessary.

First, most supplements cannot be patented, so there is little incentive for manufacturers to undergo the expensive and time-consuming FDA approval process.

Second, many supplements have been used safely for literally centuries, if not millennia, so it is not necessary to subject them to the approval process. That was why even the most liberal members felt comfortable with the grandfather structure.

Finally, we added a provision so that FDA would have the time to examine any ingredient not previously marketed and the evidence of its safety before that product actually reached the stores.

When we drafted DSHEA, ensuring the safety of products was at the forefront of our efforts. The law gives the FDA abundant tools to remove products that are unsafe from the market. It includes a safety standard that was carefully crafted with Senator KENNEDY and Representatives DINGELL and WAXMAN, the chairs of FDA-related panels in 1994.

There is no excuse for a supplement manufacturer to market products that are unsafe or inaccurately labeled or that make outlandish claims. Unfortunately, a small number of irresponsible supplement companies are taking advantage of consumers. I contend that the law is adequate to deal with them if FDA implements and enforces it. So, we come to the purpose of our amendment.

In the nine-plus years since DSHEA was enacted, there has been too much talk that the law handcuffs FDA and too little effort to apply the law.

It is impossible for this law to protect consumers if it is not enforced.

I am not here to criticize the FDA or throw barbs. Frankly, the FDA under Commissioner Mark McClellan has done more to enforce DSHEA than the previous administration had. I credit Commissioner McClellan for his commitment to implement the law fully. I truly believe he wants to make this law work. Congress must support him.

That is why I have joined with Senator HARKIN to introduce the DSHEA Full Implementation and Enforcement Act of 2003, S. 1538. And that is why we are offering this amendment today, which we consider to be a down payment on S. 1538.

Yes, there is a small number of products that do raise serious concerns. Ephedra is one. As I have done for many years, I urge the FDA to act definitively on this issue based on the best available science, not politics. If the agency deems that ephedra poses a significant or unreasonable risk of illness or injury when used as labeled, than the agency can and must move to take the product off the market. This has gone on for too long. That is the reason I am happy to cosponsor the companion amendment offered by Senator DURBIN.

Earlier this year, the FDA advised me it had received 3,000 comments and 12,000 letters in response to the agency's proposed rule-making on ephedra.

This has obviously placed a burden on this tiny agency, which needs funding to complete the job it has undertaken.

Indeed, as this example shows, the fight for resources is a huge challenge for FDA. The FDA simply does not have the staff or money it needs to do the job. In short, the agency is woefully underfunded, especially when it comes to dietary supplement regulation. That is the only reason I can see that the safety standard we enacted has never been invoked. That has to be the reason that it has taken almost a decade to promulgate the good manufacturing practice standards that can help guarantee the safety, the purity, and the accurate labeling of products. And that must be the reason that a product like androstenedione, which I believe is not even a dietary supplement, continues to be marketed in this country.

I have been very concerned about the safety of steroid precursor products like andro—and especially when they fall into the hands of our youth.

That is why I have joined with Senator BIDEN, Senator HARKIN and Senator GRASSLEY to cosponsor the Anabolic Steroid Control Act, S. 1780, that will add andro and other steroid precursors, as well as THG, to the list of controlled substances. I intend for the Judiciary Committee to make adoption of S. 1780 a priority, and I hope my colleagues will join me in supporting both S. 1780 and S. 1538.

We have a very solid dietary supplement law that can deal with problems that arise. But, the FDA must use that law for it to be effective, and Congress must support the agency in that effort.

Mr. BENNETT. Mr. President, I ask for a voice vote.

This language has been cleared by both sides.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2090) was agreed to.

Mr. BENNETT. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

BEAVER CONTROL COST-SHARE PROGRAM IN MAINE

Ms. SNOWE. Mr. President, I rise today to engage in a colloquy with the distinguished chairman of the Agriculture Appropriations Subcommittee. As the chairman of this subcommittee, my good friend from Utah is no doubt aware of the important role that wildlife services provided by the Animal and Plant Health Inspection Service (APHIS) have in managing and protecting wildlife. I am pleased that the subcommittee maintained funding for these operations as many States, including my own, depend on the cooperative efforts of the Federal Government to meet the growing demands for wildlife services. Given the need for beaver management in my State, I would ask the Chairman to work to have APHIS continue providing cooperative beaver management services in Maine.

The State's Cooperative Beaver Management Program (CBMP) was established in 1995 by Maine Wildlife Services as a cooperative effort between State, Federal, and local governments to provide services to landholders, the Maine Department of Transportation, towns and municipalities who are experiencing problems caused by beavers. With the cost-share agreement between the State and APHIS, CBMP has been able to mitigate beaver related property, road, water, and environmental damage.

A reduction in cost share assistance to Maine would have a severe impact on many of the State's public resources and roadways. Beaver-flooded roadways endanger the driving public while beaver-flooded sewer and septic systems create a health hazard as well as incur significant repair expenses. In addition to helping avoid costly repairs to our public infrastructure, cost-share assistance to the CBMP can reduce damage to private logging roads that are important to the forest products based local economies. It reduces environmental damage, such as erosion, sedimentation, and habitat degradation, caused by road wash-outs.

The State of Maine reports that the CBMP provides significant benefits to the public in a very effective way. For example, in fiscal year 2002 CBMP activities prevented the loss of, or damage to, $1.3 million in resources. For the driving public, the benefits are particularly significant. The program saved $500,000 in roadway repair costs by alleviating flooded roads and rights-of way along the interstate and other State maintained highways. Comparing the cost of the program to the value of resources saved gives a cost-benefit ratio of 1 to 10. In other words, for every dollar spent, ten dollars were saved over the long-term.

Ever since the creation of the CBMP in 1995, funding has remained level. Under this agreement Maine has received $75,000 annually. In recent years, however, demand for CBMP services has outstripped program funding thereby limiting the State's ability to prevent property damage and threats to human health and safety. Additionally, the State is concerned that highway safety is being compromised because of flooding caused by beaver dams.

I recognize that the subcommittee has worked to maintain APHIS wildlife services in the face of budget limitations. I appreciate the chairman's effort to continue this program and thank the chairman for considering options to address the unique beaver management needs in Maine.

Mr. BENNETT. I thank the distinguished Senator from Maine for bringing this issue to my attention. It is evident that the funding used for Maine's Cooperative Beaver Management Program has been used wisely. I expect APHIS to continue its cooperative wildlife agreements with the funding provided by the fiscal year 2004 Agriculture appropriations bill, and I will work in conference to see that these funds continue to be available for the State of Maine.

IMPROVING EMERGENCY COMMUNICATIONS SYSTEMS

Mr. BURNS. Mr. President, the Farm Security and Rural Investment Act of 2002 added new a new provision of the Rural Electrification Act giving the Rural Utilities Service, (RUS), Administrator the authority to make loans ''to expand or improve 911 access and integrated emergency communications systems in rural areas.''

This new provision was in response to the pressing need in rural America to upgrade and improve the ability to communicate in times of individual and mass emergencies.

In the wake of 9/11 there is no higher telecommunications priority than to ensure that communications systems work best when they are needed most.

Senator CLINTON and I proposed the emergency communications provision in the Agriculture Appropriations bill to give life to that new section of the Rural Electrification Act.

Mrs. CLINTON. I am pleased to join the Senator from Montana in this initiative. Last week the Federal Communications Commission held a two day meeting on their E–911 Initiative. One issue that requires both attention and resources is access to modern emergency communications in rural areas. I was pleased that Ed Cameron represented the Rural Utilities Service at that meeting and reminded the participants of the long partnership the agency has had with rural telephone consumers and carriers and the commitment Administrator Hilda Gay Legg has to improving safety in rural areas.

Mr. BURNS. The Rural Utilities Service, through its talented staff of engineers, operations specialists can play an important role in ensuring that emergency responders can communicate in rural and remote areas.

The Burns-Clinton provision in this appropriations bill would not increase or decrease spending, but would give the administrator of the RUS the flexibility to use funding from several sources within the agency to give emergency communications projects in rural areas the high priority they deserve. It also gives the RUS Administrator a source of loan funds which compliment the grant funds available for emergency communications systems in the Community Facilities program.

Mrs. CLINTON. It is our intent that this funding flexibility not come at the expense of other worthy RUS loan or grant programs.

Mr. BURNS. That is correct. At any given time, there are authorities which are oversubscribed and others which are undersubscribed. This provision gives the Administrator flexibility to use underutilized funds for this high priority purpose.

As a member of the Agriculture Appropriations Committee, I will seek Conference report language to clarify that funding would be available to current and prospective RUS borrowers and that a wide range of projects be eligible for funding including 911 upgrades, broad emergency communications initiatives, statewide emergency communications projects which include rural areas and projects that provide a dual public safety and commercial uses.

Mrs. CLINTON. I strongly support the Senator's effort in this regard. As States and localities in rural parts of New York, Montana and across the country struggle to find sufficient funds to upgrade public safety radio and data systems, there are new opportunities to combine public safety needs with commercial efforts to deploy new wireless and broadband networks. These dual use networks also have the advantage of generating revenues which can be used to pay back loans under this section while bringing advanced voice and data capabilities to rural areas. As my colleague from Montana and I both know through our efforts with the Congressional E–911 Caucus, these funds would represent just a first step in the direction of ensuring deployment of a ubiquitous 911 system across our country.

Mr. BURNS. The emergency communications amendment will help ensure that rural America does not fall on the wrong side of a public safety divide.

NRCS CLARIFICATIONS

Mr. COCHRAN. Mr. President, I would like to thank my distinguished colleague, the chairman of the Appropriations Subcommittee on Agriculture, Rural Development and Related Agencies, Senator BENNETT, for his outstanding work on the fiscal year 2004 Agriculture Appropriations bill.

I would also like to take the opportunity to clarify three provisions that it contains. Upon reviewing the bill I wish to bring to your attention three changes I hope can be incorporated in the statement of managers. First, I request that two separate projects, described as Old Canton Road and Watkins Drive in the current bill, be combined to include the same overall funding amount and read as follows: ''The Conference agreement provides $350,000 for erosion control and drainage improvements in Hinds County, Mississippi.'' Second, I request that reference to a specific floodwater retarding structure be removed from language regarding Town Creek in Tupelo, MS, and that the statement of managers read as follows: ''The Conference agreement provides funds for the agency to continue assistance for the Town Creek in Lee County, Mississippi.'' Finally, I request that funding for Oaklimeter Watershed, as provided through the Conservation Operations section of the bill, be provided instead through the Watershed and Flood Control section.

I would ask that the chairman work to incorporate these changes to this bill.

Mr. BENNETT. Mr. President, I appreciate my colleague from Mississippi bringing these changes to my attention and will work with him to incorporate them in the statement of managers.

Mr. COCHRAN. I thank the Chairman for his assistance in clarifying these issues and for his leadership as we complete work on this bill.

ANIMAL FIGHTING

Mr. ALLARD. Mr. Chairman, I appreciate your help addressing a long-standing concern of mine—the need for greater enforcement by USDA of the Federal law regarding animal fighting. Earlier this year, I and many of our colleagues—a bipartisan group of 38 other Senators—requested $800,000 to enable USDA's Office of Inspector General to focus on strengthening enforcement of the Federal animal fighting law. I am grateful that you were able, in the committee report, to include this $800,000 for the OIG to improve enforcement in this area.

However, I did want to ask the chairman for a bit of clarification on this item, as it was included in the committee report. I noted that the report provides ''an increase of $800,000 for OIG to address violations of the Animal Welfare Act and to coordinate with State and local law enforcement personnel in this effort.'' Would the chairman be willing to clarify that this funding would be used specifically to improve enforcement of Section 26 of the Animal Welfare Act, which deals exclusively with animal fighting, rather than having these funds used to enforce the entire Animal Welfare Act? This clarification could be finalized in conference.

Mr. BENNETT. Yes, I will work with the House of Representatives during conference negotiations to ensure that the $800,000 is provided to address animal fighting.

Mr. ALLARD. Senator KOHL, is it your intention as well that this funding would be used specifically to improve enforcement of Section 26 of the Animal Welfare Act?

Mr. KOHL. Yes. I agree with what Chairman BENNETT has said regarding the committee's intentions, and will work with him to make sure this is clear in the final bill.

Mr. ALLARD. I'm grateful to both of you for your help and leadership on this issue.

NUTRITION ASSISTANCE PROGRAM

Mr. KOHL. I would like to engage in a brief colloquy with the distinguished chairman to clarify the intent of language included in the Senate report regarding studies and evaluations in the Nutrition Programs Administration account. In our Senate report, we have included language stating that the committee is providing $3,195,000, the same as the fiscal year 2003 level, for studies and evaluations in the Nutrition Programs Administration Account.

I have since been contacted by USDA noting that the $3,195,000 provided in fiscal year 2003 was actually an increase over their base funding. Therefore, the question becomes whether our intent was simply to maintain $3,195,000 in funding for studies and evaluations, or to maintain the $3,195,000 increase provided in fiscal year 2003. It is may belief that our intention was to maintain the increase, and while I believe we should clarify this in the Statement of Managers during conference negotiations, I also wanted to mention it during our Senate debate.

Is it your understanding that it was our intention to maintain the increase in funding provided in this account?

Mr. BENNETT. I appreciate you bringing this to my attention and I agree our intention was to maintain increased funding for studies and evaluations.

RUS TELEMEDICINE LANGUAGE

Mr. COCHRAN. Mr. President, I would like to thank my distinguished colleague, the chairman of the Appropriations Subcommittee on Agriculture, Rural Development and Related Agencies, Senator BENNETT, for his outstanding work on the FY 2004 Agriculture Appropriations bill.

Upon review of the bill, I request that the following language be included in the statement of the managers:

The conferees are aware of and encourage the Secretary to support the utilization of remote telemedicine services capable of transmitting medical information in both real-time and stored scenarios for diagnosis, medical monitoring and emergency purposes. Furthermore, the conferees recognize the need for integration and interoperability of real-time remote mobile medical technology with other devices, systems and services which together offer increased capabilities, functionality, and levels of care.

I would ask that the Chairman work to incorporate this language in the bill.

Mr. BENNETT. Mr. President, I appreciate my colleague from Mississippi bringing this language to my attention and will work with him to incorporate it in the statement of the managers.

Mr. COCHRAN. I thank the Chairman for his assistance with this language and for his leadership as we complete work on this bill.

NATIONAL AGRICULTURE STATISTICS SERVICE POTATO PRICING SURVEY

Mr. CRAIG. Mr. President, I would like to engage in a colloquy with the chairman and ranking member of the Appropriations Subcommittee on Agriculture, Rural Development, and Related Agencies regarding the National Agricultural Statistics Service—NASS—and the potato size and grade survey.

The NASS provides critical information to growers, processors, shippers, and all other segments of the agricultural industry. Its history of doing so reaches back to the Presidency of Abraham Lincoln and travels forward in time to the present, where those in the agricultural industry now rely heavily on information for planting and pricing decisions.

Of great importance to my State and others is the information NASS provides regarding the potato size and grade survey. The intent of this survey is to provide all market participants with comprehensive potato size and grade data. These data are crucial information to both potato growers and buyers in estimating the current potato crop's quality. This unbiased information will be used by all parties when negotiating sale or purchase contracts of processing potatoes.

The National Potato Council—NPC, which represents all segments of the potato industry, has identified that these data are imperative to the orderly marketing of the annual potato crop. These data also ensure no one group uses their market position to distort the true picture of annual crop quality. The size and grade data will complement the annual production data already provided by NASS and supply the necessary information for the orderly marketing of the potato crop.

Given the importance of the potato industry to the United States, I wish to add language to the fiscal year 2004 Agriculture Appropriations Act that simply asks the NASS to continue its work on the potato size and grade survey within the available funds of the agency.

I would ask the chairman and ranking member, given the subcommittee's continued support for NASS, whether it is also the Committee's intent to continue the vital work of this survey?

Mr. BENNETT. I understand the Senator's interest in this important survey. The Senator is correct that the committee intends that the Department maintain this important work. We will continue to work with the Senator in this area as this bill moves forward.

Mr. KOHL. I appreciate the Senator's comments and agree that this work merits appropriate emphasis in our upcoming conference on Agriculture appropriations.

ALKALINE DIGESTER

Mr. ROBERTS. Mr. President, I would like to engage my good friend and colleague Senator BENNETT, the distinguished chairman of the Senate Agriculture Appropriations Subcommittee, in a colloquy regarding funding for an alkaline digester for Kansas State University. This digester will be used to conduct important animal disease research to protect the United States from an agroterrorist attack.

Mr. BENNETT. I would be pleased.

Mr. ROBERTS. The published committee report for this legislation indicates that $225,000 has been provided for the digester. However, I understand this is typographical error and the Committee has actually provided $1 million. Is that correct?

Mr. BENNETT. That is correct.

Mr. ROBERTS. I thank the Chairman for his support.

ALLIANCE FOR FOOD PROTECTION

Mr. CHAMBLISS. I thank the Chairman for your hard work on this appropriations bill. I would like to bring to your attention a Cooperative State Research, Education and Extension Service project that is funded in the fiscal year 2004 Agriculture Appropriations bill, the Alliance for Food Protection. At the time which the Subcommittee on Agriculture Appropriations marked up the fiscal year 2004 bill, I had not been notified that the work on this project had been completed.

Mr. BENNETT. How does the Senator from Georgia wish to proceed since $268,000 has been designated in this bill for the Alliance for Food Protection project?

Mr. CHAMBLISS. My intention, with the Chairman's approval, of course, would be to move the funding designated for the Alliance for Food Protection project to the Cooperative State Research, Education and Extension Service Integrated Fruit and Vegetable research project which is in Cooperation with the University of Georgia Cooperative Extension Service.

Mr. BENNETT. I thank the Senator from Georgia for his explanation, and I will be happy to work with him during conference to address his concerns.

Mr. CHAMBLISS. I appreciate the Chairman's cooperation with my request.

RELOCATING THE WILDLIFE HABITAT MANAGEMENT INSTITUTE

Mr. COCHRAN. Mr. President, it is my understanding that the provisions in the Agriculture appropriations bill before the Senate would in no way affect the proposed reorganization of the Natural Resources Conservation Service's field laboratory structure. Does the Senator from Utah agree with that interpretation?

Mr. BENNETT. That is my understanding as well.

Mr. COCHRAN. Is the Senator aware that the Wildlife Habitat Management Institute, an NRCS facility in Jackson, MS, is unique among NRCS facilities in that it is a ''virtual institute'' which draws on staff from all across the country to develop innovative habitat management recommendations for landowners?

Mr. BENNETT. I was not.

Mr. COCHRAN. Would the Senator agree that relocating this Institute, given its unique organization and the dispersion of its staff, would not yield significant savings or efficiency?

Mr. BENNETT. I agree.

Mr. COCHRAN. Given this information, would it be the intent of the subcommittee that the Wildlife Habitat Management Institute remain in its current location and excluded from the reorganization?

Mr. BENNETT. That is correct.

Mr. COCHRAN. I appreciate the opportunity to discuss this with the distinguished chairman of the appropriations subcommittee.

CHRONIC WASTING DISEASE

Mr. DOMENICI. Mr. President, I appreciate the work that you have done in regard to funding for Chronic Wasting Disease (CWD). As you know, this is a fatal neurological disease of farmed and wild elk and deer that belongs to the family of diseases known as transmissible spongiform encephalopathies (TSE's). My State of New Mexico is inhabited with ample numbers of elk and deer. The elk are oftentimes harvested by hunters who get each animal tested for CWD. With that in mind, there continues to be a demand for the State to provide hunters with an accessible location that can perform the test in a timely fashion.

The State of New Mexico is a Tier I State, which means a confirmed case of CWD has been discovered and the disease is present. I am hopeful that the final version of the fiscal year 2004 Agriculture Appropriations bill will provide the opportunity for the State of New Mexico to work in collaboration with the Department of Agriculture to establish an approved CWD testing facility. The State of New Mexico has requested approval of a proposal to establish, equip, and operate a laboratory to conduct a rapid screening test for CWD in the New Mexico elk and deer population. This would be done at State expense.

Mr. BENNETT. I thank the Senator from New Mexico and will encourage the Department of Agriculture to review the current situation. If the review warrants a testing facility, I will suggest that the Department of Agriculture consider establishing a testing facility in the State of New Mexico.

NUTRICORE NORTHEAST AND GEISINGER RURAL AGING STUDY (GRAS)

Mr. SPECTER. Mr. President, I have sought recognition of the chairman of the Agriculture Appropriations Subcommittee to bring to his attention two projects that are of great importance to the Commonwealth of Pennsylvania: NutriCore Northeast and Geisinger Rural Aging Study.

Mr. BENNETT. Mr. President, I am more than willing to acknowledge my colleague from Pennsylvania with regard to his two projects.

Mr. SPECTER. NutriCore Northeast would be a self-managed and ultimately self-sustaining not-for-profit corporation existing in Pennsylvania working in a cooperative research and development agreement with the United States Department of Agriculture to provide a 50-year road map assessing progress toward a healthy and fit populace. Additionally, Geisinger Rural Aging Study is a USDA Agricultural Research Service cohort study of 21,646 rural older Pennsylvanians that would assist them with proper dietary intake as well as formulate a longitudinal nutrition database. I am hopeful that we can work together to consider these requests as you complete action on the bill.

Mr. BENNETT. I thank my distinguished colleague for bringing these important projects to my attention. While this committee is working within a very tight budget, I will give your requests all due consideration.

Mr. SPECTER. I am keenly aware of the tight budgetary constraints under which you are operating, and I appreciate whatever assistance you may be able to provide with respect to these requests.

FOOD AID PROGRAMS

Mr. ROBERTS. Mr. President, currently, USDA does not distinguish between white (food grade) sorghum and yellow feed grade sorghum in our food aid programs. Unfortunately, sorghum that is used to make animal and pet food, or used to make ethanol, is being sent to African countries where people have been eating sorghum for generations. In fact, sorghum originated in Africa. They are keenly aware of the difference between the food grade sorghum that they eat and the feed grade sorghum that is fed to cattle. It is my view that USDA should provide recipient countries with sorghum that has the food qualities and characteristics with which the people receiving the aid are familiar.

Mr. BENNETT. I understand the Senator's concern and would also like to see that USDA make that distinction.

Mr. ROBERTS. By all appearances, the demand for sorghum in our food aid will be growing in the near future. USAID has doubled the amount of sorghum programmed in food aid over the past three years. My sorghum farmers are appreciative of this fact. I think both of us want USAID and USDA to provide food aid recipients with the commodity that they want, whenever the commodity is available in the market place.

Mr. BENNETT. That is correct.

Mr. ROBERTS. I thank the chairman for his support.

ELIMINATING AVIAN INFLUENZA IN RHODE ISLAND

Mr. REED. Mr. President, I rise to engage in a colloquy with the distinghished Chairman and Ranking Member of the Agriculture Appropriations Subcommittee, as well as my colleague from Rhode Island, Senator CHAFEE, regarding the presence of Avian Influenza in Rhode Island. Since March of this year, the Rhode Island Department of Environmental Management's Division of Agriculture has been working to contain an outbreak of Low Pathogenic Avian Influenza in a poultry operation in Foster, Rhode Island, as well as a live bird market in Providence. The virus has been definitively identified as H7N2 Avian Influenza, of the same genetic sequence as the virus recently found in nearby poultry operations in Connecticut. Little Rhody Farms, the last of the traditional egg houses in Rhode Island, currently houses 32,000 hens producing brown eggs for sale in markets and food stores. Sales and distribution of eggs from the farm have declined due to customers' concerns that the produce may be tainted, and a federally imposed quarantine that has frozen the operation at half capacity. To eliminate the risk of the disease spreading further and to give the farm a greater chance to survive, state officials have strongly recommended depopulating the infected flock and disinfecting the premises. We have been unable to secure financial assistance from USDA to make depopulation possible.

I look forward to working with the Chairman and Ranking Member to include language in the fiscal year 2004 Agriculture, Rural Development, and Related Agencies Appropriations bill to direct USDA's Animal and Plant Health Inspection Service to provide assistance to Rhode Island Egg producers who have depopulated their flocks.

Mr. CHAFEE. I am grateful to my colleagues on the Appropriations Committee, Senator BENNETT and Senator KOHL, for giving us an opportunity to discuss this matter on the floor. Let me just underscore a few of the points that Senator REED has made.

First, everyone involved with this situation agrees that depopulation is the best strategy for dealing with the problem. The Rhode Island Division of Agriculture, the State Veterinarian, and the farmer favor depopulation and disinfection. And I understand that APHIS has been successful in taking this approach with poultry operations in Virginia and Texas.

Second, it is evident that without some compensation, the farm will face bankruptcy. Maintaining the viability of Rhode Island's family farms is a critical element of our efforts to preserve the state's character, as well as the natural landscape.

Third, I am told that in rare circumstances, low pathogenic forms of avian influenza can transform into high pathogenic organisms that pose serious threats to human health. Not surprisingly, the presence of avian influenza on American poultry and egg farms is a matter of grave concern to our trading partners. No one wants to give the virus and opportunity to mutate.

Given the risks associated with avian influenza and the clear evidence that the current protocol was not successful in containing the original Connecticut outbreak, I am anxious to find a solution to this problem. I thank the chairman and ranking member for working with us, and hope that language directing APHIS to provide the necessary financial assistance can be included in the bill.

Mr. BENNETT. I appreciate Senator CHAFEE and Senator REED bringing this situation in Rhode Island to the attention of the Agriculture Appropriations Subcommittee. For all of the reasons that my colleagues have raised, I agree that it makes sense to try to eradicate this organism from American poultry flocks. I look forward to working with the two Senators and the Ranking Member of the Subcommittee, Senator KOHL, to develop language that directs APHIS to play an active role in depopulating these flocks in Rhode Island.

Mr. KOHL. I rise to join Senator REED and Senator CHAFEE in expressing my concern about this outbreak of Low-Path Avian Influenza in Rhode Island. This disease has resulted in substantial losses in poultry producers in several states and, in response, Congress has previously directed APHIS to help poultry producers cover costs associated with depopulating infected flocks. I agree with the importance of doing what we can to prevent avian influenza from threatening the livelihood of poultry operations in Rhode Island and southern New England. I will work with the distinguished subcommittee chairman and try to include language in the fiscal year 2004 Agriculture, Rural Development, and Related Agencies Appropriations bill to ensure that APHIS provides assistance with depopulation of infected flocks in Rhode Island.

SOUTHERN PLAINS RANGE RESEARCH STATION

Mr. NICKLES. Mr. President, Chairman BENNETT faces many difficult funding decisions as he puts together this year's bill. I appreciate the work he has done in a challenging job. I rise today regarding the United States Department of Agriculture Southern Plains Range Research Station in Woodward, OK.

As you know, the Agricultural Research Service is currently undergoing a facility modernization at the Southern Plains Range Research Station in Woodward. I submitted a request for Phase II funding to allow the ARS to complete construction of the facility and begin realizing the benefits that this facility will bring to both the ARS and the Woodward community.

The Research Station provides economic opportunities for the citizens of Woodward, OK and contributes to USDA's mission of building a competitive agriculture economy while enhancing the natural resources base in the Southern Plains.

This funding is necessary to implement the recommendations of the recent ARS review of facility needs at SPRRS: construction of a new greenhouse, a new laboratory, an office building, and new parking structures and site upgrades. According to USDA, ''The [SPRRS] laboratories are in dire need of repair and renovation.'' This modernization is necessary for SPRRS to employ cutting-edge techniques and procedures in rangeland and pasture research.

It is my hope that you will work with me to provide the funds necessary to complete construction at the USDA Southern Plains Range Research Station in Woodward, OK.

Mr. BENNETT. I appreciate my colleague's comments and the opportunity to discuss the USDA Southern Plains Range Research Station. I am aware of this project's importance to Oklahoma and the Oklahoma delegation. My colleague is uniquely aware of the constraints of the budget we must work within, and of the many areas in need of funding. I look forward to working with my colleague to address the issue of funding for Phase II of construction

at the Southern Plains Range Research Station in Woodward.

Mr. NICKLES. I appreciate the difficult challenges that the Chairman is facing as he puts together the FY 2004 Agriculture Appropriations bill. I thank him for his attention to this very important need and for his willingness to work with me to address this issue.

Mr. KENNEDY. Mr. President, I commend Chairman BENNETT and Senator KOHL for their help in obtaining funds for cranberry research in the Agriculture appropriations bill. Cranberry production is an issue of great importance to Massachusetts, and I hope that the Manager's will continue to work with Senator KERRY and me to obtain $280,000 for the University of Massachusetts Cranberry Station in Wareham for a complete renovation of the State Cranberry Bog.

The State Cranberry Bog provides income for Cranberry Station operations. More importantly, it is a research site for the Cranberry Station faculty and students. The bog is especially useful for conducting research not appropriate for cranberry farms in production. The faculty and students are able to use the facility to conduct research on new pesticide alternatives, or research that involves changes in practices not yet adopted by farmers.

Unfortunately, over time, the average yield of the state facility has declined because of its research activities, and the bog itself, built on peat, has begun to sink. The funds that Senator KERRY and I have requested will be used for a complete renovation of the bog, so that the Cranberry Station will again be able to conduct cutting-edge research plant physiology, pest and nutrient management, and irrigation management. The renovation will also enhance the Station's ability to demonstrate new technologies and practices as part of its educational mission. All of these activities contribute to both the economic health of the local economy and the overall vitality of the nation's cranberry industry.

Mr. KERRY. Mr. President, I again express my appreciation to Chairman BENNETT and Senator KOHL for their assistance in developing the Fiscal Year 2004 Senate Agriculture Appropriations bill and their ongoing assistance to the Cranberry farmers in Massachusetts who are facing economic difficulties. I would like to express my support for the comments made by Senator KENNEDY regarding funding for Cranberry research in the Fiscal Year 2004 Agriculture appropriations conference report. This important research will develop new technologies to help improve yields of cranberry bogs and help these farmers maintain their livelihood. I look forward to working with the Managers of this legislation to make sure this program receives funding in the Conference Report. I appreciate the Managers' attention to this matter.

Mr. KOHL. Since Wisconsin is also one of the top-producing cranberry states in the country, I recognize the need to support innovative research within this industry. I will continue to work with Senator KENNEDY and Senator KERRY on this issue, and I will do what I can to be of assistance.

FUNDING FOR SEAFOOD SAFETY

Mr. KENNEDY. Mr. President, I commend Chairman BENNETT and Senator KOHL for their effective work on the Agriculture appropriations bill. I particularly commend Senator KOHL for his help in obtaining $422,000 for Seafood Safety in Massachusetts. I'm hopeful that two worthwhile research programs—the Safe Seafood Project at the University of Massachusetts in Amherst, and the Center for Marine Phytoremediation Technologies at Northeastern University will be funded in the Fiscal Year 2004 Agriculture appropriations conference report.

In recent years, the Department of Agriculture, through the Cooperative State Research, Education, and Extension Services, has awarded grants to the University of Massachusetts, Amherst for their work on the Safe Seafood Project. The goal of this project is to provide useful, science-based recommendations to enhance the seafood industry's potential for producing safe, economically viable products. It is essential for the project to receive funding again this year in order to continue its essential work on seafood quality and health.

Northeastern University is also an impressive research university on marine issues. Funding will be used by the Center for Marine Phytoremediation Technologies to develop techniques employing marine plants to eliminate pollutants that result from fish aquaculture, as well as toxic materials found in our waters, such as mercury and TNT. The Center will also establish methods for restoring seagrass habitats where they have been destroyed.

We know that waste from the increasing number of fish aquaculture facilities leads to the production of harmful algae and the destruction of other marine life. If these problems continue, the fish aquaculture industry cannot be sustained, since it will cause greater risks in eating fish, and also endanger seagrass habitats, which are critical to the coastal economy of many states.

Mr. KERRY. Mr. President, I would like to take this opportunity to express my appreciation for the efforts of Chairman BENNETT and Senator KOHL for their work in developing the Fiscal Year 2004 Senate Agriculture Appropriations bill. Their work is especially noteworthy because of the difficult authorization level set by the Budget Resolution. I would like to express my support for the comments made by Senator KENNEDY regarding the Center of Marine Phytoremediation Technologies at Northeastern University. The Center has developed a proposal which I believe is an important opportunity to develop new technologies and help eliminate pollutants from fish aquaculture. This research can help the marine life in our oceans and eliminate pollutants from the seafood we enjoy. It is my hope that Senator KENNEDY and I could work with the Manager's of this legislation to make sure that these important programs receive funding in the Fiscal Year 2004 Agriculture appropriations conference report.

Mr. KOHL. I agree with both Senator KENNEDY and Senator KERRY on the importance of funding food safety initiatives, and I am glad we were able to obtain funding for seafood safety research in Massachusetts.

The University of Massachusetts, Amherst, and Northeastern University have impressive programs vital to improving marine issues and seafood safety. I will continue to work with both Senator KENNEDY and Senator KERRY, as the bill progresses, and do what I can to see that these resources are available to these institutions.

SECTION 306 (a)

Ms. MURKOWSKI. Mr. President, I would like to address a provision that Chairman BENNETT has added to the manager's amendment to the fiscal year 2004 Agriculture Appropriations bill on my behalf.

Mr. BENNETT. Mr. President, I would be happy if Senator MURKOWSKI explained this provision in greater detail.

Ms. MURKOWSKI. The provision in question makes the Alaska Department of Community and Economic Development eligible to receive a water and waste disposal grant under section 306(a) of the Consolidated Farm and Rural Development Act in an amount that is not less than 75 percent of the total cost of providing water and sewer service to the proposed hospital in the Matanuska-Susitna Borough in Alaska. In addition, this provision allows the funds to be passed through the department to the local governmental entity that will do the water and sewer work on the hospital. This local governmental entity will be chosen by the Regulatory Commission of Alaska.

Mr. BENNETT. Mr. President, I would like Ms. MURKOWSKI to explain her rationale for including this provision in the manager's amendment.

Ms. MURKOWSKI. This new hospital project will be an economic boon for the Matanuska-Susitna Borough. Currently, there is a hospital in Palmer, which is one of the larger communities in the borough. However, this is the only full-service hospital in the entire borough. This borough, which is the home to many people who commute to work in Anchorage, has grown a great deal over the years. In fact, the borough's population is projected to double in the next ten years. Therefore, a new hospital is needed in this borough. This proposed hospital will be located halfway between the communities of Wasilla and Palmer and will be more

easily accessible to more of the borough's residents.

Currently, the site on which the proposed hospital will be located does not have a water or sewer connection. Therefore, such a connection is critical to the success of the hospital project, which will serve so many people in a high-growth area in my State.

Please allow me to share with you some details on the economic effect that this hospital project will have on the Matanuska-Susitna Borough. It will create 680 full time and part time construction jobs during the first phase of the construction. Once the hospital is complete, 1,200 to 1,800 new jobs will be created through new hospital operations. It will add $22.8 million in construction labor income. The new hospital will pay approximately $1.3 million in local property taxes and will produce a total of $2.08 million in local and State revenues from construction and another $3.84 million from new hospital operations.

These statistics don't begin to depict the more significant statistics on lives saved and people healed. This project is a win-win for the Matanuska-Susitna Borough and the State of Alaska. It will have the single largest positive impact on the borough's economy for the next decade. More importantly, it will yield the single largest positive impact on the health of the community and residents, as well.

Mr. BENNETT. Mr. President, I thank Senator MURKOWSKI for explaining the need for her provision in the manager's amendment to this important legislation.

ARS RESEARCH

Mrs. LINCOLN. Mr. President, I wish to enter into a colloquy with the distinguished Chairman of the Appropriations Subcommittee on Agriculture to highlight a USDA agency that does extremely good work in my home State of Arkansas. First, I want to commend the chairman's efforts to provide resources to our Nation's most important agricultural and rural development priorities. It has been a difficult task and I appreciate your dedication.

In particular, I want to thank the chairman for his efforts to continue the necessary support for agricultural research, both within the USDA and with the State university partners. The USDA Agricultural Research Service is a critical agency in this effort. With the leadership of the chairman, I am pleased to note that ARS research will continue to have the strong support of Congress.

Mr. BENNETT. I thank the Senator and I share her assessment of the importance of agricultural research and the value of the USDA and its State partners.

Mrs. LINCOLN. The USDA ARS has a small, but vital presence in Arkansas. For example, is the chairman aware that my home State ranks seventh in the Nation in total net farm income?

Mr. BENNETT. I did not know that.

Mrs. LINCOLN. Yes. In fact, few States in the Nation, and none in the South, are blessed with a higher percentage of their economic activity dependent upon agriculture than is Arkansas. I am also aware that traditionally, however, the ARS presence in Arkansas has been surprisingly small, especially in relation to the importance of agriculture to the economy and size of your contribution to the net farm income of the United States.

Mr. BENNETT. In spite of this, I know that the research conducted in Arkansas benefits us all.

Mrs. LINCOLN. Yes, that is certainly true. We are proud of the ARS presence that we do have and the impact of its research on the Nation as a whole. The research that has been generated from Arkansas locations has been of great importance to the rice, poultry, small fruits, and aquaculture industries of the U.S. Additionally, the breakthroughs in human nutrition research that have come from the ARS human nutrition center in Arkansas have been remarkable. In light of the great importance of the research work being carried out at the ARS or ARS-supported research centers in Arkansas, I urge your continued support and ask that every effort be made, including in conference, to insure that the ARS units in Arkansas enter the 2004 fiscal year with no less than the same fiscal resources that they had in 2003. Additionally, I ask the chairman's assistance in working with Members of the House who will be on the conference committee to adopt the most favorable funding recommendations that are brought into conference by either House.

Mr. BENNETT. I share the Senator's commitment to agricultural research and to the ARS. And, I recognize the importance of the ARS research conducted in Arkansas to your State, to the region, and to the Nation. During our conference deliberations with the House, I will keep the importance of these research activities in mind. I look forward to working with my colleagues from the House in conference to insure the highest level of funding possible taking into consideration national research priorities. I am sure the Arkansas units will rank highly on that list of priorities. I thank the Senator for bringing this important matter to my attention.

TRAVEL AND PURCHASE CARD ABUSE

Mr. BENNETT. Mr. President, the Senator from Iowa brought an issue to me which he hopes to remedy through Agriculture Appropriations. The issue involves the Department of Agriculture and the documented fraud and abuse occurring within both the purchase and travel card programs. I would like to ask the Senator from Iowa for further clarification.

Mr. GRASSLEY. I thank the chairman for his interest in this issue. Additionally, I want to thank him for his concern regarding credit card abuse. Working together I'm confident we can help USDA remedy this issue.

As Chairman BENNETT knows, the Department's own Office of Inspector General (OIG) has stated that USDA's travel card program is plagued with problems including fraud, abusive ATM usage, ''bounded'' check payments, and lack of specific travel card policies and penalties. Many of these problems still remain unchecked despite recommendations from an OIG audit over 5 years ago.

USDA employees accumulated over $5.8 million in fraudulent charges in a six-month period. The majority of these charges were racked up when individuals were not even on travel. Purchases were made at The Gap, Bath and Body, Cigarettes for Less, Tatoo and More Ink, and an Oregon Liquor Store. They also included 900 trips to Wal-Mart, K-Mart and Target; tickets to Ozzy Osbourne, and automotive payments including the purchase of a $6,000 vehicles.

This is a clear abuse of government-issued cards and the trust embodied in these employees. Despite individuals signing an agreement acknowledging that the travel card is solely for work-related travel this abuse continues. The travel card is not meant to be a line of credit for employees, or to be used by individuals as a personal credit card. There is no excuse for this type of abuse.

When I was first made aware of this abuse I asked how this was allowed to occur at USDA. What I found was outdated or non-existent internal controls that do nothing more than provide lip-service to the concept of accountability. USDA's travel card program is operating under 19-year old regulations. Nineteen years ago our banking infrastructure was fundamentally different than it is today. Nineteen years ago we didn't even have ATM's!

In fact, ATM's pose the single most significant vulnerability to travel card misuse due to cash advances fees and other bank surcharges. During the six month review by the OIG, ATM transactions cost the government more than $137,000 in advance fees. There is chronic and intentional misuse with ATM withdrawals, for example, nearly $200,000 was withdrawn to pay personal debts during the six-month review period.

If that isn't bad enough, when individuals leave the department they don't always surrender their travel card! So individuals are out using the travel card as a personal credit card. OIG found that 1,549 individuals still had cards that could be used despite their departure from the Department. One individual was using his travel card nearly 2 years after he left the department!

OIG identified $650,000 in returned checks, stop payment fees and returned check fees in just a six-month period. A little diligence up front could prevent millions of dollars in fraudulent purchases.

I would point out that USDA has made recent efforts to limit abuse. USDA has attempted to reduce the number of credit card holders, revised

departmental regulations on purchase cards, and instituted new system alerts to catch abusive transactions.

With Chairman BENNETT's help I plan to monitor the new efforts being made by USDA to remedy these problems I'm cautiously optimistic that USDA will recognize that the reforms must be successful, or we will establish new, more stringent reforms for USDA next year.

Mr. BENNETT. I concur with my colleague's remarks. We will allow USDA to remedy the problems my colleague from Iowa has described. If USDA does not take action immediately and make substantive advances to fix these problems, we'll likely give them something more than encouragement in next year's agriculture appropriations legislation.

Mr. HOLLINGS. I would like to take a moment of the chairman and ranking members' time to discuss a project that has been supported by the committee since 1999. The Natural Resource Conservation Service (NRCS) in South Carolina and the Earth Sciences and Resources Institute at the University of South Carolina (ESRI–USC) have successfully developed technology to aid NRCS, both in South Carolina and throughout the Nation, to meet the needs of the agricultural community in a more effective and efficient manner. Over the years, the University of South Carolina has demonstrated their capabilities and the quality of their products while building a solid working partnership with the NRCS.

The implementation of the software tools they developed has produced significant savings in manpower and cost for many of NRCS's conservation programs. For example, it is estimated that the man-hours needed to create waste management plans using the traditional paper-based way was on the order of 230 man-hours per plan. Using the ESRI–USC geographic information systems tools, this time requirement was reduced to just over 100 man-hours per plan—that is 130 man-hours saved per plan. The evolving products ESRI–USC has developed for comprehensive nutrient management planning have resulted in even greater time, and cost savings than the earlier tools. As a result of the use of another program, EQIP-for-the-Web, South Carolina NRCS has conservatively saved three man-years of effort. Using another tool, NASIS-for-the-Web, we estimate that this automated access to the soil survey reports results in five man-hours per day in NRCS personnel savings. There is also a benefit to the public, which can access these data via the Web. The time savings to foresters, engineers, farmers, and other users of soil survey data is enormous. There are over 170 users of a particular program in 17 States and a user base in 31 States.

Consequently, I wish to continue to pursue this project at the next level and establish a Center of Excellence within ESRI–USC to assure a long-term, cost-effect means to provide a stable and sustained environment for the development of new technologies as well as support of existing capabilities such as AFOPro, C–Grax, NASIS for the Web, and EQIP for the Web. ESRI–USC's value added NRCS programs provide functional, rapidly developed and deployed applications that can be used by conservationists and field office staff level.

Mr. KOHL. I would concur with my friend from South Carolina. I agree it is important for any federal agency to have the ability to establish the appropriate technology to provide functional, rapidly developed and deployed applications that can be used by the field personal in a reliable, user friendly manner. Given the nationwide interest in their applications, it is time that the USDA seriously consider directly longer-term support with ESRI–USC.

Mr. BENNETT. I thank the senior Senator from South Carolina for bringing this matter to my attention. I encourage you to pursue this designation with NRCS. Additionally, In encourage NRCS to give every consideration to the Senator's proposal.

Mr. HOLLINGS. I thank my friend and colleague for your time. It may also be worth noting that Bruce Knight, Chief of NRCS recently visited the University this past April and was very impressed with their capabilities. He concurs that the work completed by ESRI–USC has been of high value to NRCS software development efforts.

ASSISTANCE TO THE MENOMINEE TRIBE

Mr. KOHL. It has recently come to my attention that the Menominee Indian Tribe in Wisconsin is in need of additional assistance from Rural Development. The latest poverty figures indicate 60 percent of rural Americans who are living in poverty reside in census tracks containing or adjacent to Indian reservations. Unfortunately, 50 percent of the members residing on the three reservations of the Menominee Tribe in my State of Wisconsin live below the poverty rate with less than 72 percent of children receiving a high school diploma. Unemployment exceeds 20 percent. The Department of Agriculture needs to consider meritorious applications for water and waste and business development programs which will benefit this tribe.

It is my intention that during our upcoming conference deliberations with the House, to include language in the statement of managers to support the consideration of an application in relation to the Mole Lake Water and Sewer System within the Water and Waste Loan and Grant account to address the current sanitary needs and provide opportunities to attract new homeowners. In addition, there is a need to construct a Menominee Mini-Mall Development project and the Forest Enterprises Technology Center to attract new businesses and create a business incubator. I intend to seek recognition that these two projects be included under the Rural Business Enterprise Grant account. Further, the Menominee Tribal Enterprises should receive consideration under the Intermediary Relending account to support small business loans and thereby, to provide sustainability to the community. The last request includes the Menominee Tribal Enterprises to be considered for the Rural Business Opportunity Grant in order to establish a business network including a market analysis.

RESOURCE CONSERVATION

Mr. NELSON of Nebraska. Resource conservation is an essential element of our Nation's agriculture programs that has proven to be very popular with farmers and ranchers. The incentives incorporated in programs such as the Farmland Protection Program, the Conservation Reserve Program, and the Environmental Quality Incentives Program, have not only heightened the awareness and value of good conservation practices, but they have made it possible for families to continue limited production and be compensated for protecting fragile resources. The success of these programs is that family farms can retain their economic viability and continue to contribute to the stability of communities throughout the Nation.

Conservation programs have touched on many fragile resources, but have not sufficiently encouraged the protection of the historic heritage that is embodied in historic buildings, structures, objects, and archaeological sites on farmland. Congress has declared that the spirit and direction of the nation is reflected in its historic heritage, and that the preservation of this heritage is in the public interest. Therefore, I believe we must work together to protect our common heritage embedded on these private lands.

Senator KOHL, today I am requesting a report to the United States Congress from the United States Department of Agriculture evaluating their conservation programs under the Natural Resources Conservation Service with the objective of determining what affirmative and programmatic actions are being taken to conserve and protect archaeological and historical resources on agricultural lands. Furthermore, this report should also provide or suggest new methods or program modifications to the conservation programs which will increase the protection of historical and archaeological resources on agricultural lands and help determine the manner in which these type of lands can be included within the overall goal of natural resources protection.

Finally, I am requesting that this report be completed within 120 days of enactment of the FY04 Agriculture Appropriations bill.

Senator KOHL, will you support this request and work towards its inclusion in the final conference report of the FY 04 Agriculture Appropriations bill?

Mr. KOHL. I thank the Senator for bringing this matter to my attention. I will work to include this provision during conference negotiations of this bill.

TREE ASSISTANCE PROGRAM FUNDING

Mr. SCHUMER. Mr. President, I would like to recognize Senator BENNETT and Senator KOHL for their effort on behalf of our Nation's farmers. At this time, I would like to engage them in a colloquy regarding the need to provide aid to the fruit orchards of Western New York through the Tree Assistance Program.

Mr. BENNETT. I thank the Senator from New York for his kind remarks, and would be happy to engage in a colloquy with him.

Mr. KOHL. I am also happy to engage in this colloquy with the Senator from New York.

Mr. SCHUMER. As the Senators may know, New York is the third largest producer of tart cherries in the nation and Wayne County is the largest cherry-producing county in New York. Unfortunately, fruit orchards throughout Western New York sustained major damages as a result of a 3-day long ice storm in April. Approximately 85 percent of the tart cherry trees in Wayne County were severely damaged or destroyed by the storm. Throughout the region, sweet cherry, peach, pear, apple and plum trees were destroyed by the violent ice storm. The impact that these losses are already having on the fruit tree industry in New York is devastating and will continue to effect growers in for years to come since it takes new trees over eight years to mature. In fact, it is estimated that losses resulting from this April's storms could reach a total of $15,000,000.

Federal assistance is greatly needed to cover the expenses of removing and replacing the ruined trees. The Tree Assistance Program (TAP) was created in order to help farmers facing the challenges now faced by those in Western New York. The TAP provides assistance to eligible growers who have lost trees used for commercial purposes as a result of a natural disaster.

Since its reauthorization, the TAP has yet to receive funding in order to carry out its mission. However, the House-passed version of the FY04 Agricultural Appropriations Act contains $5,000,000 in funding for the TAP program in order to provide assistance to the growers of Western New York. The inclusion of these funds in this year's USDA budget are extremely important to the long term health of the fruit industry in New York.

Mr. BENNETT. I appreciate the comments of the Senator from New York, and assure him that I will take his concerns into consideration when conferencing the House and Senate bills.

Mr. KOHL. I too, appreciate the difficulties facing these farmers, and will work with the chairman to do what we can during conference.

EELGRASS RESTORATION IN RHODE ISLAND

Mr. REED. Mr. President, I rise to engage in a brief colloquy with the distinguished ranking member of the Senate Appropriations Committee's Subcommittee on Agriculture, Senator KOHL, regarding language in the Committee's report to accompany S. 1427, the fiscal year 2004 Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations bill. I thank the Senator from Wisconsin for including language in the committee's report recognizing the importance of eelgrass habitats to marine ecosystems along the coast of the Atlantic Ocean, and urging the Department of Agriculture to make funds available for projects in Rhode Island to enhance these habitats. I understand that it was the Committee's intention to encourage USDA to make such funding available through the Wildlife Habitat Incentives Program (WHIP), rather than through the Environmental Quality Incentives Program (EQIP) as stated on page 101 of Senate Report 108–107. The purpose of our colloquy today is to clarify that the report language should have read as follows: ''The Committee urges the Department to give consideration to the use of WHIP funding for projects in Rhode Island, and similar areas, that will enhance these habitats.''

Mr. KOHL. Mr. President, the Senator from Rhode Island is correct. I join him in stating for the record that the Committee urges the Department of Agriculture to make funding available through the Wildlife Habitat Incentives Program for eelgrass habitat projects in Rhode Island.

HEBER SPRINGS

Mr. PRYOR. Mr. President, it has recently come to my attention that there is urgent need to construct a new medical facility with the associated water and sewer capability in Heber Springs in my home State of Arkansas.

Heber Springs is located in the medically underserved rural part of north-central Arkansas. It is the only hospital in Cleburne County and surrounding areas providing treatment for local citizens.

Mr. KOHL. Just to make sure I understand, this is a medically underserved area?

Mr. PRYOR. Yes, this 34-year-old facility is the only one in this county and surrounding areas. Secondary facilities are approximately one hour in driving distance. Additionally, the population of Cleburne County and secondary service areas have grown more than threefold during the past thirty-four years.

Mr. KOHL. What are the numbers of emergency room visits for that increased population?

Mr. PRYOR. The emergency room experienced over 8,000 visits during 2001. This volume of patients cannot be managed safely or efficiently in a thirty-four year old emergency room with a four patient capacity. Additionally, the hospital operated on 851 patients in 2001 with only one small preoperative room available and three beds available for recovery. The volume of outpatients reached 13,649 in that year. The current facility has been found deficient by both the Joint Commission on Accreditation of Healthcare Organizations and the Arkansas Department of Health.

I would request that this community be included in the conference report under the Rural Community Advancement Program (RCAP) for the Community Facility Loan and Grant Program and the Water and Waste Loan and Grant Program for consideration of funding for a new facility with water and sewer assistance.

Mr. KOHL. I thank the Senator for making me and the committee aware of Heber Springs' situation and I will work with you to address these issues in conference.

Mr. PRYOR. I thank you for consideration of these requests.

ENERGY PHOTOVOLTAICS IN RURAL AREAS

Mr. LAUTENBERG. Mr. President, I would like to bring to your attention a renewable energy program for rural communities that I believe should be given strong consideration for funding. There is a program in my state of New Jersey in Gloucester, Burlington, and Hunterdon Counties that will use photovoltaics to generate electricity in remote agriculture locations to power water supply systems for farm animals and ventilation systems in livestock barns.

Mr. KOHL. I thank the Senator from the State of New Jersey. This program sounds interesting, but tell me, are rural areas being deprived of adequate energy sources?

Mr. LAUTENBERG. I am glad the Senator asked that question. The economic pressure of rapid suburbanization is forcing farmers to lower operating costs to preserve their farming operations in New Jersey. Farms with livestock often need remote watering stations, ventilation in barns, and shade in grazing fields. Satisfying these requirements traditionally requires substantial capital investment and increases operating costs. The use of electricity from photovoltaics would offer the lowest cost option for farmers to apply these improvements. Energy Photovoltaics, Inc., based in Lawrenceville, NJ, will provide and monitor this technology.

Mr. KOHL. This sounds like the type of initiative that should receive consideration under the Renewable Energy Program. I thank the Senator from New Jersey for bringing this program to my attention. As we proceed to conference, I will do what I can to see that this activity receives proper attention.

LOUISIANA PROGRAMS

Ms. LANDRIEU. Mr. President, I would like to thank the chairman and ranking member of the Senate Agriculture appropriations subcommittee for the opportunity to address several issues as the Agricultural appropriations bill for fiscal year 2004 is considered on the floor of the Senate as well as in a conference with House Agricultural Appropriations Subcommittee. It is my intention in this statement to express positions with respect to several areas of particular importance to me and my State of Louisiana that the

chairman and ranking member will take during conference with the House. I would also like to thank both the chairman and ranking member for the number of my requests that have been addressed in S. Rept. 108–107.

First, there are two instances where the House Committee report, 108–193, included references to items that were not provided for in the Senate report. On page 28 of the House Report, $1.5 million was provided for planning and design in the establishment of a new facility at the ARS Sugarcane Research Laboratory in Houma, Louisiana. Also, on page 18 of the same report, language was included that referenced the Pennington Biomedical Research Center (PBRC). Although, neither item is included in Senate Report, 108–107, I request that the Senate defer to the House and provide for both items in a final conference report just exactly as they are referenced in the House Report.

Second, during the fiscal year 2003 appropriation process, both the Senate Agricultural Appropriations Committee Report, 107–223, p. 55 and Senate Amendment 1 to the Consolidated Appropriations Resolution, H.J. Res. 2 or Omnibus Appropriations Bill for fiscal year 2003, provided $70,000 to be used to initiate a multi-year program to conduct clinical epidemiologic research on diseases associated with intensive reptile disease research in Louisiana. Unfortunately, this funding was not included in H.J. Res. 2 as signed into law on February 20, 2003, P.L. 108–7. Although I included this same request among my requests submitted to the Senate Agriculture Appropriations Subcommittee in fiscal year 2004, unfortunately there was no funding provided in either the Senate or House Bills. I am hopeful that during conference negotiations, the chairman and ranking member of the Senate Agriculture Subcommittee can provide some funding for this urgent research.

Third, I am hopeful that during conference negotiations, the Chairman and Ranking Member can recognize the expertise of Grambling State University in Louisiana, one of 117 Historically Black Colleges and Universities (HBCUs) which for over 100 years has been providing African American farmers the education and skills to produce better crops. Specifically, Grambling's contribution in the area of aquaculture research has and would continue to spur economic development and sustainability within impoverished communities in North Central Louisiana and the Louisiana Delta Region. In addition, the significant impact of this research would be felt among farmers and businesses throughout the State. Furthermore, this research would accentuate the intent of the White House Initiatives on HBCUs regarding increasing both the capacity and capability for HBCUs to engage in research. Grambling State University would serve as the lead institution in a collaborative effort that will lend the expertise of institutional resources and technical support in assisting individuals and communities among the tri-State areas of Arkansas, Louisiana and Mississippi.

Finally, I want to thank the chairman and ranking member for maintaining the funding at the same levels as fiscal year 2003 for four accounts that greatly impact the Nation's 18 historically black land-grant colleges and universities or the 1890s as they are often referred. Southern University of my State of Louisiana is among this group of very important and unique public universities. These four accounts include: Evans Allen—research formula funds; Extension formula funds; Capacity building Grants Program and Facilities Funding Grants. While I realize that the Subcommittee's spending cap for this year is significantly less than last year, I request that these four accounts be increased during conference negotiations with the House. With adequate funding the 1890 black land-grant colleges and universities could build and sustain new areas of specialization and, thus become more competitive in attracting public and private financing. Capacity Building is the model for eradicating historic inequities in State and Federal funding to the 1890 black land-grant colleges/universities, especially with regards to chronically under-funded faculty capacity. In fact, a recently released GAO study, 03–541, May 2003, entitled ''USDA's Outreach to Minority Serving Institutions Could Improve Grant Competition'' highlights capacity building and facilities funding as two key areas necessary for successful competitive grant awards. The GAO study finds that many 1890s need to attract top faculty to perform research, and it is very difficult to do so when research facilities are underfunded. An increase in facilities funding is necessary to fund costs of badly needed facilities while not hindering the improvements today for research, extension, students and faculty on 1890s campuses.

Increased Research and Extension formula funding means saving otherwise lost faculty positions at the Nation's historically black land-grant universities. Cash-strapped States are actually forcing cuts and substantial tuition increases on these institutions who served students from the lower economic scale. Formula funds constitute the core of 1890 land-grant programs and are critical to sustaining the 1890s land-grant mission of teaching, research and extension and public service. I am hopeful that we can find a way to increase the funding for some if not all of these four accounts.

Mr. KOHL. Mr. President, I recognize the importance of the above items to the Senator from Louisiana and will be as helpful as I can during conference negotiations to address these issues as she has requested.

NORTH CAROLINA AGROMEDICINE INSTITUTE

Mr. EDWARDS. As a partnership of three strong North Carolina universities, the North Carolina Agromedicine Institute is a leader in developing collaborative initiatives with colleagues in agencies and universities throughout the country. The Institute is having a significant impact in my State of North Carolina, across the Southeast region, and across the country, on the health and safety of workers and their families in agriculture, forestry, and commercial fishing—three of the four most dangerous occupations in the Nation.

Support from the Congress over the past 3 years has provided essential core funding to the Institute as it has strived to initiate research projects to address some of the important health and safety issues that are found, not just in North Carolina, but also in all the southeastern States and across the Nation. In addition, fiscal year 2003 funding has been used to expand the Institute's focus to address the important areas of food safety, agricultural disasters, and agroterrorism. The Institute is working with the NC State Health Department, Department of Agriculture and other governmental agencies in these efforts. This year, the Senate Agriculture Appropriations Committee appropriated $139,000 while the House Agriculture Appropriations set aside $278,000 for the Institute. It is vital that the Institute receive the House level if it is to maintain its cutting-edge work.

When the House and Senate conference committee considers the fiscal year 2004 agriculture appropriations measure, I strongly urge you and your fellow conferees to provide $278,000 for the NC Agromedicine Institute.

Senator KOHL, you have been a strong supporter of the Institute and I greatly appreciate your efforts.

Mr. KOHL. I appreciate your request and I assure you I and my fellow conferees will give your request full consideration.

GARDEN STATE ETHANOL

Mr. CORZINE. Mr. President, I would like to commend Senators BENNETT and KOHL for their leadership on this appropriations bill for Agriculture and related agencies for fiscal year 2004.

I would also like to take a moment to engage my colleagues Mr. KOHL and Mr. BENNETT in a colloquy.

Mr. KOHL. I thank my colleague for his kind words and would be happy to engage in a colloquy with the Senator from New Jersey.

Mr. BENNETT. And I the same.

Mr. CORZINE. Mr. President, it has come to my attention that in Title III of this bill, a new program in renewable energy has been added to the bill. the Senate committee report accompanying this bill identified a number of worthy projects under this program.

I hope that the conferees to this bill will consider adding to this list a promising project from my State. The State of New Jersey has entered a partnership with Garden State Ethanol, a consortium of farmers that wants to provide the farmers of New Jersey and surrounding States with an alternative

market for their field corn, while generating a profit for its investors and producing a domestic, renewable transportation fuel. They plan to create an ethanol plant in order to provide a new opportunity for area producers to sell their grain, and to employ directly significant numbers of farmers and laborers. In addition, this project will create jobs related to the construction/renovation of the plant, generate an increase in wages, and increase the output of the regional economy.

With a strong commitment to agriculture combined with its close proximity to high-value markets, New Jersey makes an excellent location for an ethanol production plant.

Mr. KOHL. I share my colleague from New Jersey's interest in this project and also urge the conferees on this bill to include this project in the conference report under the Renewable Energy Program.

Mr. BENNETT. I would like to join my colleague, Mr. KOHL, in voicing my support for this project, and also hope that it will be added in conference.

Mr. CORZINE. I thank the distinguished chairman and ranking member of the Senate Appropriations Subcommittee on Agriculture for their interest in this project and for their outstanding leadership on this essential appropriations bill.

TREE ASSISTANCE PROGRAM

Mrs. CLINTON. On September 14, I was pleased to have the opportunity to host our second annual Farm Day, an event that I derive great pleasure from. While showcasing agriculture, our State's No. 1 industry, my excitement was put in check by some visitors that stopped by my office before the festivities. Cherry growers from Wayne County had made the long trek down to Washington, not to partake in the fun of Farm Day, but to remind me, and the rest of our country, of the perils of their profession.

Mr. KOHL. It is my understanding that these farmers suffered a devastating loss this spring.

Mrs. CLINTON. That is correct. We depend on farmers for the food on our tables but rarely do we contemplate the vital part farmers and growers play in our local and State economies. On April 3, 2003, Mother Nature dealt our New York cherry growers an unbearable hardship. Seventy-five percent of our cherry orchards and 20 percent of our peach orchards were destroyed by an atypically severe ice storm.

Today, I strongly believe that we as a country have an obligation to specialty crop producers. New York State growers have historically been self-sufficient, asking for little and receiving next to nothing in comparison to large staple crop producers. Ineligible for the crop insurance that many other farmers benefit from, fruit growers' need for direct assistance from the Federal Government is all the more imperative during times of natural disaster.

Mr. KOHL. What assistance is available to these farmers?

Mrs. CLINTON. As I explained in my letter to the Committee dated April 16, 2003, without our help in funding the Tree Assistance Program (TAP), most, if not all cherry growers will not be able to afford the costs of replanting on top of the estimated 20 percent annual income loss they will incur over the next 7 to 10 years while new cherry trees mature to regular production capacity. Wayne County farmers cannot bear this and neither can the economy of New York, a State that ranks second only to Michigan in tart cherry production. I respectfully ask that you recede to the House on this measure in conference.

Mr. KOHL. I understand the concerns of the Senator from New York, and I assure her that I will do what I can to be helpful during our conference with the House.

FARMERS' MARKET ELECTRONIC BENEFITS TRANSFER PROGRAM

Mrs. CLINTON. I would like to ask today that Senator KOHL and other members of the Appropriations Committee give consideration to a matter of great importance to me. Few would disagree that we are living in an increasingly complex world. It is a world dominated by technological innovation but still ruled by the most basic of needs. Two years ago, New York was chosen for a special pilot program related to the Food Stamp Program. Since the food stamp program changed to the debit card system, farmers' markets across the country have been left out of the food stamp program. Lacking electricity or the necessary phone lines to hard wire the terminals needed to process the new food stamp cards, farmers' markets have been forced to refuse business, while food stamp recipients have been denied the opportunity to patronize local fresh markets.

Mr. KOHL. I understand that in previous Agriculture Appropriations bills, the State of New York received a grant to try to curb this problem. What was that funding used for, and what needs remain?

Mrs. CLINTON. USDA grants have paid for the purchase of over 50 electronic benefit transfer machines. Now it is up to us to make sure this investment proves to be a worthwhile one. Though there are already positive reports about the use of this new technology in New York farmers' markets, we have an obligation to insure that in the upcoming fiscal year the necessary funds are made available to facilitate the integration of this new equipment, in such a way that we may have an accurate picture of the viability of EBT nationwide. To do anything less is illogical and unfair to the many communities that have openly embraced this pilot program. I therefore request that you support the House language continuing the electronic benefit transfer grant program in conference.

Mr. KOHL. I appreciate the Senator from New York bringing this to my attention, and appreciate the hard work she does on behalf of her constituents. I will keep her concerns under consideration as we work to complete this bill in our conference with the House.

DELMARVA CONSERVATION CORRIDOR DEMONSTRATION PROGRAM

Mr. BIDEN. Mr. President, I rise today, joined by my good friend and colleague from Delaware, Senator CARPER, to bring to the attention of the esteemed ranking member of the Agriculture Appropriations Subcommittee an important provision in his bill relating to the Delmarva Conservation Corridor Demonstration Program.

I just want to take a few minutes to emphasize the importance of this provision for the State of Delaware and for the entire Delmarva peninsula. As you know, the Secretary of the Department of Agriculture was authorized to develop a Delmarva Conservation Corridor Demonstration Program in the 2002 farm bill. Unfortunately, the USDA has not implemented the program.

The Delmarva Conservation Corridor Demonstration Program does, however, complement the existing conservation provisions in the bill and allows the USDA to target the benefits of watershed-based conservation programs to farmlands that local stakeholders have determined to be the most ecologically and economically important.

We must prevent the shrinking and fragmentation of undeveloped open space that results from increasing growth pressures. By fortifying and restoring green infrastructure, we can maximize the ecological and working lands' potential of our landscape. Creating extensive corridors of both natural and agricultural lands will safeguard wildlife habitat, contiguous headwaters, wetlands and open space. Left unprotected, our remaining green infrastructure is vulnerable and will be further reduced or fragmented.

The Delmarva Peninsula is blessed with an abundance of important natural resources and productive working lands that support agriculture, forestry and the seafood industry. We believe that this is the right time to make this commitment to conservation that reaches across state lines and is important to a much larger region.

Mr. CARPER. Mr. President, let me say that I agree with everything the Senator has said about the importance of the Delmarva Conservation Corridor Demonstration Program.

In addition to your comments, I would only add a request to our colleagues who have been working on this Agriculture appropriations bill that they be made aware that the 2002 Farm bill included specific language that authorized the Secretary to develop this program with the intent that it would provide a benefit not just to the three states of Delaware, Maryland and Virginia, but also to other programs being considered throughout the country. The lessons learned from work on the Delmarva Conservation Corridor will improve similar efforts elsewhere.

Conferees should also be made aware that their colleagues in the House agree that the intent of the provision was to allow the Secretary of Agriculture and the States appropriate flexibility in using the resources of existing agricultural conservation and forestry programs. In supporting this program during the farm bill, it was not our intent, nor is it today, to require new or earmarked funding. The USDA has not yet implemented this program because of what I believe is a misunderstanding regarding the concept of the program and the congressional intent contained within the farm bill. This confusion should be resolved so that this example of effective conservation policy can be realized.

Mr. KOHL. I thank my colleagues for their interest in this program, and I want you to know that I understand the importance the Delmarva Conservation Corridor Demonstration Program has to the State of Delaware and the entire Delmarva Peninsula. I can assure you both that I will support this project in conference and do all I can to see that it becomes a reality.

VITICULTURE ASSISTANCE FOR THE STATE OF IOWA

Mr. GRASSLEY. Mr. President, the State of Iowa has a blossoming viticulture industry, but the demand for technical assistance far exceeds the State's current resources. I have discussed this problem with the Senator from Utah and I appreciate his interest in the issue.

Mr. BENNETT. The Senator from Iowa has explained to me that his State is in need of specialized assistance through funding for a viticulture technician to provide on-site technical assistance.

Mr. GRASSLEY. A viticulture technician would help new producers with the basic knowledge needed about the industry. Such assistance will enable growers to benefit from increased production, and in turn, produce more successful vineyard businesses in Iowa.

This proposal has tremendous support from the Iowa Grape Growers Association, the Mississippi Valley Grape Growers Association, the Western Iowa Grape Growers Association, and the Iowa Wine and Grape Development Commission.

STUDY ON NORTH CAROLINA HORTICULTURE INDUSTRY

Mrs. DOLE. Mr. President, the horticulture industry in North Carolina is a fast growing industry contributing significantly to the State's economy. Though local, State and Federal officials know that the industry is important, there has been no analysis done to quantify the impact of this industry on North Carolina's economy.

Perhaps a possible remedy might be to direct the USDA Economic Research Service to coordinate with the North Carolina Department of Agriculture and NC State University to collect the economic data and do the statistical analysis necessary to conduct this study.

Mr. BENNETT. Mr. President, let me say to the Senator from North Carolina that I appreciate the suggestion particularly in light of the budget constraints that we face. I will be happy to look into this matter to see if there is a workable solution that will achieve the desired result.

Mrs. DOLE. Mr. President, I thank the Senator for his consideration on this matter.

NATIONAL RURAL DEVELOPMENT PARTNERSHIP

Mr. CRAIG. Mr. President I would like to engage in a colloquy with the distinguished Chairman and Ranking Member of the Agriculture Appropriations Subcommittee regarding funding for the National Rural Development Partnership (NRDP) for federal fiscal year 2004.

Last year, Congress included in the Farm Bill the provisions of the National Rural Development Partnership Act, which I sponsored along with the Senior Senator from North Dakota and 43 of our colleagues. The Farm Bill's NRDP language authorizes annual appropriations of up to $10 million. This authorization was included because of a recognition that the funding arrangement for the Partnership, which has been in place since its establishment a dozen years ago, has failed to provide adequate resources for the NRDP and the state rural development councils (SRDCs). That funding arrangement has depended on voluntary contributions of discretionary funds from USDA and four other federal agencies, as well as matching funds from the states and others.

The work of the NRDP and SRDCs is more important than ever. The current economic downturn has hit rural America hard. Drought and low prices have had a devastating impact on production agriculture, which continues to be the economic foundation of many rural communities. Other rural communities that depend on logging or mining have seen employment and economic activity diminish in those important industries. The nationwide decline in manufacturing has resulted in the closure of thousands of factories in rural areas, eliminating the sole or principal source of good-paying jobs in many rural communities. This situation has been aggravated by the fiscal challenges facing most State governments. As States slash budgets, the level of vital services upon which rural residents depend—from education and health care to transportation and libraries—has been greatly diminished. At this dire time in rural America, we must support organizations like the SRDCs which can help our citizens respond to the many challenges they face.

This year's committee report accompanying the fiscal year 2004 Agriculture Appropriations Bill includes language encouraging the USDA to continue its support of the NRDP and SRDCs by providing stable funding, technical support, and guidance practices as they have done over past years. Similar language was included in the Senate subcommittee's report on the fiscal year 2003 Agricultural Appropriations bill.

I appreciate the support the Chairman and Ranking Member have shown for the NRDP and SRDCs. Besides continuing current USDA involvement, it is important to continue and intensify its efforts to secure support for the NRDP and SRDCs from other federal agencies and with rural responsibilities as it has done successfully in the past. This is consistent with the intention of Congress in the Conference Committee Report of the 2002 Farm Bill.

The committee report has spoken to the importance of the Department continuing to support the continued development and increased involvement of the NRDP and SRDCs. I would also appreciate the Committee's continued emphasis on importance of multi-agency cooperation with USDA to strengthen this vital effort to spur and strengthen our rural economies.

Mr. BENNETT. Mr. President, I concur with my colleague's sentiments on the importance of multi-agency involvement in rural development. I appreciate the Senator's comments and look forward to our continuing to work together to support this effort when this bill goes to conference.

Mr. KOHL. Mr. President, our subcommittee has a consistent history of supporting this rural development effort and promoting this kind of multidisciplinary approach. That was the intent of our committee report and, I am sure, will continue to be an important focus of the subcommittee.

Mr. BENNETT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. BENNETT. I ask that there now be a period of morning business with Senators speaking for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

HONORING OUR ARMED FORCES

Mr. BAYH. Mr. President, I rise today with a heavy heart and deep sense of gratitude to honor the live of a brave young man from Fort Wayne, IN. Specialist Brian H. Penisten, 28 years old, died in Al Fallujah on November 2, 2003, after the Chinook helicopter he was traveling in made a crash landing. Brian joined the Army with his entire life before him. He chose to risk everything to fight for the values Americans hold close to our hearts, in a land halfway around the world.

Brian was the seventeenth Hoosier soldier to be killed while serving his country in Operation Iraqi Freedom. Brian leaves behind his father, John Penisten, his mother, Mona, his

fiancee, Johnna Loia, and his son, Trevor. Today, I join Brian's family, his friends, and the entire Fort Wayne community in mourning his death. While we struggle to bear our sorrow over his death, we can also take pride in the example he set, bravely fighting to make the world a safer place. It is this courage and strength of character that people will remember when they think of Brian, a memory that will burn brightly during these continuing days of conflict and grief.

Before leaving to fight in Iraq, Brian Penisten told his mother that he was proud to be an American. Today, his family members him as a true American hero, and we honor the sacrifice he made while serving his country.

Brian was born on March 30, 1975. He graduated from Bishop Dwenger High School, where he was a member of the wrestling team and was undefeated through the semi-State Championship in 1993. Friends and family members remember Brian for the inner drive he demonstrated in always challenging himself to be his best at whatever task lay at hand.

After joining the Army, Brian left home to begin full-time duty at Fort Carson in Colorado. He was assigned to the 3rd Air Defense Artillery, 3rd Armored Cavalry Regiment.

As I search for words to do justice in honoring Brian's sacrifice, I am reminded of President Lincoln's remarks as he addressed the families of the fallen soldiers in Gettysburg: ''We cannot dedicate, we cannot consecrate, we cannot hallow this ground. The brave men, living and dead, who struggled here, have consecrated it, far above our poor power to add or detract. The world will little note nor long remember what we say here, but it can never forget what they did here.'' This statement is just as true today as it was nearly 150 years ago, as I am certain that the impact of Brian's actions will live on far longer than any record of these words.

It is my sad duty to enter the name of Brian H. Penisten in the official record of the United States Senate for his service to this country and for his profound commitment to freedom, democracy and peace. When I think about this just cause in which we are engaged, and the unfortunate pain that comes with the loss of our heroes, I hope that families such as Brian's can find comfort in the words of the prophet Isaiah who said, ''He will swallow up death in victory; and the Lord God will wipe away tears from off all faces.''

May God grant strength and peace to those who mourn, and may God bless the United States of America.

Mr. VOINOVICH. Mr. President, I rise today to congratulate and pay tribute to Mr. Umberto P. Fedeli of Gates Mills, OH as a 2003 Ellis Island Medal of Honor recipient.

The prestigious Ellis Island Medal of Honor award is presented annually to ''remarkable Americans who exemplify outstanding qualities in both their personal and professional lives,'' and ''who have distinguished themselves as citizens of the United States, while continuing to preserve the richness of their particular heritage.''

Umberto P. Fedeli is such an American. In addition to creating a business in Ohio and being active in numerous charitable causes, Umberto has maintained strong ties to the Italian American community. I've often said, ''show me someone who is proud of their ethnic heritage and I'll show you a great American!''

Mr. Fedeli's parents immigrated from Lascio, Italy to the same neighborhood in which I grew up—the Collinwood neighborhood of Cleveland, OH. He learned many important lessons from his father, Umberto, Sr. including a philosophy of life which is based on integrity, loyalty, civic responsibility and a strong work ethic.

In his early 20s, Mr. Fedeli formed a partnership which led to the creation of his own insurance company, The Fedeli Group which he built to one of the top 100 insurance firms in the nation. Today his company employs 85 people and provides a range of insurance products and services—property, general liability, life, health, workmen's compensation and estate planning. It provides insurance for over 3,000 businesses and, remarkably, has averaged nearly 20 percent growth per year for 20 years.

The Fedeli Group has received many industry awards and has been named several times as winner of the Weatherhead 100's fastest growing companies in northeastern Ohio.

Through the years, Mr. Fedeli has been active in Ohio politics—serving on advisory committees for my campaigns, those of Senator MIKE DEWINE and countless other state, local and national candidates.

As Governor-elect of Ohio in 1991, I appointed Umberto Fedeli to my gubernatorial transition team and after I took office, I was pleased to appoint him to the Ohio Turnpike Commission where he served as chairman for 6 years. Under his leadership, the turnpike's resources served as a catalyst for growth and economic development. In fact, as Governor, I noted that ''Umberto's leadership will be remembered as the Turnpike Commission's most energetic and accomplished era.'' I still believe that today. Umberto Fedeli was the best leader of the turnpike aside from the man who created it.

Mr. Fedeli is very involved in his community and is a friend to countless people in northeast Ohio, across the State—and throughout our Nation. He values serving others above all else, including his family, his church, his clients and his community.

He has been named Man of the Year for both the Italian-American Sports Hall of Fame and the Americans of Italian Heritage. In 1995, he was recognized by the John Carroll University Business School as one of ''Fifty of Its Finest.''

Umberto serves as chairman of the Cleveland Chapter of Legatus, an international group of Catholic CEOs for which he also serves on the International Board of Directors. He was recognized as 2002 Officer of the Year for Legatus, and became a Knight of the Holy Sepulchre of Jerusalem, administered by the Holy See, in 1998.

He received both the Grand Illusion Award for the Ohio Cancer Research Associates and the National Multiple Sclerosis Norman Cohn Hope Award for philanthropic and community service. In 2000 he was honored by the Italian Federation with its Columbian Award and 2003 Man of the Year for the Christ Child Society.

In 1995, Umberto was instrumental in the formation of the Northern Ohio Italian American Foundation, a group of prominent business people who lend philanthropic support to various groups in northeast Ohio and which he presently serves as chairman.

In 1997, the Northern Ohio Italian American Foundation established the Bishop Anthony M. Pilla Institute of Italian American Studies at John Carroll University.

Umberto is also a member of the Board of Directors of the Cleveland Clinic Foundation, the Board of Trustees at John Carroll University and trustee of the Cleveland Catholic Diocese Foundation.

Mr. Fedeli cares deeply for others and gives witness to his faith in God every day by helping people he knows well and those he has never met. He gives witness to the second great commandment, ''Love thy neighbor as thyself'' at every opportunity.

He is a role model in every sense of the word: in terms of his devotion to his family, his success in business and his contributions to his ''extended family'' in the community.

He and his wife Maryellen, whom he describes as the only girlfriend he ever had, have been married for 19 years and have five children.

Umberto Fedeli is indeed a remarkable American of the highest integrity in both his personal and professional life. He has made many outstanding contributions to the Italian American community, to his local community and to America.

I am proud to recognize my friend, Umberto P. Fedeli and congratulate him on this wonderful honor.

Mr. HAGEL. Mr. President, I rise to express my sympathy over the loss of Daniel Bader, a fellow Nebraskan and staff sergeant in the United States Army. Sergeant Bader was killed on November 2 near Fallujah, Iraq when the Chinook helicopter he was aboard was shot down. Sergeant Bader was one of 15 soldiers killed and 25 wounded en route to the United States for two weeks of leave. He was 28 years old.

Sergeant Bader served in the 3rd Armored Cavalry, Tiger Squadron, based in Fort Carson, CO. He was deployed to Iraq on April 4, 2003.

A York, NE, native, Sergeant Bader was a dedicated soldier who was committed to his family and country. He

joined the military shortly after graduating from high school and ''absolutely loved'' his career in the Army, said his wife, Tiffany. In addition to his wife, Sergeant Bader leaves behind a 14-month-old daughter, Taryn Makenzie. Our thoughts and prayers are with them both at this difficult time.

Sergeant Bader and thousands of brave American service men and women confront danger every day in Iraq. Their tremendous risks and sacrifices must never be taken fro granted. For his service, bravery, and sacrifice, I ask my colleagues to join me and all Americans in honoring SGT Daniel Bader.

TRIBUTE TO DR. PHILLIP BOARDMAN

Mr. REID. Mr. President, I rise today to congratulate Dr. Phillip Boardman on his selection as Nevada Professor of the Year by the Council for Advancement and Support of Education and the Carnegie Foundation for the Advancement of Teaching.

As someone whose life was transformed by education, I understand the importance of recognizing the work of good teachers, and I consider it an honor to speak today of Dr. Boardman's dedication to teaching and commitment to his students.

This award is a major accomplishment. The Professor of the Year Awards are the only national awards to recognize college and university professors for their teaching skills. But this is by no means the first time Dr. Boardman has been honored for his great gift as a teacher. He has previously received awards from the University of Nevada and the State of Nevada Regents.

A Professor of English and the Chair of Core Humanities at the University of Nevada, Reno, UNR, Dr. Boardman is an expert on English and Renaissance literature and has taught for three decades at UNR. Throughout his career he has taught courses on Shakespeare, C.S. Lewis, the Bible, medieval literature, linguistics, and composition.

Dr. Boardman's contributions to teaching have not been limited to the university classroom. He has also delivered scores of presentations to high school classes, senior centers and libraries. He was the executive co-producer of the The Western Tradition Lectures, a videotaped series of nine lectures by UNR instructors.

Dr. Boardman has also made substantial contributions to scholarship. Not only has he edited books and written numerous articles and reviews, he well soon complete his major 25-year project, The Arthurian Annals: The Tradition in English from the Beginnings to 2000.

Despite his strong commitment to his teaching and scholarly responsibilities, Dr. Boardman also finds time to assist his colleagues in their development as instructors. He was the author of a successful National Endowment for the Humanities Challenge Grant, matched during 1994–1998, to establish an endowment fund to support teacher stipends and faculty development at UNR. He has also written several articles on how to approach teaching medieval literature and culture.

Dr. Boardman has led a distinguished career in an important and noble profession. Please join me in congratulating him on his selection as the Nevada Professor of the Year.

LOCAL LAW ENFORCEMENT ACT OF 2003

Mr. SMITH. Mr. President, I rise today to speak about the need for hate crimes legislation. On May 1, 2003, Senator KENNEDY and I introduced the Local Law Enforcement Enhancement Act, a bill that would add new categories to current hate crimes law, sending a signal that violence of any kind is unacceptable to our society.

Gregory Beauchamp, a 21-year old gay male, was the last homicide victim of 2002 in Cincinnati, OH. On December 31, Mr. Beauchamp was headed to a nightclub to ring in the New Year with friends. At about 9 p.m. a blue Cadillac pulled up alongside them, and the four or five African American men inside started yelling anti-gay epithets, according to survivors of the attack. Shots were fired from the vehicle, killing Mr. Beauchamp. The murder was reported as a hate crime.

I believe that Government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act is a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.

THE FORD FOUNDATION AND THE DURBAN CONFERENCE

Mr. SANTORUM. Mr. President. I want to bring to the attention of my colleagues troubling reports that indicate one of America's leading philanthropic foundations has meddled in world diplomacy in a deeply disturbing way.

Let me say that I think my colleagues know very well that I have great respect for the good works done by America's non-profit sector, including philanthropic foundations. So much respect, in fact, that, as my colleagues know, I am working with some of them to get a conference committee to convene with the other body so that we can complete work on the CARE Act and provide a range of incentives that would boost contributions to charities and foundations at a time of great need.

And so it pains me that I must come to the floor today to apprise my colleagues of allegations that have been reported with regard to some of the activities of one of America's leading foundations, the Ford Foundation. The reports—published initially by the Jewish Telegraphic newswire service and picked up by many newspapers around the country and in this week's New Republic magazine—describe how the Ford Foundation gave million of dollars to dozen of Palestinian organizations that have been in the forefront of the anti—semitic and anti-Israel campaign that is ongoing around the world.

In particular, these reports describe how the Ford Foundation funded Palestinian non-governmental organizations, NGOs, that were responsible for transforming the 2001 United Nations Conference on Racism held in Durban, South Africa into a forum of virulent anti-Semitic and anti-Israel hate. According to the investigation and reports—which interviewed dozens of individuals and reviewed 9,000 pages of documents—Ford contributions financed the development of the anti-Israel strategy and its public relations strategy for dissemination.

Accroding to the reports, Ford has extended more than $35 million in grants to more than 270 Arab and Palestinian NGOs in the 2001–01 period alone, and since the 1950s, Ford has distributed nearly $200 million to Arab and Islamic NGOs in the Mideast, and many Palestinian operatives who were involved in the Durban Conference admit that ''Ford has made it possible for us to do much of our work'' and that ''Our biggest donations come, of course, from Ford.''

At least two groups identified in the news reports—the Palestinians Committee for the Protection of Human Rights and the Environment and the Palestinian NGO Network—received more than $2.5 million from Ford in the last few years and were key players in hijacking the agenda of the Durban conference.

And let me just remind my colleagues how badly the Durban conference was hijacked. It was so bad that Secretary of State Powell declared the conference to be ''a transparent attempt to delegitimize the moral argument for Israel's existence,'' and Secretary Powell withdrew our country's delegation from participation.

As The New Republic's editor in chief writes—''the Ford Foundation's . . . reckless generously is empowering foreign haters and apologists for killers.''

In fairness, the Ford Foundation has denied the charges made in these reports. Ford's vice president has said that his institution was ''shocked by the extremist rhetoric of some participants on Israeli-Palestinian issues.'' Moreover, Ford has said that it shares our government's commitment to ''ensure that grant funds are not diverted for terrorist and other purposes.''

I appreciate these statements by Ford, but I don't believe they have put this matter to rest. The news reports are too specific and well documented to be dismissed by such generalities.

Fellow senators, we are in a war against terrorism and those who hate us and those who hate Israel are very often one and the same. We, of course, are responsible for ensuring that government funds we distribute as foreign aid are serving our national security interests and those of our allies. But what I think these reports have brought to our attention is that there are other entities out there, foundations, and not just of the sort that are part of extremist communities whose clear purpose is to channel funds to the terrorists and against whom the Treasury Department is moving aggressively and indictments are being handed down but well known, respected foundations can undermine our policies and activities by making an end run and supporting those with whom we deeply disagree,

As a member of the Finance Committee, I am going to be asking Chairman GRASSLEY that the committee look into this more deeply and again review the controls we have in place for foundation activities and grant overseas.

VOLUNTEERS ARE ESSENTIAL TO VA

Mr. GRAHAM of Florida. Mr. President, the Department of Veterans Affairs, VA, has some of the most dedicated volunteers in the country, and today I would like to shine a light on those at the Gainesville VA Medical Center, VAMC, in my home State of Florida.

The Malcolm Randall VAMC in Gainesville is a tertiary care facility that specializes in an array of services including cardiology, neurosurgery, and nursing home care. With its symbiotic relationship to the University of Florida, it is also an active teaching hospital. In 2002, the hospital had 388,471 outpatient visits, and it continues to draw hundreds of volunteers. The hospital currently has over 800 registered volunteers.

The Gainesville Sun profiled some of these selfless individuals and their commitment to service at the VAMC. Included among these volunteers was an 82-year-old widow named Dorothy ''Dot'' Caldwell. The article described how every Tuesday, Dot leaves her home at 3:30 in the morning to make the 1-hour drive to the medical center and then spends 10 hours there. She makes this 100-mile round trip every week so she can repay VA for the care if gave he husband William, a World War II veteran, her father, and two of her brothers. Dot has been volunteering at the Gainesville VAMC for 21 years.

Each of us owes a debt of gratitude to those who risked their lives defending our country, and I am thankful to all of this Nation's hardworking, compassionate volunteers for helping to repay that debt. I am especially proud that such shining examples of this kind of service hail from my own State, one that is so highly populated with veterans.

I ask unanimous consent that the article from the Gainesville Sun highlighting the work of these volunteers, as well as the complete list of volunteers who work at the Gainesville VAMC be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Gainesville Sun, Sept. 25, 2003]

HOSPITAL ANGELS

(By Julie Garrett)

At a time when friends and loved ones are serving our country overseas and when cuts to veterans' benefits are taking place back home, one way we can support veterans is by taking care of those who need us here in the states.

Dorothy ''Dot'' Caldwell has given more than 20,500 hours of volunteer time to the Malcom Randall VA Medical Center in Gainesville. That's the equivalent of a full-time job for more than 10 years.

Every Tuesday morning, she rises at 2:30 a.m. (''God wakes me up. I don't need an alarm clock.'') so that she can be on the road by 3:30 a.m. to make the one-hour trip to Gainesville from her home in Old Town—a 100-mile round-trip drive. She'll volunteer 10 hours, then start home at about 2:30 p.m. She's 82.

''It's kind of special to see a vet smile at you when you come in and just pat him on the arm or hand him something,'' says Caldwell. ''That look of gratitude on their faces. They light up. They look at us as family.''

Caldwell started volunteering at the VA 21 years ago after her husband, William, a combat engineer during World War II, underwent heart surgery.

''I saw the volunteers running around and I said, 'When you get out of this hospital, we're gonna repay. We're gonna volunteer.' He said, 'Like hell I am.'''

But she prevailed, fueled by the fact that William, her father and two of her brothers were veterans who received medical care through the VA. ''So I'm trying to pay back,'' she says.

Her own health is good. William died of cancer 10 years ago after the couple were married for 53 years.

''Volunteering is keeping me young. God is rewarding me,'' she says. ''You see veterans here a lot younger than I am and they can't even feed themselves.''

The Gainesville VA had 388,471 outpatient visits in fiscal year 2002, said John Pickens, public affairs officer for the North Florida South Georgia Veteran's Health System.

And last year, more than 800 volunteers gave more than 80,000 hours at the VA Medical Center in Gainesville, says Julie Baker, chief of voluntary services.

The youngest volunteers are 13, the eldest is 88, with a 50-50 split between male and female volunteers, Baker says.

The entire VA orientation takes about three hours and consists of watching a short video and meeting with Baker.

Volunteers perform clerical duties, staff the information desk, transport patients to appointments in departments around the hospital and make hospitality visits. In the pharmacy, they open and sort mail.

Groups from organizations such as the American Legion and Veterans of Foreign Wars serve coffee and doughnuts in the outpatient clinics' reception areas.

''It's a great PR tool for us,'' says Baker. ''This is a great way for a group to volunteer together.''

During the holidays, the VA encourages people to sing Christmas carols to patients. You need to coordinate your visit through the Voluntary Services office, but Baker says it tends to be easier to set up a visit at the VA than at other hospitals.

Students planning careers in medicine can get their feet wet by volunteering at the VA. They observe in the emergency room, surgical unit and intensive care unit, take specimens to labs, answer phones and stock supplies.

Helena Chapman, a 22-year-old University of Florida graduate student in public health, began volunteering at the VA through the teen volunteer program as a 15-year-old Oak Hall student.

At first, she volunteered through the recreational therapy department, playing bingo with the veterans on Saturdays. From there, she proceeded to the ICU, where she helped with bedside stocking.

The nurses took her under their wing when they saw she was a serious, consistent and responsible volunteer. It wasn't long before she was drawn to medicine as a career choice.

On the lighter side, Chapman plays piano for the VA's nursing home patients—there's a nursing home onsite—and paints the nails of female veterans.

''I like to pamper them,'' she said. ''Everyone has a story to tell. I love 'em.''

Chapman was awarded the Disabled American Veterans' $5,000 National Commander Youth Scholarship for 2002 for her volunteering and plans to become a physician focusing on geriatric medicine. Despite the demands of graduate school, she still volunteers at least three hours a week, sometimes up to 10.

Baker says the VA's teenage volunteer program is growing in popularity as schools require community service for graduation.

In the summer, young people ages 13 to 18 can volunteer two to three full days a week, or weekdays four hours a day. The VA starts accepting applications May 1. Slots fill quickly.

Once teens volunteer for the summer, they can return on school breaks and weekends to continue volunteering, if they choose.

And finally, if you've had bus driver fantasies all your life, you can drive a van through the Disabled American Veterans Driver Program. Drivers are needed to transport veterans to appointments in Jacksonville, Ocala and Inverness. You don't need a special driver's license to do this, but they do check driving records and require a physical.

''We need more drivers. There's always a turnover,'' says Baker.

Don Myhre, a 79-year-old retired UF professor, started volunteering at the VA 11 years ago.

He and his wife travel a lot to visit family, but when he's home in Gainesville he volunteers about four hours a day at the VA.

He spent three years in the U.S. Army as an X-ray technician during World War II. The GI Bill of Rights sent him to college. He worked as a soil chemist and retired from UF as a meritorious professor in 1991.

''I'm giving back something to the government. That was a good program,'' he says.

Myhre says he likes volunteering at the VA and being around all sorts of people.

''It's fun, and you get the benefit of lots of exercise. I probably walk about 3 miles a day here. I like to be doing something constructive.''

HONORING THE LIFE OF CONGRESSMAN FRANK MCCLOSKEY

Mr. BAYH. Mr. President, I rise today to honor the life of my fellow

Hoosier, Congressman Frank McCloskey, who lost his battle with cancer on Sunday, November 2. Congressman McCloskey dedicated his life to serving his country and our home State of Indiana, setting an example of personal conviction and political courage throughout his years as a public servant.

Francis Xavier McCloskey was born on June 12, 1939 in Philadelphia. He earned both his undergraduate and law degrees at Indiana University in Bloomington, where he would later serve as mayor for three terms, following 4 years in the Air Force and a brief career as a newspaper reporter. During his time as mayor, McCloskey transformed Bloomington politics with his new style of leadership. He initiated a transit service and the first direct passageway through the center of Bloomington, and oversaw the formation of city boards and commissions dedicated to the environment, women and human rights.

In 1982, McCloskey was elected to the U.S. Congress from Indiana's 8th district. In a district known across the Nation for its tumultuous and closely contested races, McCloskey held his seat to serve as Congressman for six terms. During his time in office, Frank McCloskey became one of the first public servants to travel overseas and witness first hand the atrocities taking place in Bosnia. A man of great compassion and conviction, Frank McCloskey focused his career on ending the ethnic cleansing taking place in Bosnia during the 1990s. His dedication to the cause continued even after he left public office, until cancer forced him to cancel his plans to return to Bosnia and continue democratic reforms there.

The sense of loss to all those who knew Congressman Frank McCloskey is tremendous. His work in Bloomington and later in Washington inspired a generation of Hoosiers to answer the call to public service. Many of Indian's current political leaders owe their start to the example set by McCloskey, and their continued works will serve as a lasting legacy to a man who dedicated his life to serving others. He is survived by his wife, Roberta Ann Barker, and their two children, Helen and Mark.

It is my honor to enter the name of Congressman Frank McCloskey into the CONGRESSIONAL RECORD.

ADDITIONAL STATEMENTS

HONORING MRS. CAROL KANAREK

● Mr. GRAHAM of Florida. Mr. President, every November organizations throughout America recognize the spirit of community service with National Philanthropy Day.

This November, I would like to take the opportunity to congratulate an outstanding Floridian, Mrs. Carol Kanarek of Vero Beach, who is receiving the 2003 National Philanthropy Day Unsung Hero Award from the Treasure Coast Chapter of the Association of Fundraising Professionals.

The Unsung Hero Award is given to an individual who has been an exceptional volunteer. Carol Kanarek certainly fits this description.

Carol Kanarek is a valued member of the Vero Beach community for her leadership, commitment, and extensive knowledge and experience. She is known as a coalition builder—someone who brings people and resources together to further the goals of the organizations for whom she volunteers. She has a true love of people, and a compassion for all causes.

For more than 20 years, Mrs. Kanarek has volunteered her time and energy to numerous organizations in her community including health care organizations, religious organizations, schools, and charities. For example, Mrs. Kanarek has worked with the Riverside Children's Theatre, the March of Dimes, the United Way, the Visiting Nurses Association Hospice House, St. Edwards School, and the Temple Beth Shalom. This list is by no means exhaustive.

No project is too big or too small for Mrs. Kanarek. From chairing the Rabbi Selection committee at Temple Beth Shalom to working the concession stand at a Riverside Children's Theatre event, she always makes time. When working on committees, Mr. Kanarek is known as a consensus builder, always considering the concerns of others when developing a solution. Her gracious manner and gentle persistence have made Mrs. Kanarek a valuable asset to the many organizations of which she is a member. Mrs. Kanarek's patience and tireless enthusiasm for community service distinguish her as a woman who places others before herself.

Mr. President, philanthropy is one of defining characteristics of American society. Service for the benefit of others and commitment to something greater than personal reward strengthen our communities and neighborhoods, bringing us together and improving our quality of life.

I commend Carol Kanarek for her commitment to community service, volunteerism, and philanthropy. I am pleased that outstanding Floridians like Mrs. Kanarek are setting an example for communities across our nation, and I want to thank her for her service.●

THE EXPLORING FREE ENTERPRISE PROGRAM

● Mr. NELSON of Nebraska. Mr. President, over the past few years the U.S. Senate has acted to stimulate the American economy. This spring we passed an economic stimulus package to provide meaningful tax relief for businesses and assistance for unemployed workers to soften the blow of difficult economic times. We have also worked to approve trade agreements that ensure a free and fair trade market for U.S. businesses.

As we work on these measures to improve our economy today, it is equally important to ensure that America's economy remains strong for the next generation as well.

I recently joined with Chadron State College to establish the Exploring Free Enterprise program. This program will focus on teaching students in elementary, middle and high school the principles of market economics, entrepreneurship, personal financial success and business ethics.

Entrepreneurship is a particularly important skill in Nebraska. A revitalized rural economy requires individuals who are able to seize upon openings in the marketplace and expand employment opportunities.

Business ethics is another area of great importance. I am proud to be a part of a program that will teach our future leaders that being honest is even more important than making money.

In 2002 I was honored to receive the U.S. Chamber of Commerce Spirit of Enterprise award. The Exploring Free Enterprise program seeks to spread that spirit of enterprise to a new generation of young business leaders and entrepreneurs. It is their entrepreneurial spirit that will drive America's economic engine in a competitive world economy.

I would like to thank Chadron State College for the opportunity to participate in this program and especially Dr. Rick Koza, the director of the program, and Dr. Tom Krepel, president Chadron State College, for their leadership.

Together, our investment in education recognizes that while children may only be 20 percent of our population, that they are 100 percent of our future.●

ELLIS ISLAND MEDAL OF HONOR RECIPIENT MONTE AHUJA

● Mr. VOINOVICH. Mr. President, I rise today to congratulate and pay tribute to Mr. Monte Ahuja of Hunting Valley, OH as an Ellis Island Medal of Honor recipient.

The prestigious Ellis Island Medal of Honor award is presented annually to ''remarkable Americans who exemplify outstanding qualities in both their personal and professional lives,'' and ''who have distinguished themselves as citizens of the United States, while continuing to preserve the richness of their particular heritage.'' Monte Ahuja was selected to receive this honor in 2001.

Mr. Ahuja is a distinguished American who immigrated to the United States from India in 1969. He received a bachelor of science degree in mechanical engineering in India and pursued his graduate education at Ohio State University where he received his masters degree in mechanical engineering. He moved to Cleveland, OH in 1972 and received his masters in business administration at Cleveland State University in 1975 while working full time.

While pursuing his MBA, Mr. Ahuja began to dream about creating a global parts distribution network solely dedicated to providing transmission rebuilders the highest quality products and services. He pursued his dream by undertaking considerable research and hard work developing his idea, and he established Transtar Industries, Inc. in 1975.

Over the past 28 years, Transtar Industries has grown from a two-person, one-location operation to a company with over 25 locations nationwide and over 500 dedicated employees that services the automotive transmission aftermarket in over 60 countries.

Transtar Industries, Inc. is headquartered in Cleveland, OH and distributes the world's largest and most comprehensive line of automotive transmission replacement parts and kits. The company's products are the result of proactive product research and development. Transtar also has outstanding business systems. Its sales forecasting system is state-of-the art and its level of customer service consistently exceeds 95 percent. All of Transtar's distribution centers are electronically linked, which makes it possible for Transtar to ship virtually every order the same day.

Mr. Ahuja has provided outstanding leadership at Transtar Industries and he has received numerous awards for his achievements, including the Arthur Anderson 2000 Leadership Award, the Inside Business NEO Success Award and the Association of Corporate Growth Deal Makers Award.

As Governor of Ohio, I was proud to recognize Mr. Ahuja on two occasions as recipient of the ''E'' Award for Excellence in Export.

In 2002, Mr. Ahuja was chosen the World Trade Center Cleveland International Executive of the Year.

Monte Ahuja is also extremely involved in the community and he demonstrates generously his philosophy of contributing to the community that has given him so much.

He has a passion for education which is demonstrated by his years of commitment to his alma mater where he began to envision and create his company. At Cleveland State University, he has served as director of the Cleveland State University Foundation and he has established the Ahuja Endowed Scholarship Fund in business administration and engineering.

He also established the Distinguished Scholar in Comparative Indian and Western Philosophy—which is so important today as we strive to appreciate the richness of this country's cultural diversity.

I was so impressed with Monte's devotion to education that when I was governor of Ohio I appointed him to Cleveland State's Board of Trustees in 1991. From 1992 to 1998, he served with distinction as chairman of the Board of Trustees.

He also served as chairman of the Cleveland State University Task Force, part of a statewide project I initiated as governor of Ohio, the ''Ohio Task Force for Managing Future Higher Education in the State of Ohio'' to challenge the universities to conduct private sector management audits to work harder and smarter and do more with less. Under Monte Ahuja's leadership, Cleveland State University's audit was one of the best in the State and saved the University $8.5 million a year.

Monte Ahuja's commitment to education is relentless and he has dedicated himself to the advancement of quality education at Cleveland State and in Ohio.

He is the embodiment of the achievements that a quality education can help facilitate. In 1990, Mr. Ahuja was named one of Cleveland State University's 25 most distinguished alumni. In 1999, he received Harvard University Business School's Dively Award and that same year his alma mater recognized him again by naming the Business School building at Cleveland State University Monte Ahuja Hall.

Mr. Ahuja has served on the boards of many civic, business and philanthropic organizations, including the Greater Cleveland Roundtable, The National Conference, World Trade Center Advisory Council, and Ohio Export Promotion and Trade Council.

Currently, Mr. Ahuja serves on the boards of the Cleveland Cuyahoga County Port Authority, University Hospitals of Cleveland, Greater Cleveland Growth Association, United Way, WVIZ/PBS, Enterprise Development, Inc., and the Cleveland Council on World Affairs.

In addition to his significant contributions to the community, Monte has a wonderful sense of family. He is a loving husband to Usha, his wife of 30 years, a tremendous father to his two daughters and a caring son.

Monte Ahuja is a remarkable American and someone I am privileged to call friend. He has the highest integrity in both his personal and professional life and he has made many outstanding contributions to the Asian Indian community, to his local community in Cleveland, OH and to American society.

I am proud to recognize my friend Monte Ahuja and congratulate him on this wonderful honor.●

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Ms. Evans, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations and a treaty which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 3:01 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 506. An act to provide for the protection of archaeological sites in the Galisteo Basin in New Mexico, and for other purposes.

H.R. 982. An act to clarify the tax treatment of bonds and other obligations issued by the Government of American Samoa.

H.R. 2438. An act to designate the facility of the United States Postal Service located at 115 West Pine Street in Hattiesburg, Mississippi, as the ''Major Henry A. Commiskey, Sr. Post Office Building''.

H.R. 2766. An act to direct the Secretary of Agriculture to exchange certain lands in the Arapaho and Roosevelt National Forests in the State of Colorado.

H.R. 3029. An act to designate the facility of the United States Postal Service located at 255 North Main Street in Jonesboro, Georgia, as the ''S. Truett Cathy Post Office Building''.

H.R. 3118. An act to designate the Orville Wright Federal Building and the Wilbur Wright Federal Building in Washington, District of Columbia.

H.R. 3166. An act to designate the facility of the United States Postal Service located at 57 Old Tappan Road in Tappan, New York, as the ''John G. Dow Post Office Building''.

The message also announced that the House has agreed to the following concurrent resolutions, in which it requests the concurrence of the Senate:

H. Con. Res. 94. Concurrent resolution expressing the sense of the Congress that community inclusion and enhanced lives for individuals with mental retardation or other developmental disabilities is at serious risk because of the crisis in recruiting and retaining direct support professionals, which impedes the availability of a stable, quality direct support workforce.

H. Con. Res. 176. Concurrent resolution supporting the goals and ideals of Financial Planning Week, recognizing the significant impact of sound financial planning on achieving life's goals, and honoring American families and the financial planning profession for their adherence and dedication to the financial planning process.

H. Con. Res. 237. Concurrent resolution honoring the late Rick Lupe, lead forestry technician for the Bureau of Indian Affairs Fort Apache Agency, for his dedication and service to the United States and for his essential service in fighting wildfires and protecting the environment and communities of Arizona.

H. Con. Res. 262. Concurrent resolution expressing the sense of the Congress in support of the National Anthem ''SingAmerica'' project.

H. Con. Res. 280. Concurrent resolution recognizing the National Stone, Sand & Gravel Association for reaching its 100th Anniversary, and for the many vital contributions of its members to the Nation's economy and to improving the quality of life through the constantly expanding roles stone, sand, and gravel serve in Nation's everyday life.

The message further announced that the House has disagreed to the amendment of the Senate to the bill (H.R. 2800) making appropriations for foreign operations, export financing, and relaed programs for the fiscal year ending September 30, 2004, and for other purposes, and asks for a conference

with the Senate on the disagreeing votes of the two Houses thereon; and appoints the following members as the managers of the conference on the part of the House: Mr. KOLBE, Mr. KNOLLENBERG, Mr. LEWIS of California, Mr. WICKER, Mr. BONILLA, Mr. VITTER, Mr. KIRK, Mr. CRENSHAW, Mr. YOUNG of Florida, Mrs. LOWEY, Mr. JACKSON of Illinois, Ms. KILPATRICK, Mr. ROTHMAN, Ms. KAPTUR, and Mr. OBEY.

The message also announced that the House has passed the following bill, without amendment:

S. 677. An act to revise the boundary of the Black Canyon of the Gunnison National Park and Gunnison Gorge National Conservation Area in the State of Colorado, and for other purposes.

S. 924. An act to authorize the exchange of lands between an Alaska Native Village Corporation and the Department of the Interior, and for other purposes.

The message further announced that the House has passed the following bill, with an amendment:

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

At 6:26 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has passed the following joint resolution, in which it requests the concurrence of the Senate:

H.J. Res. 76. Joint resolution making further continuing appropriations for the fiscal year 2004, and for other purposes.

The message also announced that the House has agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2559) making appropriations for military construction, family housing, and base realignment and closure for the Department of Defense for the fiscal year ending September 30, 2004, and for other purposes.

MEASURES REFERRED

The following bills were read the first and the second times by unanimous consent, and referred as indicated:

H.R. 982. An act to clarify the tax treatment of bonds and other obligations issued by the Government of American Samoa; to the Committee on Finance.

H.R. 2438. An act to designate the facility of the United States Postal Service located at 115 West Pine Street in Hattiesburg, Mississippi, as the ''Major Henry A. Commiskey, Sr. Post Office Building''; to the Committee on Governmental Affairs.

H.R. 2766. An act to direct the Secretary of Agriculture to exchange certain lands in the Arapaho and Roosevelt National Forests in the State of Colorado; to the Committee on Energy and Natural Resources.

H.R. 3029. An act to designate the facility of the United States Postal Service located at 255 North Main Street in Jonesboro, Georgia, as the ''S. Truett Cathy Post Office Building''; to the Committee on Governmental Affairs.

H.R. 3118. An act to designate the Orville Wright Federal Building and the Wilbur Wright Federal Building in Washington, District of Columbia; to the Committee on Environment and Public Works.

The following concurrent resolutions were read, and referred as indicated:

H. Con. Res. 94. Concurrent resolution expressing the sense of the Congress that community inclusion and enhanced lives for individuals with mental retardation or other developmental disabilities is at serious risk because of the crisis in recruiting and retaining direct support professionals, which impedes the availability of a stable, quality direct support workforce; to the Committee on Health, Education, Labor, and Pensions.

H. Con. Res. 176. Concurrent resolution supporting the goals and ideals of Financial Planning Week, recognizing the significant impact of sound financial planning on achieving life's goals, and honoring American families and the financial planning profession for their adherence and dedication to the financial planning process; to the Committee on Banking, Housing, and Urban Affairs.

H. Con. Res. 237. Concurrent resolution honoring the late Rick Lupe, lead forestry technician for the Bureau of Indian Affairs Fort Apache Agency, for his dedication and service to the United States and for his essential service in fighting wildfires and protecting the environment and communities of Arizona; to the Committee on Indian Affairs.

H. Con. Res. 262. Concurrent resolution expressing the sense of the Congress in support of the National Anthem ''SingAmerica'' project; to the Committee on the Judiciary.

H. Con. Res. 280. Concurrent resolution recognizing the National Stone, Sand & Gravel Association for reaching its 100th Anniversary, and for the many vital contributions of its members to the Nation's economy and to improving the quality of life through the constantly expanding roles stone, sand, and gravel serve in the Nation's everyday life; to the Committee on the Judiciary.

MEASURES PLACED ON THE CALENDAR

The following bills were read the first and second times by unanimous consent, and placed on the calendar:

H.R. 506. An act to provide for the protection of archaeological sites in the Galisteo Basin in New Mexico, and for other purposes.

H.R. 3166. An act to designate the facility of the United States Postal Service located at 57 Old Tappan Road in Tappan, New York, as the ''John G. Dow Post Office Building''.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC–5034. A communication from the Secretary of Homeland Security, transmitting, the 5-year business plan for the Coast Guard Yard as directed by the Department of Transportation and Related Agencies Appropriations Bill 2002; to the Committee on Commerce, Science, and Transportation.

EC–5035. A communication from the Secretary of Homeland Security, transmitting, pursuant to law, a report relative to the use of the Coast Guard Housing Authorities; to the Committee on Commerce, Science, and Transportation.

EC–5036. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, transmitting, pursuant to law, the report of a rule entitled ''Prohibition of Directed Fishing for Pollock in Statistical Area 630 of the Gulf of Alaska'' received on October 30, 2003; to the Committee on Commerce, Science, and Transportation.

EC–5037. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the Northeastern United States; Atlantic Mackerel, Squid, and Butterfish Fisheries; Closure'' (ID090503B) received on October 30, 2003; to the Committee on Commerce, Science, and Transportation.

EC–5038. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, transmitting, pursuant to law, the report of a rule entitled ''Closure of Directed Fishing for Atka Mackerel in the Western Aleutian District of the Bering Sea and Aleutian Islands Management Area'' received on October 30, 2003; to the Committee on Commerce, Science, and Transportation.

EC–5039. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, transmitting, pursuant to law, the report of a rule entitled ''Closure; Prohibition of Directed Fishing for Pacific Cod in the Central Gulf Offshore in the Gulf of Alaska'' received on October 30, 2003; to the Committee on Commerce, Science, and Transportation.

EC–5040. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, transmitting, pursuant to law, the report of a rule entitled ''Prohibition of Directed Fishing for Pollock in Statistical Area 610 of the Gulf of Alaska'' received on October 30, 2003; to the Committee on Commerce, Science, and Transportation.

EC–5041. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, transmitting, pursuant to law, the report of a rule entitled ''Atlantic Highly Migratory Species; Atlantic Bluefin Tuna Retention Limit Adjustment'' (ID092403C) received on October 30, 2003; to the Committee on Commerce, Science, and Transportation.

EC–5042. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, transmitting, pursuant to law, the report of a rule entitled ''Reopening Directed Fishing for Pacific Cod by Vessels Catching Pacific Cod for Processing by the Offshore Component in the Central Regulatory Area of the Gulf of Alaska for 48 Hours'' received on October 30, 2003; to the Committee on Commerce, Science, and Transportation.

EC–5043. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, transmitting, pursuant to law, the report of a rule entitled ''Reopening Directed Fishing for Pollock in Statistical Area 630 of the Gulf of Alaska'' received on October 30, 2003; to the Committee on Commerce, Science, and Transportation.

EC–5044. A communication from the Deputy Assistant Administrator for Regulatory Programs, Office of Sustainable Fisheries, National Marine Fisheries Service, transmitting, pursuant to law, the report of a rule entitled ''Magnuson Act Provisions; Fisheries Off West Coast States and in the Western Pacific; Pacific Coast Groundfish Fishery; Annual Specification Groundfish Fishery Management Measures; Emergency Rule; Corrections'' (RIN0648–AR47) received on October 30, 2003; to the Committee on Commerce, Science, and Transportation.

EC–5045. A communication from the Deputy Assistant Administrator for Regulatory Programs, Office of Sustainable Fisheries, National Marine Fisheries Service, transmitting, pursuant to law, the report of a rule entitled ''Fisheries off West Coast States and

in the Western Pacific; Coastal Pelagic Species Fisheries; Annual Specifications; Pacific Mackerel Fishery'' (RIN0648–AP43) received on October 30, 2003; to the Committee on Commerce, Science, and Transportation.

EC–5046. A communication from the Deputy Assistant Administrator for Regulatory Programs, Office of Sustainable Fisheries, National Marine Fisheries Service, transmitting, pursuant to law, the report of a rule entitled ''Weakfish Fishery; increases the incidental catch allowance for weakfish caught in the Exclusive Economic Zone (EEZ) from 150 lb to no more than 300 lb per day or trip, whichever is longer in duration, and removes Connecticut from the list of states where commercially caught weakfish from the EEZ can be landed'' (RIN0648–AR11) received on October 30, 2003; to the Committee on Commerce, Science, and Transportation.

EC–5047. A communication from the Deputy Assistant Administrator for Regulatory Programs, Office of Sustainable Fisheries, National Marine Fisheries Service, transmitting, pursuant to law, the report of a rule entitled ''Final Rule to Implement a Fishery Management Plan for Pelagic Sargassum Habitat of the South Atlantic Region'' (RIN0648–AN87) received on October 30, 2003; to the Committee on Commerce, Science, and Transportation.

EC–5048. A communication from the Assistant Administrator, Office of Sustainable Fisheries, National Marine Fisheries Service, transmitting, pursuant to law, the report of a rule entitled ''Atlantic Highly Migratory Species; Atlantic Bluefin Tuna Quota Specifications, General Category Effort Controls and Permit Revisions'' (RIN0648–AQ38) received on October 30, 2003; to the Committee on Commerce, Science, and Transportation.

EC–5049. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Boeing Model 727-200 Series Airplanes'' (RIN2120-AA64) received on October 29, 2003; to the Committee on Commerce, Science, and Transportation.

EC–5050. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Pratt and Whitney PW40000 Series Turbofan Engines Correction'' (RIN2120–AA64) received on October 29, 2003; to the Committee on Commerce, Science, and Transportation.

EC–5051. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: McDonnell Douglas Model DC–8–11, -12, -21, 31, -32, -33, -41, -42, -43, -50, -54, -F55, -60, -70, and -70F Series Airplaines'' (RIN2120-AA64) received on October 29, 2003; to the Committee on Commerce, Science, and Transportation.

EC–5052. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: PILATUS Aircraft Ltd. Model PC–7 Airplanes'' (RIN2120-AA64) received on October 29, 2003; to the Committee on Commerce, Science, and Transportation.

EC–5053. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Pratt and Whitney Canada Models PW 118 , PW120, PW120A, PW121 Turboprop Engines'' (RIN2120–AA64) received on October 29, 2003; to the Committee on Commerce, Science, and Transportation.

EC–5054. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Boeing Model 737–400, 500, 600, 700, and 800 Series Airplanes'' (RIN2120–AA64) received on October 29, 2003; to the Committee on Commerce, Science, and Transportation.

EC–5055. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Bombardier Model C1–600–2B19 (Regional Jet Series 100 & 400) Airplanes'' (RIN2120–AA64) received on October 29, 2003; to the Committee on Commerce, Science, and Transportation.

EC–5056. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Saab Model SAAB 2000 Series Airplanes'' (RIN2120–AA64) received on October 29, 2003; to the Committee on Commerce, Science, and Transportation.

EC–5057. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Boeing Model 747SP, 747SR, 747-100, 200, and 300 Series Airplanes; Equipped with Pratt and Whitney Model JT9D–3, -7, and 7Q Series Engines and Model Jt9D–7R4G2 Engines'' (RIN2120–AA64) received on October 29, 2003; to the Committee on Commerce, Science, and Transportation.

EC–5058. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Eurocopter France Model AS 350B3, SA–365N, Ni, AS–365N2, AS365N3, and EC155B Helicopters'' (RIN2120–AA64) received on October 29, 2003; to the Committee on Commerce, Science, and Transportation.

EC–5059. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: General Electric Company CF6–6 Series Turbofan Engines'' (RIN2120–AA64) received on October 29, 2003; to the Committee on Commerce, Science, and Transportation.

EC–5060. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Eurocopter Deutchland GmbH Model EC135 , P1, P2, T1, and T2 Helicopters'' (RIN2120–AA64) received on October 29, 2003; to the Committee on Commerce, Science, and Transportation.

EC–5061. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Dirnier Model 328–300 Series Airplanes Equipped with Certain Pratt and Whitney PW306B Engines Nacelles'' (RIN2120–AA64) received on October 29, 2003; to the Committee on Commerce, Science, and Transportation.

EC–5062. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: General Electric Company CF34–3A1, -3B , and 3B1 Turbofan Engines'' (RIN2120–AA64) received on October 29, 2003; to the Committee on Commerce, Science, and Transportation.

EC–5063. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Univair Aircraft Corporation Models Alon A2–A and A2–A; ERCO 415–C, 415CD, 415D, 415E, and 415G; Forney f–1, and F–1A, and Mooney M10 Airplanes'' (RIN2120–AA64) received on October 29, 2003; to the Committee on Commerce, Science, and Transportation.

EC–5064. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Raytheon Aircraft Company 90, 100, and 200 Airplanes'' (RIN2120–AA64) received on October 29, 2003; to the Committee on Commerce, Science, and Transportation.

EC–5065. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Empresa Brasileira de Aeronautica S.A. (EMBRAER) Moedl EMB–135 and 145 Series Airplanes'' (RIN2120–AA64) received on October 29, 2003; to the Committee on Commerce, Science, and Transportation.

EC–5066. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Modification of Class E Airspace: Beatrice, NE; Doc. No. 03–ACE–59'' (RIN2120–AA66) received on October 29, 2003; to the Committee on Commerce, Science, and Transportation.

EC–5067. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Modification of Class E Airspace: Cedar Rapids, IA; Doc. No. 4–ACE–42'' (RIN2120–AA66) received on October 29, 2003; to the Committee on Commerce, Science, and Transportation.

EC–5068. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Modification of Class E Airspace: Seaward, NE; Doc. No. 03–ACE–61'' (RIN2120–AA66) received on October 29, 2003; to the Committee on Commerce, Science, and Transportation.

EC–5069. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Modification of Class E Airspace: Wayne, NE; Doc. No. 03–ACE–60'' (RIN2120–AA66) received on October 29, 2003; to the Committee on Commerce, Science, and Transportation.

EC–5070. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Modification of Class E Airspace: Cedar Rapids, IA; Doc. No. 03–ACE–42'' (RIN2120–AA66) received on October 29, 2003; to the Committee on Commerce, Science, and Transportation.

EC–5071. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Modification of Class E Airspace: Fort Leonard Wood, MO; Doc. No. 03–ACE–27'' (RIN2120–AA66) received on October 29, 2003; to the Committee on Commerce, Science, and Transportation.

EC–5072. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Modification of Class E Airspace: Centerville, IA; Doc. No. 03–ACE–66'' (RIN2120–AA66) received on October 29, 2003; to the Committee on Commerce, Science, and Transportation.

EC–5073. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Modification of Class E Airspace: Meade, KS; Doc. No. 03–ACE–65'' (RIN2120–AA66) received on October 29, 2003; to the Committee on Commerce, Science, and Transportation.

EC–5074. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Modification of Class E Airspace: Seward, NE; Doc. No. 03–ACE–61'' (RIN2120–AA66) received on October 29, 2003; to the Committee on Commerce, Science, and Transportation.

EC–5075. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Modification of Class E Airspace: Sullivan, MO; Doc. No. 03–ACE–63'' (RIN2120–AA66) received on October 29, 2003; to the Committee on Commerce, Science, and Transportation.

EC–5076. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Modification of Class E Airspace: Aurora, MO; Correction Doc. No. 03–ACE–58'' (RIN2120–AA66) received on October 29, 2003; to the Committee on Commerce, Science, and Transportation.

EC–5077. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Modification of Class E Airspace: Lee's Summit, MO; Doc. No. 03–ACE–64'' (RIN2120–AA66) received on October 29, 2003; to the Committee on Commerce, Science, and Transportation.

EC–5078. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Establishment of Class E Airspace: Iguigig, AK; Doc. No. 03–AAL–06'' (RIN2120–AA66) received on October 29, 2003; to the Committee on Commerce, Science, and Transportation.

EC–5079. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Establishment of Class E Airspace: Nelson Lagoon, AK; Doc. No. 03–AAL–5'' (RIN2120–AA66) received on October 29, 2003; to the Committee on Commerce, Science, and Transportation.

EC–5080. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Establishment of Class E Airspace: Pilot Point, AK; Doc. No. 03–AAL–4'' (RIN2120–AA66) received on October 29, 2003; to the Committee on Commerce, Science, and Transportation.

EC–5081. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Standard Instrument Approach Procedures; Miscellaneous Amendments'' (RIN2120–AA65) received on October 29, 2003; to the Committee on Commerce, Science, and Transportation.

EC–5082. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Revision of the VOR Federal Airways in the Vicinity of Tuscaloosa, AL Doc. No. 02–ASO–24'' (RIN2120–AA66) received on October 29, 2003; to the Committee on Commerce, Science, and Transportation.

EC–5083. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airspace Designations; Incorporation By Reference Doc. No. 29334'' (RIN2120–ZZ60) received on October 29, 2003; to the Committee on Commerce, Science, and Transportation.

EC–5084. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Revision of Jet Routes, Baton Rouge, LA Doc. No. 02–ASW–4'' (RIN2120–AA65) received on October 29, 2003; to the Committee on Commerce, Science, and Transportation.

EC–5085. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Minor Revision of the Legal Description of VOR Federal Airway V–167 in the Vicinity of Hyannis, MA Doc. No. 03–ANE–102'' (RIN2120–AA66) received on October 29, 2003; to the Committee on Commerce, Science, and Transportation.

EC–5086. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Standard Instrument Approach Procedures; Miscellaneous Amendments (77) Amendment No. 3067'' (RIN2120–AA65) received on October 29, 2003; to the Committee on Commerce, Science, and Transportation.

EC–5087. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Standard Instrument Procedures; Miscellaneous Amendments (40) Amendment No. 3068'' (RIN2120–AA65) received on October 29, 2003; to the Committee on Commerce, Science, and Transportation.

EC–5088. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Standard Instrument Approach Procedures; Miscellaneous Amendments (26) Amendment No. 3074'' (RIN2120–AA65) received on October 29, 2003; to the Committee on Commerce, Science, and Transportation.

EC–5089. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Standard Instrument Approach Procedures; Miscellaneous Amendments No. 2058'' (RIN2120–AA65) received on October 29, 2003; to the Committee on Commerce, Science, and Transportation.

EC–5090. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Electronic Options for Transmitting Certain Information Collection Responses to MARAD'' (RIN2120–AB56) received on October 29, 2003; to the Committee on Commerce, Science, and Transportation.

EC–5091. A communication from the Assistant Administrator for Procurement, National Aeronautics and Space Administration, transmitting, pursuant to law, a rule entitled ''Interagency Acquisition Approvals'' (RIN2700–AC78) received on October 30, 2003; to the Committee on Commerce, Science, and Transportation.

EC–5092. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, transmitting, pursuant to law, the report of a rule entitled ''Prohibition of Directed Fishing for Pollock in Statistical Area 620 of the Gulf of Alaska'' received on October 30, 2003; to the Committee on Commerce, Science, and Transportation.

EC–5093. A communication from the Secretaries of Energy and Agriculture, transmitting, pursuant to law, a report relative to the Biomass Research and Development Initiative; to the Committee on Agriculture, Nutrition, and Forestry.

EC–5094. A communication from the Chairman, Farm Credit System Insurance Corporation, transmitting, pursuant to law, the Corporation's Strategic Plan for Fiscal Years 2004 through 2008; to the Committee on Agriculture, Nutrition, and Forestry.

EC–5095. A communication from the Under Secretary, Food, Nutrition, and Consumer Services, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Food Stamp Program: Non Discretionary Quality Control Previsions of Title IV of Public Law 107–171'' (RIN0584–AD31) received on October 30, 2003; to the Committee on Agriculture, Nutrition, and Forestry.

EC–5096. A communication from the Staff Director, Office of Regulatory and Management Services, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''National Forest System Land and Resource Management Planning; Extension of Compliance Deadline or Site–Specific Projects'' (RIN0596–AC02) received on October 30, 2003; to the Committee on Agriculture, Nutrition, and Forestry.

EC–5097. A communication from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, transmitting, pursuant to law, the report of a rule entitled ''Mexican Fruit Fly; Removal of Regulated Areas'' (Doc. No. 02–129–4) received on October 29, 2003; to the Committee on Agriculture, Nutrition, and Forestry.

EC–5098. A communication from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, transmitting, pursuant to law, the report of a rule entitled ''Veterinary Services User Fees; Fee for Use of Animal Ramp at Miami International Airport'' (Doc. No. 02–041–2) received on October 29, 2003; to the Committee on Agriculture, Nutrition, and Forestry.

EC–5099. A communication from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, transmitting, pursuant to law, the report of a rule entitled ''Interstate Movement of Swine Within a Production System; Inspection of Swine'' (Doc. No. 02–069–2) received on October 29, 2003; to the Committee on Agriculture, Nutrition, and Forestry.

EC–5100. A communication from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, transmitting, pursuant to law, the report of a rule entitled ''Agricultural Bioterrorism Act of 2002; Possession, Use, and Transfer of Biological Agents and Toxins'' (Doc. No. 02–088–3) received on October 29, 2003; to the Committee on Agriculture, Nutrition, and Forestry.

EC–5101. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Imidacloprid; Pesticide Tolerances for Emergency Exemptions'' (FRL#7330–4) received on October 30, 2003; to the Committee on Agriculture, Nutrition, and Forestry.

EC–5102. A communication from the Administrator, Fruit and Vegetable Programs, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Changes in Fees for Federal Fruits and Vegetables, Processed'' (Doc. No. FV–03–333) received on November 3, 2003; to the Committee on Agriculture, Nutrition, and Forestry.

EC–5103. A communication from the Administrator, Transportation and Marketing Programs, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''National Organic Program; Amendments to the National List of Allowed and Prohibited Substances'' (RIN0581–AC19) received on November 3, 2003; to the Committee on Agriculture, Nutrition, and Forestry.

EC–5104. A communication from the Administrator, Fruit and Vegetable Programs, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Fresh Bartlett Pears Grown in Oregon and Washington; Increased Assessment Rate'' (Doc. No. FV–03–931–1 FR) received on November 3, 2003; to the Committee on Agriculture, Nutrition, and Forestry.

EC–5105. A communication from the Assistant Director, Executive and Political Personnel, transmitting, pursuant to law, the report of a nomination rejected, withdrawn, and returned, for the position of Assistant Secretary of Defense for Special Ops/Low Intensity Conflict, Department of Defense, received on October 30, 2003; to the Committee on Armed Services.

EC–5106. A communication from the Under Secretary of Defense for Acquisition, Technology, and Logistics, Department of Defense , transmitting, pursuant to law, a letter notifying Congress of the intent to obligate funds for one new Fiscal Year 202 out-of-cycle Foreign Comparative Testing project; to the Committee on Armed Services.

EC–5107. A communication from the Acting Under Secretary of Defense for Acquisition, Technology, and Logistics, Department of Defense, transmitting, a report relative to a request in Senate Report 107–151 requesting a study concerning the feasibility of hybrid vehicles in the defense fleet; to the Committee on Armed Services.

EC–5108. A communication from the Assistant General Counsel for Regulations, Office of Community Planning and Development, Department of Housing and Urban Development, transmitting, pursuant to law, the report of a rule entitled ''Designation of Round III Urban Empowerment Zones and Renewal Communities'' (RIN2506–AC09) received on October 30, 2003; to the Committee on Banking, Housing, and Urban Affairs.

EC–5109. A communication from the Assistant General Counsel for Regulations, Office of Community Planning and Development, Department of Housing and Urban Development, transmitting, pursuant to law, the report of a rule entitled ''Participation in HUD Programs by Faith-Based Organizations; Providing for Equal Treatment of all HUD Program Participants'' (RIN2501–AC89) received on October 30, 2003; to the Committee on Banking, Housing, and Urban Affairs.

EC–5110. A communication from the Assistant General Counsel for Regulations, Office of Community Planning and Development, Department of Housing and Urban Development, transmitting, pursuant to law, the report of a rule entitled ''Housing Choice Voucher Program Homeownership Option: Eligibility of Units Owned or Controlled by a Public Housing Agency; Correction'' (RIN2577–AC39) received on October 30, 2003; to the Committee on Banking, Housing, and Urban Affairs.

EC–5111. A communication from the Secretary of the Treasury, transmitting, pursuant to law, a six month periodic report on the national emergency with respect to Iran that was declared in Executive Order 12170; to the Committee on Banking, Housing, and Urban Affairs.

EC–5112. A communication from the Acting General Counsel, Federal Emergency Management Agency, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Final Flood Elevation Determinations'' (44 CFR Part 67) received on October 30, 2003; to the Committee on Banking, Housing, and Urban Affairs.

EC–5113. A communication from the Acting General Counsel, Federal Emergency Management Agency, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Changes in Flood Elevation Determinations'' (44 CFR Part 65) received on October 30, 2003; to the Committee on Banking, Housing, and Urban Affairs.

EC–5114. A communication from the Acting General Counsel, Federal Emergency Management Agency, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Final Flood Elevation Determinations'' (44 CFR Part 67) received on October 30, 2003; to the Committee on Banking, Housing, and Urban Affairs.

EC–5115. A communication from the Acting General Counsel, Federal Emergency Management Agency, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Changes in Flood Elevation Determinations'' (44 CFR Part 67) received on October 30, 2003; to the Committee on Banking, Housing, and Urban Affairs.

EC–5116. A communication from the Executive Director, Neighborhood Reinvestment Corporation, transmitting, the Corporation's Five-Year Strategic/Operational Plan; to the Committee on Banking, Housing, and Urban Affairs.

EC–5117. A communication from the Director, Office of Surface Mining, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled ''Texas Regulatory Program'' (TX–50–FOR) received on October 31, 2003; to the Committee on Energy and Natural Resources.

EC–5118. A communication from the Director, Office of Surface Mining, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled ''Wyoming Regulatory Program'' (WY–031–FOR) received on October 31, 2003; to the Committee on Energy and Natural Resources.

EC–5119. A communication from the Assistant Secretary, Fish, Wildlife and Parks, National Park Service, transmitting, pursuant to law, the report of a rule entitled ''Special Regulations—Areas of the National Park System: Mountain Bike Use at Saguaro National Park'' (RIN1024–AD10) received on November 1, 2003; to the Committee on Energy and Natural Resources.

EC–5120. A communication from the Assistant Secretary, Fish, Wildlife and Parks, National Park Service, transmitting, pursuant to law, the report of a rule entitled ''Personal Watercraft Use: Assateague Island National Seashore'' (RIN1024–AD02) received on November 1, 2003; to the Committee on Energy and Natural Resources.

EC–5121. A communication from the Assistant Secretary, Fish, Wildlife, and Parks, National Park Service, transmitting, pursuant to law, the report of a rule entitled ''Operating Under the Influence of Alcohol and Drugs'' (RIN1024–AC69) received on November 3, 2003; to the Committee on Energy and Natural Resources.

EC–5122. A communication from the Assistant Secretary, Fish, Wildlife, and Parks, National Park Service, transmitting, pursuant to law, the report of a rule entitled ''New River Gorge National River Hunting Regulation'' (RIN1024–AD12) received on November 3, 2003; to the Committee on Energy and Natural Resources.

EC–5123. A communication from the Assistant Secretary, Fish, Wildlife, and Parks, National Park Service, transmitting, pursuant to law, the report of a rule entitled ''Special Regulations; Areas of the National Park System Personal Watercraft Use at Glen Canyon National Recreation Area'' (RIN1024–AC90) received on November 3, 2003; to the Committee on Energy and Natural Resources.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. INHOFE, from the Committee on Environment and Public Works, without amendment:

S. 1669. A bill to reauthorize the Dingell-Johnson Sport Fish Restoration Act (Rept. No. 108-186).

By Mr. GREGG, from the Committee on Health, Education, Labor, and Pensions, with an amendment in the nature of a substitute:

S. 1627. A bill to reauthorize the Workforce Investment Act of 1998, and for other purposes (Rept. No. 108–187).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. CORNYN (for himself and Mr. LOTT):

S. 1820. A bill to authorize the States to implement such mechanisms as are necessary to endure the continuity of Congress in the event that one-fourth of the members of either the House of Representatives or the Senate are killed or incapacitated; to the Committee on Rules and Administration.

By Mr. HOLLINGS (for himself, Mr. INOUYE, Mr. ROCKEFELLER, Mr. KERRY, Mr. BREAUX, Mr. DORGAN, and Mr. LAUTENBERG):

S. 1821. A bill to establish a National Space Commission on activities of the United States related to the future of space; to the Committee on Commerce, Science, and Transportation.

By Mr. AKAKA (for himself, Mr. FITZGERALD, and Mr. LIEBERMAN):

S. 1822. A bill to require disclosure of Financial relationships between brokers and mutual fund companies and of certain brokerage commissions paid by mutual fund companies; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. BURNS (for himself and Mr. BAUCUS):

S. 1823. A bill to amend the Act of August 9, 1955, to authorize the Assiniboine and Sioux Tribes of the Fort Peck Reservation to lease tribally-owned land on the Fort Peck Indian Reservation for 1 or more interstate gas pipelines; to the Committee on Indian Affairs.

By Mr. LUGAR (for himself, Mr. HAGEL, Mr. BIDEN, and Mr. SARBANES):

S. 1824. A bill to amend the Foreign Assistance Act of 1961 to reauthorize the Overseas Private Investment Corporation, and for other purposes; to the Committee on Foreign Relations.

By Mr. DEWINE:

S. 1825. A bill to amend title 18, United States Code, to provide penalties for the sale

and use of unauthorized mobile infrared transmitters; to the Committee on the Judiciary.

By Mr. REID (for himself and Mr. ENSIGN):

S. 1826. A bill to direct the Secretary of the Interior to convey certain land in Washoe County, Nevada, to the Board of Regents of the University and Community College System of Nevada; to the Committee on Energy and Natural Resources.

By Mr. SMITH (for himself, Mrs. MURRAY, Ms. CANTWELL, and Mr. WYDEN):

S. 1827. A bill to amend the Agricultural Adjustment Act to remove the requirement that processors be members of an agency administering a marketing order applicable to pears; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. KYL (for himself, Mr. CHAMBLISS, Mr. CRAIG, Mr. NICKLES, Mr. SESSIONS, and Mr. CORNYN):

S. 1828. A bill to eliminate the substantial backlog of DNA samples collected from crime scenes and convicted offenders, to improve and expand the DNA testing capacity of Federal, State, and local crime laboratories, to increase research and development of new DNA testing technologies, to develop new training programs regarding the collection and use of DNA evidence, and for other purposes; to the Committee on the Judiciary.

By Mr. CORNYN:

S.J. Res. 23. A joint resolution proposing an amendment to the Constitution of the United States providing for the event that one-fourth of the members of either the House of Representatives or the Senate are killed or incapacitated; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. FRIST (for himself and Mr. DASCHLE):

S. Res. 259. A resolution to authorize legal representation in Bell Aviation, Inc., et al. v. Sino Swearingen Aircraft Co., L.P., et al; considered and agreed to.

ADDITIONAL COSPONSORS

S. 253

At the request of Mr. CAMPBELL, the name of the Senator from Pennsylvania (Mr. SPECTER) was added as a cosponsor of S. 253, a bill to amend title 18, United States Code, to exempt qualified current and former law enforcement officers from State laws prohibiting the carrying of concealed handguns.

S. 736

At the request of Mr. ENSIGN, the name of the Senator from Washington (Mrs. MURRAY) was added as a cosponsor of S. 736, a bill to amend the Animal Welfare Act to strengthen enforcement of provisions relating to animal fighting, and for other purposes.

S. 973

At the request of Mr. NICKLES, the name of the Senator from Ohio (Mr. DEWINE) was added as a cosponsor of S. 973, a bill to amend the Internal Revenue Code of 1986 to provide a shorter recovery period for the depreciation of certain restaurant buildings.

S. 1037

At the request of Ms. SNOWE, the name of the Senator from Connecticut (Mr. DODD) was added as a cosponsor of S. 1037, a bill to amend title XVIII of the Social Security Act to provide for coverage under the medicare program of all oral anticancer drugs.

S. 1379

At the request of Mr. JOHNSON, the name of the Senator from Wyoming (Mr. THOMAS) was added as a cosponsor of S. 1379, a bill to require the Secretary of the Treasury to mint coins in commemoration of veterans who became disabled for life while serving in the Armed Forces of the United States.

S. 1380

At the request of Mrs. MURRAY, her name was added as a cosponsor of S. 1380, a bill to distribute universal service support equitably throughout rural America, and for other purposes.

S. 1524

At the request of Mr. NELSON of Florida, his name was added as a cosponsor of S. 1524, a bill to amend the Internal Revenue Code of 1986 to allow a 7-year applicable recovery period for depreciation of motorsports entertainment complexes.

S. 1702

At the request of Mr. SMITH, the name of the Senator from Washington (Mrs. MURRAY) was added as a cosponsor of S. 1702, a bill to amend the Internal Revenue Code of 1986 to extend the exclusion from gross income for employer-provided health coverage to designated plan beneficiaries of employees, and for other purposes.

S. 1813

At the request of Mr. LEAHY, the names of the Senator from Wisconsin (Mr. FEINGOLD) and the Senator from Massachusetts (Mr. KENNEDY) were added as cosponsors of S. 1813, a bill to prohibit profiteering and fraud relating to military action, relief, and reconstruction efforts in Iraq, and for other purposes.

S.J. RES. 19

At the request of Mr. SPECTER, the name of the Senator from New Jersey (Mr. LAUTENBERG) was added as a cosponsor of S.J. Res. 19, a joint resolution recognizing Commodore John Barry as the first flag officer of the United States Navy.

S. RES. 202

At the request of Mr. CAMPBELL, the names of the Senator from Colorado (Mr. ALLARD) and the Senator from New York (Mr. SCHUMER) were added as cosponsors of S. Res. 202, a resolution expressing the sense of the Senate regarding the genocidal Ukraine Famine of 1932–33.

S. RES. 244

At the request of Mrs. BOXER, the name of the Senator from Nebraska (Mr. HAGEL) was added as a cosponsor of S. Res. 244, a resolution congratulating Shirin Ebadi for winning the 2003 Nobel Peace Prize and commending her for her lifetime of work to promote democracy and human rights.

AMENDMENT NO. 2071

At the request of Mr. COCHRAN, the name of the Senator from Iowa (Mr. HARKIN) was added as a cosponsor of amendment No. 2071 intended to be proposed to H.R. 2673, a bill making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for the fiscal year ending September 30, 2004, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. CORNYN (for himself and Mr. LOTT):

S. 1820. A bill to authorize the States to implement such mechanisms as are necessary to endure the continuity of Congress in the event that one-fourth of the members of either the House of Representatives or the Senate are killed or incapacitated; to the Committee on Rules and Administration.

Mr. CORNYN. Mr. President, I rise to say a few words about the continuity of Government. More than 2 years since the terrible events of September 11, Congress has not taken any steps necessary to protect the Nation by ensuring continuity of Government operations should there be another attack and the tragic loss of life or disability on the part of Members of the United States Congress. The Founders of this country rightly required a majority of each House to constitute a quorum to do business, to ensure a nationally representative Congress. But the Constitution does not provide, I should say, adequate mechanisms to assure a continuing, functioning Congress if a majority of the Members are incapacitated or killed by a terrorist attack.

Our current system of providing for the continuity of Government in the event of a disaster is simply inadequate to meet the realities of a post-9/11 world. As unthinkable as another attack of that magnitude might be, we must be ready for the worst.

In fact, we have a duty as the elected Representatives of our respective States to do everything within our power to provide for a stable continuance and function of Government, despite all possible catastrophes. We must not leave our Nation's citizens without representation, without order, and without defense. We simply owe it to the American people to ensure that our Government will remain strong and stable, even in the face of disaster.

It is my conviction that this issue deserves more than just token attention. It is not something we can or should put off until another day. It is urgent and it is a critical element of our ongoing fight against terror.

Today, I have offered a proposal to provide for the continuity of congressional operations. In coming weeks, I will submit legislation to address the problems of our current system of Presidential succession as well.

Earlier this year, the bipartisan Continuity of Government Commission,

which was a joint project of the American Enterprise Institute and the Brookings Institution, issued a report which unanimously recommended a constitutional amendment:

> To allow immediate, temporary appointments to Congress until special elections could be held to fill vacancies or until matters of incapacitation can be resolved.

Many Members of Congress strongly agree with the recommendation of that commission. Some, however, are reluctant to allow for the appointment rather than the election of Representatives, no matter how dire the emergency. To protect the American people and ensure a functioning Congress, we must find a way to bridge the gap on a temporary basis. I submit that this must be an emergency measure which would allow for the ongoing operation of Government in a catastrophe but which would then allow for election in the ordinary course of events, after events had been stabilized.

I have proposed a constitutional amendment that would allow Congress to enact laws providing for congressional succession modeled after the provision of article II, authorizing Congress to enact laws providing for Presidential succession.

I also propose implementing legislation to authorize each State to craft their own mechanisms for filling vacancies in their congressional delegations, which is modeled after the 17th amendment. In other words, my proposal specifically refrains from choosing sides in this debate, as far as whether the temporary emergency measure be by appointment or by election, leaving that decision up to the States, following the model of the 17th amendment, which of course provides for the election or selection of Senators in the event of vacancy. Forty-eight States provide for temporary appointment by the Governor, but two States provide for special elections. This proposal would give each State the option to choose which procedures they deem most advisable. The proposed constitutional amendment would simply defer the question to Congress, and the implementing legislation would defer the question to the States.

In an age of terrorism and weapons of mass destruction, I believe it is high time to address this need that is all that much more apparent post-9/11 to ensure the continuity of this body and of the entire Congress. In my capacity as chairman of the Constitution Subcommittee of the Senate, the Committee of the Judiciary, I plan to convene hearings next year so we can debate this proposal as soon as possible.

I was not in Washington when the attacks came on September 11. Like so many other Americans, I was at home in Texas, getting ready to go to work when I heard the terrible news, and then was rivetted to the events unfolding on television. But I know for many of my friends and colleagues who were here on that horrific day, they and we all feel a tremendous debt of gratitude to the heroes of flight 93. The brave passengers on that airplane did more than just save the lives of their fellow citizens. Absent their courageous sacrifice, flight 93 could have reached its final destination, perhaps this very building, in an attack that could have eliminated an entire branch of government.

That hallowed ground in Pennsylvania, where flight 93 met its ultimate rest, marks a promise left behind by those courageous heroes, a promise carried on to their children, to their loved ones, and, indeed, to this very Nation.

It is a promise that says that freedom will not end here in the violent acts of evil men. It persists, it endures, and it will not be destroyed.

Even as we dedicate ourselves to the ongoing war on terror at home and abroad, even as we hope and pray that the tragedies of September 11 will never be repeated, we must always remain conscious of our promise as Senators, to serve the people of our States and of our Nation, and to support and defend the Constitution of the United States. It is not every day that you introduce legislation hoping and praying that it will never be necessary, but this legislation is, in a very real sense, urgent and necessary.

We must prepare for all contingencies fulfilling our oaths of office to ensure that this promise—the promise of a free government, a government of laws, not men—shall not perish from the Earth.

I yield the floor.

By Mr. HOLLINGS (for himself, Mr. INOUYE, Mr. ROCKEFELLER, Mr. KERRY, Mr. BREAUX, Mr. DORGAN, and Mr. LAUTENBERG):

S. 1821. A bill to establish a National Space Commission on activities of the United States related to the future of space; to the Committee on Commerce, Science, and Transportation.

Mr. HOLLINGS. Mr. President, we have 17 dead astronauts on our plate—3 from Apollo I, all preventable; 7 from the *Challenger*, all preventable; and 7 from the *Columbia*, all preventable.

What we are trying to do on behalf of myself and these several other Senators is get to a good healthy debate on the future of space in the United States and, more particularly, on correcting the safety features. There is a culture there that prevents safety from being adhered to, and, more than anything else, NASA is broke.

What is not understood is that at the present time we are going in all directions. It is like the Navy during World War II: When in danger, when in doubt, run in circles, scream and shout.

We here are saying we ought to take the orbital space station and accelerate it. Others on the other side say no, that is should be abolished. Some say we ought to go to Mars, and others say what we really need is to hire more expert personnel and bring them in. No one is going to leave their job and come work for the NASA endeavor at this particular time until we get a mixture and a program and a policy. That has to come from the President of the United States.

I introduce the National Space Commission Act to address the range of issues that the Columbia Accident Investigation Board—CAIB—identified with the National Aeronautics and Space Administration—NASA—and our space program in general, following the tragic loss of the *Columbia* Space Shuttle and its crew of seven astronauts. This bill authorizes the creation of a National Space Commission appointed by the President, to ensure that the safety reforms and recommendations of the *Columbia* investigation board are fully implemented by NASA. The commission will review and make recommendations regarding NASA's return-to-flight proposals and institutional changes that NASA will need to make to improve safety in the agency and to improve safety of the space shuttle, and other actions to assure future safe transportation to space and to the International Space Station. The commission will also look at the broader question of how the United States is organized for the safety of space flight across civilian, military and commercial sectors. It will begin to build a consensus on a future vision of space exploration that I hope will rekindle enthusiasm for our space program and generate the necessary support in the Congress and the administration for these endeavors.

The Columbia Accident Investigation Board shone a laser-sharp spotlight upon NASA and its program of human space exploration. Their pain-staking work to determine the cause of the loss of the Space Shuttle *Columbia* provides the context and justification for a new national agenda for space, a turning point in the history of space. Though the board stopped short of laying out this new future, its clear expectation is that the President and Congress should take up where the board left off.

> The U.S. civilian space effort has moved forward for more than 30 years without a guiding vision, and none seems imminent . . . Recommending the content of this debate goes well beyond the Board's mandate, but we believe that the White House, Congress, and NASA should honor the memory of Columbia's crew by reflecting on the nation's future in space and the role of new space transportation capabilities in enabling whatever space goals the nation chooses to pursue.
>
> Columbia Accident Investigation Board Report, Volume I, August 2003, p. 210

The legislation I am introducing today, the National Space Commission Act, is designed to respond to this challenge. It is a complex challenge, and a complex undertaking, that now lies before the Congress and the Nation. My bill is not intended to supplant, nor substitute for, the President's desire to set a new goal in place for the Human Space Flight Program. But as we have seen in the board's report, merely setting a far-reaching goal into place for

NASA and for the Nation is not enough. It will not resolve the many complex issues raised by Admiral Harold Gehman and the Columbia Accident Investigation Board. No, this report, and these challenges, run deeper than a rousing call for future missions to Mars on the Earth's Moon can resolve. As Admiral Gehman said last week in testimony before the Senate Commerce, Science, and Transportation Committee:

In the course of (our) study, we became convinced how difficult it is to get into and out of low Earth orbit. It is extraordinarily dangerous and very difficult to do . . . We have to do it more safely than 49 out of 50 times, that's not good enough . . . No matter what your vision is for human space flight, whether it's Mars or the L2 or the Moon or whatever it is, it starts in low Earth orbit . . . We need some leadership to say, ''Just getting into and out of low Earth orbit is a goal worthy of itself, without killing a lot of people.'' And that's hard to argue, because it isn't very jazzy.
Hearing on NASA's Future, October 29, 2003

Since the inception of the human space flight program, seventeen astronauts have lost their lives and all were avoidable. In its investigative work, the Columbia Accident Investigation Board reached several fundamental conclusions that went beyond the specific technical and physical causes of the loss of *Columbia*. The Columbia Board found basic flaws in how NASA managers behaved, the belief system that lay behind NASA attitudes and behavior, and NASA's understanding of basic technical and organizational requirements of safety.

The attitudes and decision-making of Shuttle Program managers and engineers during the events leading up to this accident were clearly overconfident and often bureaucratic in nature.
Columbia Accident Investigation Board Report, Volume I, August 2003, p. 177

NASA's bureaucratic culture kept important information from reaching engineers and managers alike. The same NASA whose engineers showed initiative and a solid working knowledge of how to get things done fast had a managerial culture with an allegiance to bureaucracy and cost-efficiency that squelched the engineers' efforts. When it came to NASA managers' own actions, however, a different set of rules prevailed. The Board found that Mission Management Team decision-making operated outside the rules even as it held its engineers to a stifling protocol . . .

Each decision, taken by itself, seemed correct, routine, and indeed, insignificant and unremarkable. Yet, in retrospect, the cumulative effect was stunning.
Ibid, p. 202–203

Most troubling to the Board was the fact that these NASA tendencies were not new but existed in full force at the time of both the *Challenger* and the *Columbia* Shuttle accidents.

The (Rogers) Commission found that NASA's safety system had been silent . . . (denoted by) a lack of problem reporting requirements, inadequate trend analysis, misrepresentation of criticality, and lack of involvement in critical discussions . . .

By the eve of the *Columbia* accident, institutional practices that were in effect at the time of the *Challenger* accident—such as inadequate concern over deviations from expected performance, a silent safety program, and schedule pressure—had returned to NASA.
Ibid, p. 100–101

This ''echo'' between the events eighteen years ago and the present made the loss of *Columbia* and its explanation all the more confounding, because so many who reviewed the agency, its practices, and its culture had sounded an alarm. The fact that these NASA behaviors and beliefs were so enduring that they persisted beyond the stunning loss of the *Challenger* and her crew was all the more startling to the *Columbia* Board. So startling, that the Board found it necessary to offer a blunt and chilling assessment.

If these persistent, systemic flaws are not resolved, the scene is set for another accident.
Ibid, p. 195

The *Columbia* Accident Investigation Board also found that it was not only NASA that was at fault for the loss of *Columbia*. Rather, the Board found that the weaknesses at NASA were just as much a result of the Nation's neglect of its human space flight program.

Post-*Challenger* policy decisions made by the White House, Congress, and NASA leadership resulted in the agency reproducing many of the failings identified by the Rogers Commission. Policy constraints affected the Shuttle Program's organization culture, its structure, and the structure of its safety system.
Ibid, p. 197

The impact of this neglect extended beyond NASA's organizational responses, encompassing broad aspects of planning for NASA's future missions and the development of its technology.

There (has been a) lack, over the past three decades, of any national mandate providing NASA a compelling mission requiring human presence in space . . . (and a) lack of sustained government commitment over the past decade to improving U.S. access to space by developing a second-generation space transportation system.
Ibid, p. 209

It is the view of the Board that previous attempts to develop a replacement vehicle for the aging Shuttle represent a failure of national leadership.
Ibid, p. 211

The bill I am introducing today establishes a permanent National Space Commission to oversee the nation's current and future development and use of space. The commission is established with 12 members, appointed by the President and confirmed by the Senate. Commission members will be leaders chosen from industry, academia, and other professions who have a profound expertise in space flight and safety and have worn the mantle of responsibility and challenge in the development and use of space.

The Commission will be independent of NASA and is authorized to hire a staff to develop the engineering and technical expertise to carry out its work. It will begin its work looking at some of our most vexing current problems raised by the Columbia Board's report and provide the necessary oversight to ensure that the Board's recommendations are implemented in the following areas: (1) the return-to-flight of the Space Shuttle and return to assembling the International Space Station, (2) replacement of the Space Shuttle, and (3) changes to the culture of NASA. We specify a number of detailed questions, criteria, and concerns that the Commission should take up in laying out a near-term path forward for NASA's Human Space Flight program. In making its recommendations, the Commission is directed to consider the safety and dignity of human life as its highest priority.

This specific aspect of the bill is a special clause in my mind, one that is not subject redaction—the United States space flight program must, above all, be an American approach to the future of space flight and, as such, must place the dignity and preservation of human life above all other considerations. This assertion is not meant as an accusation or indictment of NASA—Admiral Gehman made it clear that the fault for the loss of Columbia rests with us all, impressed as we all were with space flight and our accomplishments, and naive about its risks and challenges.

If Shuttle operations came to be viewed as routine, it was, at least in part, thanks to the skill and dedication of those involved in the program. They have made it look easy, though in fact it never was. The Board urges NASA leadership, the architects of U.S. space policy, and the American people to adopt a realistic understanding of the risks and rewards of venturing into space.
Ibid, p.208

For never again should we have to read in a formal accident report of the United States space program:

Managers failed to fulfill the implicit contract to do whatever is possible to ensure the safety of the crew.
Ibid, p.170

Never again.

In each of these assessments of current issues in NASA's Human Space Flight Program, we intend the commission to provide the President, the Congress, and NASA its informed judgment and advice, so that we can expeditiously return the program to a condition of stability and adopt a NASA culture of safety as soon as possible.

The second aspect of the bill is to set a long-range view of our Nation's participation in and development of space.

Concurrent with the work on current issues at NASA, but due by late 2005, are two ground-breaking studies. These studies are intended to go beyond defining a destination for humans in space and to address broader questions about the goals and methods we use, with a specific concern for public and private utilization and investment in space. Though we have learned that the economics of space flight should never again take precedence over its safety, we also know that, in the past, its cost has driven us down pathways that have not resulted in success.

In all three (Shuttle replacement) projects—National Aerospace Plane, X–33,

and X–34—national leaders had set ambitious goals in response to NASA's ambitious proposals. The programs relied on the invention of revolutionary technology, had run into major technical problems, and had been denied the funds needed to overcome these problems—assuming they could be solved. NASA had spent nearly 15 years and several billion dollars, and yet had made no meaningful progress toward a Space Shuttle replacement.
Ibid, p. 111

Continued U.S. leadership in space is an important national objective. That leadership depends on a willingness to pay the costs of achieving it.
Ibid, p. 211

First, the commission is chartered to provide a sweeping assessment of the future of space. Included in that assessment is a review of United States capabilities, goals, and uses for space, including the state of our Nation's investment in launch capabilities, how space could benefit State and local governments and regions, and the role of non-governmental, private organizations in the promotion of our space endeavors. The review will also take up the difficult issues related to public and private investment: the role of private institutions in the development and use of space and the business conditions they must meet; how Federal Government programs in space science, exploration, national security, and public safety support or limit the commercial development of space; and how space contributes to the terrestrial economy of the United States.

Given the high cost of space, and the even higher costs of space that the Nation is certain to experience in the near and long-term future, resolution of these questions of private versus public participation and promotion of the development of space is a necessary part of the examination of possible technological and economic futures for the space sector of the economy.

Second, and most importantly, the National Space Commission Act is directed to perform a comprehensive assessment and inventorying of the Nation's programs and practices related to the conduct and safety of space flight. This study will assess the state of the Nation's acceptance, approval, and commercial licensing practices as they relate to the conduct of civil, commercial, and military space flight and explore how space launch and high-risk space operations are conducted across each of these sectors. This study is intended to result in a series of recommendations about the future management of space launch and high-risk orbital and sub-orbital space operations in order to achieve the highest level of safety and management of these risks. To those who question the importance of establishing an authority independent of NASA to assess these provisions, the Columbia Accident Investigation board stated the case most convincingly:

(NASA) cultural norms tend to be fairly resilient . . . The norms bounce back into shape after being stretched or bent. Beliefs held in common throughout the organization resist alteration.
Ibid, p. 101

Within NASA, the cultural impediments to safe and effective Shuttle operations are real and substantial . . . Leadership will have to rid the system of practices and patterns that have been validated simply because they have been around so long . . . These recommendations will be difficult to initiate, and they will encounter some degree of institutional resistance.
Ibid. p. 209

NASA's blind spot is it believes it has a strong safety culture . . . Twice in NASA history, the agency embarked on a slippery slope that resulted in catastrophe . . . A safety team must have equal and independent representation so that managers are not again lulled into complacency by shifting definitions of risk.
Ibid, p. 203

Since NASA is an independent agency answerable only to the White House and Congress, the ultimate responsibility for enforcement of the recommended corrective actions must reside with those governmental authorities.
Ibid, p. 209

The National Space Commission is established on a permanent basis to maintain oversight of the implementation of space flight across all sectors of industry and government and vigilance in the management of safety in all United States high-risk space operations.

Let me reiterate. Merely announcing a bold new plan to travel to the Earth's Moon or to Mars is not sufficient. If the loss of the Space Shuttle *Columbia* merely results in that proposal, we will have failed the memory of our brave astronauts who lost their lives aboard both *Challenger* and *Columbia*. And we will have failed our own future. Unfortunately, our current charge is more difficult. We must challenge our assumptions, question our decisions and designs, revisit our approaches, and rethink our Nation's ambitions and goals for space. We must submit ourselves to the discipline to begin anew. The future of space and our Nation's reputation that we carry into history rests in the balance.

I ask unanimous consent that the text of the bill and an article from the New York Times be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1821

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''National Space Commission Act''.

SEC. 2. FINDINGS.

The Congress finds the following:

(1) Since the enactment of the National Aeronautics and Space Act of 1958, space has become increasingly important for science, public safety, national defense and intelligence gathering, commercial telecommunications and other Earth applications, and the advancement of international relations tied to the use of space for peaceful purposes.

(2) The recent loss of the Space Shuttle Columbia highlighted the true condition of space flight: that it is highly prone to risk, fundamentally challenges the laws of nature, is extremely unforgiving of lapses in judgment, and demands the utmost consideration of safety and the dignity of human life.

(3) The Columbia Accident Investigation Board expressed extreme misgivings about the management and technical culture of the National Aeronautics and Space Administration. In addition to prescribing a specific menu of recommendations, the Board expressed concerns that the agency may not be able to achieve its own reform, stating that, ''Based on NASA's history of ignoring external recommendations, or making improvements that atrophy with time, the Board has no confidence that the Space Shuttle can be safely operated for more than a few years based solely on renewed post-accident vigilance''.

(4) Today, American astronauts and International Partner cosmonauts reside in space with limited means of safe rescue and support. The Nation remains dependent on the Space Shuttle as the sole means of International Space Station assembly and human operation in space for the foreseeable future. And the Nation faces a period of greatly increased expense merely to sustain current space operations.

(5) Even if new vehicle technologies were available, it is a matter of public discussion whether the historic ideals and prospects for the human exploration and development of space still guide our national program in space or whether the role and purpose of human presence in space has become ambiguous in light of other potential purposes for and uses of space.

(6) Meanwhile, our national program in space suffers from an aging space workforce and aging, sometimes dilapidated space facilities and systems, an atrophying of expertise, and a general lack of renewal of purposes, objectives, and methods. Commercial markets requiring space launch that are crucial to establishing the firm economic basis for the development of space and for the commercial development of space technology have not emerged but have withered. Although the use of space for science and national security purposes is expanding, the economic and commercial development of space continues to be fledgling. Although the Nation stands on the doorstep of the permanent human habitation of space, a mature agenda for safe, economic operation in space necessary to broaden the Nation's participation and interest in the peaceful development of space is lacking.

(7) The Nation would benefit by establishing a permanent National Space Commission to advise the President and Congress on issues related to the reflight and future use of the Space Shuttle and on the possibilities for the future development and use of space, and to recommend measures the Nation should take to secure the safety of future space flight.

SEC. 3. NATIONAL SPACE COMMISSION.

(a) ESTABLISHMENT.—There is established a commission to be known as National Space Commission.

(b) MEMBERSHIP.—

(1) APPOINTMENT.—The Commission shall have 12 Members, who shall be appointed by the President by and with the advice and consent of the Senate.

(2) TERM.—Members of the Commission shall serve for a term of 5 years and shall be eligible for reappointment, except that the members initially appointed shall be appointed for terms of 3 years each.

(3) QUALIFICATIONS.—Members shall be selected from among individuals—

(A) with national reputations in the conduct of space flight and the development of space systems and technology;

(B) who are representative of the many views about the future of space and the economic and technical prospects for its use and development; and

(C) who are or have been employed in space-related activities, including—

(i) leaders of aerospace companies and other industries involved in the development and use of space;

(ii) professionals who have performed in significant capacities in the management of space programs or ventures; and

(iii) distinguished members of academia.

(4) VACANCIES.—Any vacancy occurring other than by the expiration of a term shall be filled in a manner that best replaces the qualifications of the person vacating the position, unless a person with different qualifications is to be nominated and appointed for the purpose of changing or re-directing the activities or objectives of the Commission.

(5) STATUS AS SPECIAL GOVERNMENT EMPLOYEES.—Members of the Commission are deemed to be special Government employees (as defined in section 202(a) of title 18, United States Code) without regard to the number of days of service during any 365–day period while engaged in the business of the Commission.

(6) TRAVEL EXPENSES.—Members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business.

(c) CHAIR.—The President shall designate an individual to serve as Chair of the Commission for a term of 3 years, except that until the Commission has been in operation for 3 full years the term of the individual so designated shall be 1 year. Any individual designated as chair is eligible for redesignation as chair.

(d) MEETINGS—The Commission shall meet at the call of the Chair. A majority of the members shall constitute a quorum, but a lesser number may conduct the business of the Commission.

(e) STAFF.—

(1) IN GENERAL.—The Commission shall appoint and fix the compensation (in accordance with the guidelines prescribed by the Administrator of General Services under section 7(d) of the Federal Advisory Committee Act) of staff comprising—

(A) staff selected by the Chair as permanent staff of the Commission; and

(B) staff selected by each Member as staff of the Member for the duration of the Member's appointment to the Commission.

(2) QUALIFICATIONS.—Staff shall be selected from among employees of business and professional firms in the business of the development of, manufacture and operation for, or use of space, individuals with entrepreneurial experience, employees of research centers and national laboratories, scholars, professionals, and academics whose work and insights are such that their work in support of the Commission will enhance the Nation's ability to guide and direct the space program.

(3) DETAILING OF FEDERAL EMPLOYEES.—At the request of the Commission, the head of a Federal department or agency may assign an employee to serve as a member of the Commission staff while employed by the United States.

(4) EXPERTS AND CONSULTANTS.—

(A) IN GENERAL.—The Commission may obtain the services of experts and consultants in the private and nonprofit sectors in accordance with section 3109 of title 5, United States Code.

(B) AVAILABLE ARRANGEMENTS.—In obtaining any service described in subparagraph (A), the Commission may use any available grant, contract, cooperative agreement, or other arrangement authorized by law.

(C) NOTICE.—The Commission shall give public notice of any such grant, contract, cooperative agreement, or other arrangement before making any such grant or executing any such contract, cooperative agreement, or other arrangement.

SEC. 4. GENERAL DUTIES.

(a) IN GENERAL.—The Commission shall—

(1) provide advice and counsel to the President and the Congress of the United States on matters related to the future development and use of space;

(2) address questions of special merit posed by the President or by the Congress to be addressed by the Commission,

(3) conduct studies, assessments, and other methods of evaluation, including market, business, and financial assessments, necessary to reach conclusions and to formulate recommendations about the future of space;

(4) convene and establish public forums, reviews, and other means of public discourse for purposes of gathering and distributing information,facts, opinions, and data related to the future of space;

(5) confer With Federal, State, and local governments and regional organizations, United States corporations, laboratories, research centers and universities, and appropriate departments, agencies, and enterprises of other Nations on questions related to the development and use of space;

(6) make other recommendations as necessary to achieve the expanded development and use of space, including assessments of the status, focus, and effectiveness of government and industry pro grams and efforts designed to achieve that purpose;

(7) propose and establish a national approach for the safety of space flight in support of commercial, military and civilian space and suborbital space programs, including issues related to the commercial licensing and operation of space vehicles, the regulation, management, and control of space flight parts, components, systems, and facilities, and the training and advancement of government and industry personnel necessary, to achieve safe space flight; and

(8) advise the President and the Congress on any changes in Federal law or international agreements necessary to achieve the recommendations, solutions, and outcomes proposed by the Commission.

(b) METHODS OF SPACE FLIGHT.—In carrying out its duties under subsection (a), the Commission shall consider the potential for the future use of space by human and robotic means and the likely contribution of both to the long-term development and use of space.

(c) DISCLAIMER.—Nothing in this Act is intended—

(1) to prejudice the disposition, or outcome of decisions related to the ownership or institutional operation and support, of Federal laboratories, centers, or bases; or

(2) to preclude the use of special classes, de signs, or certification rules and standards peculiar to the use of military space vehicles.

SEC. 5. SPECIFIC REPORTS AND ADVISORY ACTIVITIES.

(a) SPACE SHUTTLE; INTERNATIONAL SPACE STATION.—

(1) IN GENERAL.—The Commission shall evaluate the findings, recommendations, and observations of the Columbia Accident Investigation Board and the activities of the National Aeronautics and Space Administration to respond to the Board's report, in eluding issues related to the re-flight of the Space Shuttle, alternative near-term crewed vehicle options, and changes in the agency's organization, management, technical administration, and conduct of safety, operations and engineering, and training, and other changes intended to ensure the safety of space operations and the dignity of human life.

(2) CRITERIA FOR RETURN TO OPERATIONS.—The Commission shall make recommendations to the President and the Congress concerning—

(A) any additional criteria and conditions that the Commission considers critical for the safe operation of the Space Shuttle that war rant demonstration during the initial and subsequent return-to-flight test and demonstration missions; and

(B) longer-term criteria and conditions necessary for a return to sustained operation and management of human space flight following the initial Space Shuttle re-flight and test and demonstration flights.

(3) EVALUATION OF HUMAN SPACE FLIGHT MANAGEMENT REFORMS.— Commission shall assess—

(A) the capability of the National Aeronautic and Space Administration to resolve all findings, recommendations, and observations of the Columbia Accident Investigation Board to the Commission's satisfaction, including management and technical reforms necessary to achieve safe space flight;

(B) the relationship of the National Aeronautic and Space Administration to its Industrial, scientific, and commercial partners and the proper role of each party in the selection, design, development, and operation of high risk space flight systems; and

(C) additional workforce, organization, and management reforms that may be required to enhance further the ability of the National Aeronautic and Space Administration, its partners, or other agencies of the United States to achieve safety of human space flight.

(4) CONSIDERATION OF THE INTERNATIONAL SPACE STATION AND ALTERNATIVE SPACE TRANSPORTATION SOLUTIONS.—In making its evaluation and recommendations under this subsection the Commission shall consider—

(A) the condition of the International

Space Station along with the further risk to or security of human life resulting from any decision to accelerate or slow the return to assembly and operation of the International Space Station and sustained human space flight operations;

(B) alternative space vehicle and crewing options that meet the highest achievable stand and of crew safety and security onboard the international Space Station in the shortest amount of time;

(C) the modification or purchase of existing space vehicles necessary to achieve a higher standard of heightened crew safety or enhanced ability to conduct safe human space flight operations;

(D) the acquisition or development of crewed vehicles on a schedule significantly more aggressive that the proposed schedule of the Orbital Space Plane; and

(E) the contribution of any proposed vehicle options to purposes in space other than servicing and support of the International Space Station.

(4) REPORTS TO CONGRESS.—

(A) ALTERNATIVE MEANS OF CREW TRANSFER.—Within 3 months after the full Commission has taken office, it shall report to the President and the Congress on crewing options for the Space Shuttle during the period of assembly of the International Space Station, alternative interim use of available space vehicles for these operations, and alternative or accelerated United States crewed vehicle modification or development options in lieu of or in addition to the proposed Orbital Space Plane program.

(B) SPACE SHUTTLE RETURN-TO-FLIGHT.—

(i) PREFLIGHT ADVICE.—On a continuous basis from the initial return-to-flight mission of the Space Shuttle through the final such mission, the Commission shall advise the Administrator, the President, and the Congress of the results of its review and assessment of the Space Shuttle return-to-flight, including any additional criteria the

Commission establishes for return-to-flight missions.

(ii) FINAL PREFLIGHT RECOMMENDATION.—Within 60 days before the planned date for the first Space Shuttle return-to-flight, and within 30 days before each subsequent test or demonstration flight of the Space Shuttle, the Commission shall transmit its final recommendations for return-to-flight to the Administrator, the President, and the Congress. In addition, the Commission shall attach to each such transmittal to the President and the Congress a record of its recommendations to the Administrator and a description of the Administrator's responses and actions in response to those recommendations.

(iii) POST-RESUMPTION ANALYSIS.—Within 6 months after the first successful return-to-flight mission of the Space Shuttle, the Commission shall submit a report to the President and the Congress summarizing the Commission's and the National Aeronautics and Space Administration's work on the reflight of the Space Shuttle and addressing further changes that should be accomplished to ensure safe continuous operation of the Space Shuttle and the International Space Station. The report shall address the status of organizational, management, and technical changes in the National Aeronautics and Space Administration, their effectiveness in resolving concerns about the safety, operations, engineering, and management cultures of the agency, and their effectiveness in resolving concerns and risks associated with a return-to-normal operations for the Space Shuttle and the International Space Station.

(b) FUTURE LAUNCH TECHNOLOGY AND THE DEVELOPMENT OF AND USES FOR SPACE.—

(1) IN GENERAL.—The Commission shall—

(A) advise the President and the Congress on the state of the Nation's investment in and development of advanced space launch technology, including advanced space lift propulsion systems;

(B) make recommendations on steps necessary to accelerate the development of technologies and capabilities to advance the economy of space flight and the prospect for the expanded use of space for economic, commercial, and industrial purposes;

(C) assess how State and local governments and regional authorities might benefit from the expanded use of space;

(D) evaluate the ability of the Nation's private research centers, laboratories, and private and public universities to contribute to and benefit from the expanded development and use of space;

(E) assess the future use of space for exploration, science, research, national security, and public safety ensure that such uses are consistent with the long-term economic development of space, and are designed to enhance the industrial and commercial capabilities of space flight whenever possible; and

(F) make detailed recommendations related to the use of budget, regulatory, and licensing powers and authorities of the United States to enhance, to better plan for, and to coordinate the activities of the United States related to the development and use of space.

(2) REPORT TO CONGRESS.—By September 1, 2005 the Commission shall transmit to the Congress a report that—

(A) summarizes its recommendations for future national goals for the development and use of space;

(B) provides a blueprint of capabilities that could and should be achieved by the end of the present decade, by 2015, and by 2025 in order to better position the Nation to achieve those goals; and

(C) addresses potential markets and uses for space and the means of financing the development and use of space.

(c) NATIONAL APPROACH TO THE SAFETY OF SPACE FLIGHT.—

(1) IN GENERAL.—The Commission shall conduct a review and assessment of the Nation's program of safety in space flight as conducted by the United States, the commercial space industry, and other private parties.

(2) CONTENTS.—The review and assessment shall—

(A) assess the current use of inspection, acceptance, and commercial licensing to certify the safety, flight worthiness, and flight readiness of space vehicles and their associated launch and ground control facilities;

(B) evaluate and compare current space launch and flight operations practices, including the promulgation of flight rules and over-flight plans of populated areas;

(C) assess and compare how Federal agencies, private launch operators, and commercial industry make determinations of flight worthiness and ground and flight system readiness, including the use of tests, analyses, demonstrations, and other means whereby the operational readiness of space vehicles, crew, and ground systems are verified to be ready for launch and operation;

(D) address current government and industry practices for conducting and coordinating design and decision rules within and among space management agencies, firms, organizations, and ground control and flight operations management centers before, during, and after flight; and

(E) assess practices and conditions related to the acquisition and sale of parts, components, systems, services, and capabilities among Industry prime and supplier contractors and the Federal Government, including outsourcing, sole source, and other competitive and non-competitive forms of relationship, and their impact upon safety.

(3) REPORT TO CONGRESS.—No later than September 1, 2005, the Commission shall transmit to the Congress a report that—

(A) summarizes the results of the review and assessment required by paragraph (1); and

(B) makes recommendations for a National program of—

(i) management of safe commercial, civil, and military space flight; and

(ii) regulation of the design, certification, or licensing of space flight systems for launch and landing over the United States, or for orbital or suborbital operation using crew or passengers aboard commercial or civil vehicles licensed or operated by the United States.

(c) ANNUAL REPORT.—In addition to other reports required or permitted under this Act, within 60 days after the end of each fiscal year, the Commission shall provide an annual report to the Congress that—

(1) summarizes its activities, reports, findings, conclusions, and recommendations during that fiscal year; and

(2) contains a year-end financial statement of the Commission's operations, including a detailed statement of the purposes for which funds have been expended by the Commission.

(d) OTHER REPORTS.—The Commission may also report to the President and the Congress on other space related questions and issues raised by the Congress, the President, or on its own initiative.

SEC. 6. DEFINITIONS.

In this Act:

(1) ADMINISTRATOR.—The term ''Administrator'' means the Administrator of the National Aeronautics and Space Administration.

(2) COMMISSION.—The term ''Commission'' means the National Space Commission established by section 3.

SEC. 7. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Commission such sums as may be necessary to carry out its duties under this Act.

[From the New York Times, Nov. 5, 2003]

NASA SUPPORTERS SEEK NATIONAL DEBATE ON SPACE GOALS

(By Matthew L. Wald)

WASHINGTON, NOV. 4—After the shuttle Columbia disintegrated on Feb. 1, many supporters of NASA expected a renewed national debate on the goals of the space program. But nine months later, supporters of space exploration and the science program say that the subject appears to be in danger of slipping below the national horizon.

''There have been fits and starts of a national debate,'' said Senator Ernest F. Hollings of South Carolina, the ranking Democrat on the Commerce Committee, which has jurisdiction over NASA.

Mr. Hollings plans to introduce a bill on Wednesday to create a national space commission to oversee NASA's progress in fixing the hardware and the ''broken safety culture'' identified in the Columbia investigation, and to help set goals.

Senator Hollings' bill, which has six sponsors, all Democrats, joins a varied flock of measures on the House side, none likely to see major action this year.

''It's not commanding anywhere near the level of attention that the Challenger did,'' said a House staff aide who was on Capitol Hill at the time of that accident, in 1986.

The war in Iraq helps explain the difference, the aide added, but beyond that, ''space is more humdrum now,'' even when astronauts die.

Sean O'Keefe, the NASA administrator, said in testimony last week that the Bush administration would produce a new plan for space, including a replacement vehicle for the shuttle, now more than 20 years old. He said Congress should wait until that plan is released, but he refused to predict how long that would take.

The leisurely pace contrasts with the push by the Columbia Accident Investigation Board to complete its work over the summer so members of Congress could digest the report during their recess and be ready for a vigorous debate when they returned.

The most prominent feature of the debate so far has been a skirmish between NASA and the chairman of the House Science Committee and the ranking Democrat on the panel. The two lawmakers, Representatives Sherwood Boehlert, Republican of New York, and Ralph M. Hall, Democrat of Texas, suggested that NASA hold off on development of an orbital space plane, a crew-transport vehicle that could replace the shuttle, until an ''overall vision for the human spaceflight program'' emerges.

Mr. Boehlert said at a hearing on Oct. 16 that NASA would be successful ''only if it's pursuing a clear and broad national consensus with sustained and adequate funding,'' and he added, ''That hasn't been the case in three decades.''

Mr. O'Keefe, responding to the letter on the orbital space plane, argued that the project was still at a conceptual stage and should proceed.

Beyond establishing a commission to oversee NASA's progress, the Senate bill to be introduced on Wednesday seeks ''to address broader questions about the goals and methods we use,'' with specific concern for public and private investment in spaceflight and use of it. In remarks prepared for delivery on the Senate floor on Wednesday, Mr. Hollings argues that while economics of spaceflight should not take precedence over safety, ''we also know that, in the past, its cost has driven us down pathways that have not resulted in success.''

On the House side, Representative Bart Gordon, Democrat of Tennessee, introduced a bill that would have future accidents investigated by a presidential commission independent of NASA. The Columbia Accident Investigation Board began under a charter written after the Challenger accident, with members selected according to positions they held in the Air Force, Federal Aviation Administration and other agencies.

Mr. Gordon's bill was approved by a subcommittee but has gone no further.

Mr. Hall, the ranking Democrat on the House Science Committee, introduced a bill on Oct. 1, with 24 sponsors, including 3 Republicans, that would have the National Academy of Sciences and the National Academy of Engineering assemble an oversight committee, as was done after the Challenger accident. NASA has generally opposed outside oversight.

Mr. Hall also introduced an amendment to an appropriations bill that would mandate a $15 million study of shuttle crew escape, to be performed by NASA. The House passed the bill, and it is now in a conference committee.

Representative Nick Lampson, Democrat of Texas, has introduced a measure that would require NASA to develop reusable spaceships that could sit for long periods balanced between the gravitational pull of Earth and the Sun or the Moon; ships that could reach an asteroid; and, ultimately, ones that could reach Mars. The bill has 24 sponsors but has not yet been taken up in committee.

Mr. Lampson said in a telephone interview that he was glad that Senator Hollings was focused on the problem, but he added, ''we don't need a commission, we need a commitment for NASA.''

''If the goals get set, we will re-energize the academic community, and the space industrial community,'' he said, predicting that missions to Mars would ''do a great deal to move this country forward.''

Mr. Hollings, in a separate interview, said, ''I want to go to Mars, too, but unless you get the culture changed and fixed, we're not going anywhere.''

By Mr. AKAKA (for himself, Mr. FITZGERALD, and Mr. LIEBERMAN):

S. 1822. A bill to require disclosure of financial relationships between brokers and mutual fund companies and of certain brokerage commissions paid by mutual fund companies; to the Committee on Banking, Housing, and Urban Affairs.

Mr. AKAKA. Mr. President, I rise today to introduce legislation intended to restore public trust in mutual funds, the Mutual Fund Transparency Act of 2003. I thank Senator FITZGERALD and Senator LIEBERMAN for cosponsoring my bill. I greatly appreciate the efforts of Senator FITZGERALD to address this issue. Our Financial Management, Budget, and International Security Subcommittee held a very thorough hearing on mutual fund trading abuses on Monday. I applaud the efforts of Representative RICHARD BAKER for his leadership and his efforts to improve mutual fund governance. I also commend the efforts of New York Attorney General Eliot Spitzer and the Secretary of Massachusetts William Galvin for their efforts to pursue individuals that have harmed mutual fund investors.

Mr. President, 95 million people have placed a significant portion of their future financial security into mutual funds. Mutual funds provide middle-income Americans, blue and white collar workers and their families, with an investment vehicle that offers diversification and professional money management. Mutual funds are what average investors rely on for retirement, savings for children's college education, or other financial goals and dreams.

My legislation will bring about structural reform of mutual fund governance and increase disclosures in order to provide useful and relevant information to mutual fund investors. I ask unanimous consent that a letter of support for my bill from the Consumer Federation of America, Fund Democracy, Consumer Action, U.S. Public Interest Research Group, and Consumers Union be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CONSUMER FEDERATION OF AMERICA,
FUND DEMOCRACY, INC., CONSUMER ACTION, U.S. PUBLIC INTEREST RESEARCH GROUP, CONSUMERS UNION,
October 31, 2003.

Hon. DANIEL K. AKAKA,
U.S. Senate, Washington, DC.

DEAR SENATOR AKAKA: We are writing to express our enthusiastic support for your draft legislation to increase the transparency of mutual disclosures and enhance the independence of fund oversight. Over the last two decades, mutual funds have become firmly established as average Americans' investment vehicle of choice, and investors have for the most part benefitted greatly from the ability mutual funds have offered even those of modest means to diversify their portfolios and obtain professional management. However, fund rules in some areas have not kept pace with industry practices, and the recent scandals embroiling the mutual fund industry have raised serious questions about the quality of corporate governance in this industry.

Given the importance of mutual funds in the financial portfolios of average Americans and the heavy reliance of the least sophisticated investors on these investment vehicles, we applaud your efforts to address key weaknesses in the regulatory structure for mutual funds. Your proposed reforms to improve disclosures about fund costs and strengthen the independence of mutual fund boards, if adopted, should help the fund industry to regain the investor trust that has been the key to its success over the years but has been so severely undermined by recent revelations.

1. We support requiring disclosure of broker compensation for mutual fund transactions

The legislation would require disclosure of the compensation brokers receive for selling funds. While funds are currently required to disclose the existence of such payments in fund prospectuses, the actual amount of the broker's compensation for a particular mutual fund transaction does not currently have to be disclosed. This from of compensation creates a conflict of interest between the broker, who may be inclined to recommend the fund that offers him or her the highest compensation, and the investor, whose interest is in obtaining the highest quality fund at the lowest cost. By requiring timely disclosure to investors of the actual dollar amount of these commissions, your bill should help to increase investors' awareness of the existence and extent of this conflict of interest and its potential to induce their broker to place his or her interests ahead of theirs.

Ample evidence that brokers do not always put investors' interests first can be found in the allegations of improper sale of fund B shares at some fund companies. In addition, a recent Consumer Federation of America-Fund Democracy study of excess costs paid by investors in S&P 500 Index funds found that many of the funds with unjustifiably high expense ratios were funds that brokers sold on commission. Since costs subtract directly from fund performance, investors in these funds end up paying a premium for sub-par performance. Had these investors been made aware of the often substantial payments their brokers received on the sale, they might have been encouraged to look more closely at whether the fund or share type being sold was really the best for them.

2. We support requiring improved disclosure of portfolio transaction costs

The legislation would also require mutual funds to disclosure in the prospectus the brokerage commissions they pay on portfolio transactions and to include this cost in the fund expense ratio. Portfolio transaction costs vary greatly among funds and can be the single largest fund expense, exceeding all other fund expenses combined. These costs are not, however, currently included in fee information provided in the prospectus. The only public disclosure of portfolio transaction costs is a statement of the dollar amount of the fund's commissions in the Statement of Additional Information, a document never reviewed by the vast majority of mutual fund investors.

Fuller disclosure of portfolio transaction costs would help investors to hold fund advisers accountable for their trading practices. It also would provide a collateral benefit in connection with funds' soft dollar practices. Commissions paid by funds typically pay for both execution and research services. Since soft dollars pay for research that fund advisers would otherwise have to pay for themselves, this creates a significant conflict of interest for fund advisers. Requiring brokerage commission cost disclosure would subject these fund expenditures, including expenditures on soft dollar services, to market forces, and in the process provide a practical solution to the problem of regulating soft dollar practices.

3. We support reforms to enhance the independence of mutual fund boards.

The legislation contains a number of provisions to strengthen the independence of fund boards. It would require that 75 percent of board members, including the board chairman, be independent. It would substantially strengthen the definition of independent director by excluding individuals who had served as directors, officers, or employees within the past 10 years of the fund's manager, principal underwriter, or other significant service provider. It would delegate selection of new independent directors exclusively to existing independent directors. And it would establish qualification standards for board members that must be publicly disclosed.

The recent investigation into market timing and late trading at certain mutual funds has raised serious questions about the quality of oversight provided by fund boards. Of particular concern are the allegations that some Putnam fund managers and the CEO of the Strong fund family were timing their own funds—essentially picking the pockets of their own shareholders to the tune of several hundred thousand dollars in each instance. This is an unconscionable violation

of these fund managers' fiduciary duty to their shareholders. It is also strong evidence of the need to end the domination of fund boards by the fund manager. Increasing the representation of independent members on boards, making sure that independent members are truly independent, and ensuring that the boards are led by independent members should go a long way toward advancing that goal.

4. Other bill provisions would also benefit investors

The recent mutual fund scandals are not just a corporate governance failure—though they certainly are that. They are also a regulatory failure. The fact is that the SEC was apparently aware of problems related to market timing for years and had drifted along without doing anything about it. Given the lack of clear direction from the SEC, it is hardly surprising that fund boards failed to closely supervise the trading practices at funds they oversaw. Your bill offers an innovative approach to enhancing the quality of fund board oversight. It would direct the SEC to study the benefits of creating a Mutual Fund Oversight Board, generally modeled after the Public Company Accounting Oversight Board, with authority to examine and bring enforcement actions against mutual fund boards of directors. Under this approach, the SEC would retain responsibility for direct oversight of investment adviser, but that responsibility would be supplemented by the new independent agency's supervision of fund boards. We believe this approach is well worth studying.

We also support the bill's provisions requiring disclosure of portfolio managers' compensation and ownership of fund shares (something that might have discouraged market timing by fund managers), as well as its proposed GAO study of mutual fund advertising practices and SEC study of financial literacy. Such a study should look at innovative disclosure methods designed to reach unsophisticated investors—those who fail to take costs into account, for example—with information they understand and act on.

CONCLUSION

Recent events have provided a rude awakening to those who have long trusted mutual funds as the one place where the needs of average investors are generally well protected. Your bill offers a reasonable approach—one that recognizes the continued benefits of mutual fund investing for millions of Americans but also recognizes that reforms are needed to restore investor confidence in the integrity of this industry. Please let us know what we can do to assist in its passage.

Respectfully submitted,

BARBARA ROPER,
Director of Investor Protection, Consumer Federation of America.
MERCER BULLARD,
Executive Director, Fund Democracy.
KENNETH MCELDOWNEY,
Executive Director, Consumer Action.
EDMUND MIERZWINSKI,
Consumer Program Director, U.S. Public Interest Research Group.
SALLY GREENBERG,
Senior Counsel, Consumers Union.

Mr. AKAKA. I also ask unanimous consent that a letter of support for the legislation from AARP be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

AARP,
Washington, DC, November 4, 2003.

Hon. DANIEL K. AKAKA,
U.S. Senate,
Washington, DC.

DEAR SENATOR AKAKA: AARP supports your effort to improve investor awareness of mutual fund costs, and to improve the independent oversight and governance functions of fund boards of directors. The legislation you have introduced, ''the Mutual Fund Transparency Act of 2003,'' would put into effect an overdue upgrade in investor protection for the ordinary saver-investor. These reforms are already warranted by the continuing evolution in market practices and the growth in market choices. They are now more urgently required.

Mounting allegations of illegal—at best unethical—practices by mutual fund management companies, executives and brokers highlight the need for prompt action. We are concerned that lay investor confidence in the mutual fund industry not be allowed to deteriorate further—specifically in its ability to reliably provide fairly priced benefits of investment diversification and expert management.

With regard to initiatives designed to increase fund transparency, we strongly support the bill's provisions to require that: fees be disclosed in dollar amounts; fee disclosures incorporate all fees, including portfolio transaction costs; fee disclosures identify all distribution expenses; and compensation paid to portfolio managers and retail brokers be fully disclosed.

While greater transparency is essential to fair competition among funds for investors, we believe it does not provide a sufficient check on the cost of fund governance. Mutual funds allow investors to share the costs of professional money managers—who under the 1940 Investment Company Act are called ''advisers.'' However, most funds are not established by investors but rather are incorporated by advisory firms, who then contractually provide research, trading, money management and customer support services, and also have some representation on the fund's board. The advisory firms have their own corporate charters and are accountable to their own boards of directors, posing—as we are seeing—a range of potential conflicts of interest in the costs of services provided to the fund.

We support the provisions in the proposal to strengthen the role and independence of boards of directors, which should reduce potential conflicts of interest. Specifically, we support the requirement that: a super-majority (i.e., two-thirds to three-fourths) of fund board members be independent; the board chairman be selected from among the independent members; and the independent directors be responsible for establishing and disclosing the qualification standards of independence, and for nominating and selecting all subsequent independent board members.

We also see merit in the bill's requirements for three separate studies of investor financial literacy, the value of creating a mutual fund oversight board, and mutual fund advertising.

The importance of the mutual fund market as a critical component of the economic security of all Americans—especially order persons—should not be underestimated. Similar—although not identical—legislation (H.R. 2420) is pending before the House financial Services Committee. We look forward to working with you and with the other members of the Senate to enact this measured and important piece of investor protection legislation. Please feel free to contact me, or have your staff call Roy Green of our Federal Affair staff at (202) 434–3800, if you have any questions about our views.

Sincerely,

DAVID CERTNER,
Director, Federal Affairs.

Mr. AKAKA. Mr. President, recent revelations of widespread market-timing and late-trading abuses demonstrate the failures of mutual fund boards of directors to fulfill their fiduciary obligations to shareholders. The activities of Canary Capital Partners and Putnam Investments are two deeply troubling examples. However, it is likely that the trading abuses are much more routine. At our hearing, Mr. Stephen Cutler, Director, Division of Enforcement, Securities and Exchange Commission, SEC, testified that preliminary results of an SEC survey show that about ''50 percent of responding fund groups appear to have one or more arrangements with certain shareholders that allow these shareholders to engage in market timing.'' This statistic is just one example of mutual funds having different sets of rules for large and small investors. These differing rules allow the larger investors to profit at the expense of average, ordinary investors who are working toward their long-term financial goals.

The abuses that have been brought to our attention make it clear that the boards of mutual fund companies are not providing sufficient oversight. To be more effective, the boards must be strengthened and more independent. Investment company boards should be required to have an independent chairman, and independent directors must have a dominant presence on the board. My bill strengthens the definition of who is considered to be an independent director. It also requires that mutual fund company boards have 75 percent of their members considered to be independent. To be considered independent, shareholders would have to approve them. My legislation also prohibits the board from making decisions that require a vote of a non-independent director. In addition, a committee of independent members would be responsible for nominating members and adopting qualification standards for board membership. These steps are necessary to add much needed protections to strengthen the ability of mutual fund boards to detect and prevent abuses of the trust of shareholders.

In addition, this bill requires the SEC to develop rules to disclose the compensation of individuals employed by the investment advisor of the company to manage the portfolio of the company and their ownership interest in the company. Consumers deserve to know relevant information about the portfolio manager's incentives and whether they are properly aligned with those of their shareholders. Again, I am referring to ordinary American families patiently working toward their long-term financial goals.

The strengthening of boards to protect shareholders is only one important aspect of my bill. My bill will also increase the transparency of often complex financial relationships between brokers and mutual funds in ways that are meaningful and easy to understand for investors.

Shelf-space payments and revenue-sharing agreements between mutual fund companies and brokers present conflicts of interest that must be addressed. Brokers also compile preferred lists which highlight certain funds, which typically generate more investment than those left off the list. It is not clear to investors that the mutual fund company also may pay a percentage of sales and/or an annual fee on the fund assets held by the broker to obtain a place on the preferred list or to have their shares sold by the broker.

Shelf-space and revenue sharing agreements present risk to investors. Brokers have conflicts of interest, some of which are unavoidable, but these need to be disclosed to investors. Without such disclosure, investors cannot make informed financial decisions. Investors may believe that brokers are recommending funds based on the expectation for solid returns or low volatility, but the broker's recommendation may be influenced by hidden payments.

The SEC has exempted mutual funds from Rule 10b–10, which requires that confirmation notices of securities transactions be sent to customers to indicate how the broker was compensated in the trade. Mutual funds should be subject to this confirmation notice requirement. My legislation will require brokers to disclose in writing, to those who purchase mutual fund company shares, the amount of compensation the broker will receive due to the transaction, instead of simply providing a prospectus. The prospectus fails to include the detailed relevant information that investors need to make informed decisions. Mutual fund investors deserve to know how their broker is being paid.

My bill also will inject a measure of reality into the expenses of mutual funds. In order to increase the transparency of the actual costs of the fund, brokerage commissions must be counted as an expense in filings with the SEC and included in the calculation of the expense ratio, so that investors will have a more realistic view of the expenses of their fund. Consumers often compare the expense ratios of funds when making investment decisions. However, the expense ratios fail to take into account the costs of commissions in the purchase and sale of securities. Therefore, investors are not provided with an accurate idea of the expenses involved. Currently, brokerage commissions have to be disclosed to the SEC, but not to individual investors. Brokerage commissions are only disclosed to the investor upon request. My bill puts teeth into brokerage commission disclosure provisions and ensures that commissions will be included in a document that investors actually have access to and utilize.

This bill also creates a powerful incentive to reduce the use of soft dollars. Soft dollars refer to the bundling of services or products into commissions. Mutual fund companies often pay higher commissions in order to obtain other products and services, typically research on stocks. Soft dollars can be used to lower their expenses by having services and products paid for by soft dollars. Purchases using soft dollars do not count as expenses and are not calculated into the expense ratio. The SEC released a study in September 1998 concluding that soft dollars were used to pay for research, salaries, office rent, telephone services, legal expenses, and entertainment, among other expenses.

At the hearing, Secretary Galvin called for a prohibition of soft dollars. This is a recommendation that needs to be examined. However, my bill provides an immediate alternative, which is to provide an incentive for funds to limit their use of soft dollars by calculating them as expenses. If commissions are disclosed in this manner, the use of soft dollars will be reflected in the higher commission fees and overall expenses. This will make it easier for investors to see the true cost of the fund and compare the expense ratios of funds.

Some may argue that this gives an incomplete picture and fails to account for spreads, market impact, and opportunity costs. However, the SEC has the authority to address the issue further if it can determine an effective way to quantify these additional factors. This bill does not impose an additional reporting requirement that would be burdensome to brokers. It merely uses what is already reported and presents this information in a manner meaningful to investors.

My legislation also directs the SEC to conduct a study to assess financial literacy among mutual fund investors. The SEC will identify the most useful and relevant information that investors need prior to purchasing shares, methods to increase the transparency of expenses and potential conflicts of interest in mutual fund transactions, and a strategy to increase the financial literacy of investors that results in positive change in investor behavior. None of our disclosure provisions will truly work unless investors are effectively given the tools they need to make smart investment decisions.

Finally, my bill requires the General Accounting Office, GAO, to study the current marketing practices for the sale of shares of mutual funds. GAO will provide recommendations to improve investor protections in mutual fund advertising to ensure that investors are able make informed financial decisions when purchasing shares.

Public confidence in mutual funds will not recover if funds continue to employ different sets of rules for large and small investors, engage in ethical misconduct, and enrich themselves at the expense of shareholders. The transgressions brought to light underscore the absence of effective oversight by the boards of mutual funds companies. This legislation will strengthen board independence and enhance the transparency of financial relationships. The American investing public deserves nothing less.

Mr. President, I look forward to working with my colleagues in enacting meaningful reform of the troubled mutual fund industry. We must act to restore trust in this critical investment vehicle that people rely on for their financial future and goals. I ask unanimous consent that the text of the Mutual Fund Transparency Act of 2003 be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1822

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Mutual Fund Transparency Act of 2003''.

SEC. 2. DISCLOSURE OF FINANCIAL RELATIONSHIPS BETWEEN BROKERS AND MUTUAL FUND COMPANIES.

(a) IN GENERAL.—Section 15(b) of the Securities Exchange Act of 1934 (15 U.S.C. 78o(b)) is amended by adding at the end the following:

''(11) CONFIRMATION OF TRANSACTIONS FOR MUTUAL FUNDS.—

''(A) IN GENERAL.—Each broker shall disclose in writing to customers that purchase the shares of an open-end company registered under section 8 of the Investment Company Act of 1940 (15 U.S.C. 80a–8)—

''(i) the amount of any compensation received or to be received by the broker in connection with such transaction from any sources; and

''(ii) such other information as the Commission determines appropriate.

''(B) TIMING OF DISCLOSURE.—The disclosure required under subparagraph (A) shall be made to a customer not later than as of the date of the completion of the transaction.

''(C) LIMITATION.—The disclosures required under subparagraph (A) may not be made exclusively in—

''(i) a registration statement or prospectus of an open-end company; or

''(ii) any other filing of an open-end company with the Commission.

''(D) COMMISSION AUTHORITY.—

''(i) IN GENERAL.—The Commission shall promulgate such rules as are necessary to carry out this paragraph not later than 1 year after the date of enactment of the Mutual Fund Transparency Act of 2003.

''(ii) FORM OF DISCLOSURE.—Disclosures under this paragraph shall be in such form as the Commission, by rule, shall require.

''(E) DEFINITION.—In this paragraph, the term 'open-end company' has the same meaning as in section 5 of the Investment Company Act of 1940 (15 U.S.C. 80a–5).''.

(b) DISCLOSURE OF BROKERAGE COMMISSIONS.—Section 30 of the Investment Company Act of 1940 (15 U.S.C. 80a–29) is amended by adding at the end the following:

''(k) DISCLOSURE OF BROKERAGE COMMISSIONS.—The Commission, by rule, shall require that brokerage commissions as an aggregate dollar amount and percentage of assets paid by an open-end company be included in any disclosure of the amount of fees and expenses that may be payable by the holder of the securities of such company for purposes of—

''(1) the registration statement of that open-end company; and

''(2) any other filing of that open-end company with the Commission, including the calculation of expense ratios.''.

SEC. 3. MUTUAL FUND GOVERNANCE.

(a) INDEPENDENT FUND BOARDS.—Section 10(a) of the Investment Company Act of 1940 (15 U.S.C. 80a–10(a)) is amended—

(1) by striking ''shall have'' and inserting the following: ''shall—

''(1) have'';

(2) by striking ''60 per centum'' and inserting ''25 percent'';

(3) by striking the period at the end and inserting a semicolon; and

(4) by adding at the end the following:

''(2) have as chairman of its board of directors an interested person of such registered company; or

''(3) have as a member of its board of directors any person that is an interested person of such registered investment company—

''(A) who has served without being approved or elected by the shareholders of such registered investment company at least once every 5 years; and

''(B) unless such director has been found, on an annual basis, by a majority of the directors who are not interested persons, after reasonable inquiry by such directors, not to have any material business or familial relationship with the registered investment company, a significant service provider to the company, or any entity controlling, controlled by, or under common control with such service provider, that is likely to impair the independence of the director.''.

(b) ACTION BY INDEPENDENT DIRECTORS.—Section 10 of the Investment Company Act of 1940 (15 U.S.C. 80a–10) is amended by adding at the end the following:

''(i) ACTION BY BOARD OF DIRECTORS.—No action taken by the board of directors of a registered investment company may require the vote of a director who is an interested person of such registered investment company.

''(j) INDEPENDENT COMMITTEE.—

''(1) IN GENERAL.—The members of the board of directors of a registered investment company who are not interested persons of such registered investment company shall establish a committee comprised solely of such members, which committee shall be responsible for—

''(A) selecting persons to be nominated for election to the board of directors; and

''(B) adopting qualification standards for the nomination of directors.

''(2) DISCLOSURE.—The standards developed under paragraph (1)(B) shall be disclosed in the registration statement of the registered investment company.''.

(c) DEFINITION OF INTERESTED PERSON.—Section 2(a)(19) of the Investment Company Act of 1940 (15 U.S.C. 80a–2) is amended—

(1) in subparagraph (A)—

(A) in clause (iv), by striking ''two'' and inserting ''5''; and

(B) by striking clause (vii) and inserting the following:

''(vii) any natural person who has served as an officer or director, or as an employee within the preceding 10 fiscal years, of an investment adviser or principal underwriter to such registered investment company, or of any entity controlling, controlled by, or under common control with such investment adviser or principal underwriter;

''(viii) any natural person who has served as an officer or director, or as an employee within the preceding 10 fiscal years, of any entity that has within the preceding 5 fiscal years acted as a significant service provider to such registered investment company, or of any entity controlling, controlled by, or under the common control with such service provider;

''(ix) any natural person who is a member of a class of persons that the Commission, by rule or regulation, determines is unlikely to exercise an appropriate degree of independence as a result of—

''(I) a material business relationship with the investment company or an affiliated person of such investment company;

''(II) a close familial relationship with any natural person who is an affiliated person of such investment company; or

''(III) any other reason determined by the Commission.'';

(2) in subparagraph (B)—

(A) in clause (iv), by striking ''two'' and inserting ''5''; and

(B) by striking clause (vii) and inserting the following:

''(vii) any natural person who is a member of a class of persons that the Commission, by rule or regulation, determines is unlikely to exercise an appropriate degree of independence as a result of—

''(I) a material business relationship with such investment adviser or principal underwriter or affiliated person of such investment adviser or principal underwriter;

''(II) a close familial relationship with any natural person who is an affiliated person of such investment adviser or principal underwriter; or

''(III) any other reason as determined by the Commission.''.

(d) DEFINITION OF SIGNIFICANT SERVICE PROVIDER.—Section 2(a) of the Investment Company Act of 1940 is amended by adding at the end the following:

''(53) SIGNIFICANT SERVICE PROVIDER.—

''(A) IN GENERAL.—Not later than 270 days after the date of enactment of the Mutual Fund Transparency Act of 2003, the Securities and Exchange Commission shall issue final rules defining the term 'significant service provider'.

''(B) REQUIREMENTS.—The definition developed under paragraph (1) shall include, at a minimum, the investment adviser and principal underwriter of a registered investment company for purposes of paragraph (19).''.

(e) STUDY.—

(1) IN GENERAL.—The Securities and Exchange Commission shall conduct a study to determine whether the best interests of investors in mutual funds would be served by the creation of a Mutual Fund Oversight Board that—

(A) has inspection, examination, and enforcement authority over mutual fund boards of directors;

(B) is funded by assessments against mutual fund assets;

(C) the members of which are selected by the Securities and Exchange Commission; and

(D) has rulemaking authority.

(2) REPORT.—Not later than 1 year after the date of enactment of this Act, the Securities and Exchange Commission shall submit a report on the study required under paragraph (1) to—

(A) the Committee on Banking, Housing, and Urban Affairs of the Senate; and

(B) the Committee on Financial Services of the House of Representatives.

SEC. 4. PORTFOLIO MANAGER COMPENSATION.

Not later than 270 days after the date of enactment of this Act, the Securities and Exchange Commission shall prescribe rules under the Investment Company Act of 1940, requiring that a registered investment company disclose the structure of, or method used to determine, the compensation of—

(1) individuals employed by the investment adviser of the company to manage the portfolio of the company; and

(2) the ownership interest of such individuals in the securities of the registered investment company.

SEC. 5. FINANCIAL LITERACY AMONG MUTUAL FUND INVESTORS STUDY.

(a) IN GENERAL.—The Securities and Exchange Commission shall conduct a study to identify—

(1) the existing level of financial literacy among investors that purchase shares of open-end companies, as such term is defined under section 5 of the Investment Company Act of 1940, that are registered under section 8 of such Act;

(2) the most useful and understandable relevant information that investors need to make sound financial decisions prior to purchasing such shares;

(3) methods to increase the transparency of expenses and potential conflicts of interest in transactions involving the shares of open-end companies;

(4) the existing private and public efforts to educate investors; and

(5) a strategy to increase the financial literacy of investors that results in a positive change in investor behavior.

(b) REPORT.—Not later than 1 year after the date of enactment of this Act, the Securities and Exchange Commission shall submit a report on the study required under subsection (a) to—

(1) the Committee on Banking, Housing, and Urban Affairs of the Senate; and

(2) the Committee on Financial Services of the House of Representatives.

SEC. 6. STUDY REGARDING MUTUAL FUND ADVERTISING.

(a) IN GENERAL.—The Comptroller General of the United States shall conduct a study on mutual fund advertising to identify—

(1) existing and proposed regulatory requirements for open-end investment company advertisements;

(2) current marketing practices for the sale of open-end investment company shares, including the use of unsustainable past performance data, funds that have merged, and incubator funds;

(3) the impact of such advertising on consumers;

(4) recommendations to improve investor protections in mutual fund advertising and additional information necessary to ensure that investors can make informed financial decisions when purchasing shares.

(b) REPORT.—Not later than 1 year after the date of enactment of this Act, the Comptroller General of the United States shall submit a report on the results of the study conducted under subsection (a) to—

(1) the Committee on Banking, Housing, and Urban Affairs of the United States Senate; and

(2) the Committee on Financial Services of the House of Representatives.

Mr. LIEBERMAN. Mr. President, I rise today to join with my colleagues Senator DANIEL AKAKA and Senator PETER FITZGERALD and cosponsor legislation that would begin the crucial process of reforming the mutual fund industry. In the wake of shocking revelations of abusive trading and self-dealing in some of America's largest funds, it is imperative that we act quickly, and I commend my friend Senator AKAKA for his leadership. We must

do two things in order to reassure the 95 million Americans who invest in mutual funds that they have not misplaced their trust. We must find out how this was allowed to happen, and we must put safeguards in place to prevent these widespread abuses from poisoning our markets again.

As the deceptions and conflicts of the Wall Street analysts were uncovered last year in the wake of the Enron scandal, the oft-heard advice to the average investor was to invest in mutual funds. Investors took this advice in droves. Half of all American households own shares in mutual funds, and of the $7 trillion invested in mutual funds, $2.1 trillion of it is invested for retirement.

Perhaps these working families felt comfortable entrusting their precious savings with mutual funds because these funds offer one of the most highly regulated investments available. Mutual funds, their directors and their managers owe their investors a statutory fiduciary duty. Mutual funds are overseen by the SEC through a prescribed registration and reporting process as well as a regular examination and audit process, pursuant to the Investment Company Act of 1940.

Unfortunately, the trust of these American families has been abused. According to a just-released survey conducted by the Securities and Exchange Commission, half of the largest 88 mutual funds have permitted a practice called ''market-timing,'' which allows some investors to trade quickly in and out of the funds, even though many of those funds had explicit policies against such trading because of its detrimental impact on other investors in the fund. Many fund companies admitted providing portfolio information, unavailable publicly, to certain large investors to help them make trading decisions. Also, a full one-quarter of the brokerage firms surveyed indicated that they had allowed certain customers to engage in late-trading, an illegal practice that allows favored investors to execute trades based on that day's price, but after the market close, when new information has come to light. Perhaps most shocking, Stephen Cutler, Director of the SEC's Enforcement Division, has said that there is evidence that officials at fund companies profited personally at the expense of their customers by market-timing their own funds.

The SEC didn't discover these abuses on its own initiative, however. It acted only after the New York State Attorney General and the Massachusetts Secretary of the Commonwealth took steps to investigate and stop this conduct. The SEC didn't discover the abuses through the extensive reporting process mutual funds go through; the SEC didn't discover the abuses through the broad and regular examinations the SEC does of these mutual funds; the SEC didn't even discover the abuses after it received a tip from an insider, who went to the SEC with his attorney, evidence in hand.

Yesterday, I sent a ten-page letter to SEC Chairman William Donaldson, demanding to know how the SEC could have failed to uncover such a sweeping problem in the mutual fund industry. I asked how the SEC planned to change its practices in order to ensure that it is never again caught so unaware. Congress gave the SEC the responsibility to monitor the mutual fund industry, and we must ensure that the SEC does its job.

This is not the first time the SEC has been caught off guard with a scandal on Wall Street. In October 2002, the staff of the Senate Governmental Affairs Committee, of which I was then the Chairman, released a report, Financial Oversight of Enron: The SEC and Private-Sector Watchdogs, detailing the ignored red flags and the missed opportunities that kept the SEC from detecting the problems at Enron before that company collapsed, taking with it the jobs and retirement savings of thousands of Americans. Again, despite being fully aware of the troubling conflicts faced by Wall Street analysts, the SEC turned a blind eye to that problem until this Committee and others held hearings on the issue and New York State Attorney General Eliot Spitzer exposed how deeply deceptive many analyst recommendations truly were. I hope this mutual fund scandal represents the last time the SEC is playing regulatory catch-up.

In addition to holding the SEC accountable, Congress must also act to protect investors by fixing the holes in the statutory scheme for mutual funds. That's why I'm pleased to cosponsor the Mutual Fund Transparency Act of 2003, which enjoys widespread support from consumer groups. It contains many of the policy changes I urged the SEC to consider in my letter to Chairman Donaldson. It would strengthen the independence of mutual fund boards of directors by tightening the definition of independence and by requiring that 75 percent of the directors be independent. The bill would also require that mutual fund boards have nominating committees comprised solely of independent directors, so that directors are not chosen by management.

In my letter to the SEC, I also criticized the opaque or, in some cases, lack of, disclosure to investors about mutual fund fees. The Mutual Fund Transparency Act would significantly improve such disclosure to investors, by including in the fees disclosed to investors the costs the fund incurs when it executes trades of its holdings. Currently, such costs are not included among these more visible fees, which are disclosed in documents provided directly to mutual fund shareholders. Trading costs are currently only disclosed in filings with the SEC, but if this bill became law, trading costs would be included among the fees provided directly to investors. Such information is useful because it can give investors a sense of how often their funds are buying and selling assets and at what expense. The bill would also require funds to tell shareholders how fund advisers are compensated. Public companies are required to tell their shareholders how their managers are paid; mutual fund shareholders should have the same information. Finally, the bill would require that brokers offering mutual funds to investors inform those investors of any fees or incentives those brokers are receiving for making those sales in a sale confirmation.

The bill also mandates that the SEC study three initiatives to improve mutual fund oversight and transparency. The first two ask the SEC and the Comptroller General, respectively, to look at financial literacy among mutual fund investors and at mutual fund advertising, to determine how relevant information can be made clearer and more readily understandable to the average investor. In my letter to the SEC, I suggested the agency consider using consumer research methods in order to achieve such a result. The third study required by the bill relates to the formation of a Mutual Fund Oversight Board to take over the frontline efforts of mutual fund regulation from the SEC, while remaining under that agency's oversight. This may be a good approach, but I have concerns about the costs of such a board being borne by mutual fund investors, which is one of the areas suggested for study. I hope other options would be explored.

The Mutual Fund Transparency Act is clearly an important first step in closing some of the gaps in the laws governing these important investment vehicles. But there is more work to do, and I look forward to working with Senator AKAKA and the other cosponsors of this bill in making further necessary improvements. For example, we should consider strengthening the fiduciary duties owed by mutual fund directors and managers to their shareholders. In addition, as I indicated in my letter to the SEC, guidelines must be developed to prevent mutual fund directors from serving on more boards of funds than they can effectively oversee; at some of the major funds, directors serve on a hundred or more boards. Compliance officers at the funds must be elevated to emphasize their role. I suggested in my letter to the SEC that such a compliance officer should be active at each fund and should report directly to an independent committee of the board.

Moreover, as I pointed out to the SEC in my letter to Chairman Donaldson, we must close the loophole that allowed so many brokers and mutual funds to circumvent the law on late trading. Imposing a hard deadline of a time at which trades must be into the mutual fund may be the solution to this problem. We also must provide even more, clearer information to investors about the fees they are actually paying to participate in mutual funds. In my letter the SEC, I asked

the agency why investors should not receive on their monthly statements detail about the fees they actually paid to the fund during that time period, similar to the finance charge information that credit card consumers get. I also suggested that funds be required to provide comparative fee information. This would help people make better investment decisions, and might also encourage more competition among funds to reduce expenses.

Mutual funds hold the nest eggs, the retirement savings, and the college funds for many of America's working families. Through those investments in their own futures, those families are also feeding capital into today's economy, fueling the engine that creates and maintains American jobs. In a very real sense, these mutual fund investments are investments in the American dream. We must act now to protect them, and to restore the integrity to the mutual fund industry.

Once again, I thank Senator AKAKA for his leadership on this issue, and I urge my colleagues to support this important and timely legislation.

By Mr. BURNS (for himself and Mr. BAUCUS):

S. 1823. A bill to amend the Act of August 9, 1955, to authorize the Assiniboine and Sioux Tribes of the Fort Peck Reservation to lease tribally-owned land on the Fort Peck Indian Reservation for 1 or more interstate gas pipelines; to the Committee on Indian Affairs.

Mr. BURNS. Mr. President, I rise today to introduce the Northern Border Lease Extension legislation. Currently, and since 1981, Northern Border Pipeline Company has leased tribally owned lands on the Fort Peck Indian Reservation for its gas pipeline, which carries gas from Alberta, Canada to consumers in the Midwest. This lease expires in March 2011.

Northern Border wishes to have the right to continue to lease tribal lands for up to fifty years beyond 2011 for its pipeline. They need to be assured as soon as possible their lease can be extended. If not, they must look for other options that would include constructing a new pipeline to go around the Reservation by 2011.

If the lease is not extended, not only will Northern Border be forced to build a new pipeline, but also the Assiniboine and Sioux Tribes of the Fort Peck Reservation will lose over $20 million in payments from Northern Border. Additionally, if extended, the lease would provide tens of millions of dollars in additional payments, with the rental payments increasing at an annual rate of three percent per year every five years. These terms came about after negotiations between Northern Border and the Assiniboine and Sioux Tribes of the Fort Peck Reservation.

This legislation would allow the Tribes to enter into a lease with Northern Border that would give Northern Border the right to continue to lease tribal lands for up to fifty years beyond 2011 for its pipeline. This is one of those great instances when both sides of a situation agree and are of one mind. This provision was included in a bill previously approved by the Senate Indian Affairs Committee, but unfortunately for reasons not associated with this provision, is being held up. Therefore, I wish to introduce this important piece of legislation as a stand-alone bill.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1823

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

SECTION 1. LEASE OF TRIBALLY-OWNED LAND BY ASSINIBOINE AND SIOUX TRIBES OF THE FORT PECK RESERVATION.

The first section of the Act of August 9, 1955 (25 U.S.C. 415), is amended by adding at the end the following:

''(g) LEASE OF TRIBALLY-OWNED LAND BY ASSINIBOINE AND SIOUX TRIBES OF THE FORT PECK RESERVATION.—

''(1) IN GENERAL.—Notwithstanding subsection (a) and any regulations under part 162 of title 25, Code of Federal Regulations (or any successor regulation), subject to paragraph (2), the Assiniboine and Sioux Tribes of the Fort Peck Reservation may lease to the Northern Border Pipeline Company tribally-owned land on the Fort Peck Indian Reservation for 1 or more interstate gas pipelines.

''(2) CONDITIONS.—A lease entered into under paragraph (1)—

''(A) shall commence during fiscal year 2011 for an initial term of 25 years;

''(B) may be renewed for an additional term of 25 years; and

''(C) shall specify in the terms of the lease an annual rental rate—

''(i) which rate shall be increased by 3 percent per year on a cumulative basis for each 5-year period; and

''(ii) the adjustment of which in accordance with clause (i) shall be considered to satisfy any review requirement under part 162 of title 25, Code of Federal Regulations (or any successor regulation).''.

By Mr. DEWINE:

S. 1825. A bill to amend title 18, United States Code, to provide penalties for the sale and use of unauthorized mobile infrared transmitters; to the Committee on the Judiciary.

Mr. DEWINE. Mr. President, I rise today, to introduce the Safe Intersections Act of 2003. This bill would criminalize the unauthorized sale and possession of a mobile infrared transmitter, MIRT.

A MIRT is a remote control for changing traffic signals. These devices have been used for years by ambulances, police cars, and fire trucks, allowing them to reach emergencies faster. As an ambulance approaches an intersection where the light is red, the driver engages the transmitter. That transmitter then sends a signal to a receiver on the traffic light, which changes to green within a few seconds. This is a very useful tool when properly used in emergency situations.

In a 2002 survey, the U.S. Department of Transportation found that in the top 78 metropolitan areas, there are 24,683 traffic lights equipped with the sensors. In my home State of Ohio, there is a joint pilot project underway by the Washington Township Fire Department and the Dublin Police Department to install these devices. Other areas in Ohio where they are in use include Mentor, Twinsburg, Willoughby, and Westerville. Across the country, law enforcement officers, fire departments, and paramedics utilize this technology to make communities safer.

However, recently it has come to light that this technology may be sold to unauthorized individuals—individuals who want to use this technology to bypass red lights during their commute or during their everyday driving. MIRT was never intended for this use. MIRT technology—in the hands of unauthorized users—could result in traffic problems, like gridlock, or even worse, accidents in which people are injured or killed.

Let me quote from an ad that was recently posted on the Internet auction site, ''eBay'':

Tired of sitting at endless red lights? Frustrated by lights that turn from green to red too quickly, trapping you in traffic? The MIRT light changer used by police and other emergency vehicles Change the Traffic Signal Red to Green [for] only $499.00. Traffic Signal Changing Devices—It's every motorist's fantasy to be able to make a red traffic light turn green without so much as easing off the accelerator. The very technology that has for years allowed fire trucks, ambulances and police cars to emergencies faster—a remote control that changes traffic signals—is now much cheaper and potentially accessible.

This ad demonstrates the extent to which the potential widespread sale and possession of MIRT technology by drivers would be a hazard to public safety and must be stopped before it starts. That is why I am introducing the Safe Intersections Act of 2003. I encourage my colleagues to cosponsor this important piece of legislation.

I ask unanimous consent that the legislation I have just introduced be printed in the appropriate place in the RECORD immediately following the conclusion of my remarks.

By Mr. REID (for himself and Mr. ENSIGN):

S. 1826. A bill to direct the Secretary of the Interior to convey certain land in Washoe County, Nevada, to the Board of Regents of the University and Community College System of Nevada; to the Committee on Energy and Natural Resources.

Mr. REID. Mr. President, sometime, when the opportunity arises, I am going to introduce, for myself and Senator ENSIGN, the Dandini Research Park Transfer Act, which will transfer an important tract of land in Washoe County, Nevada, to the University and Community College System of Nevada.

The University of Nevada holds two patents from the Bureau of Land Management for approximately 467 acres of

public land located north of downtown Reno. In the early 1970s, the land was patented to the university pursuant to the Recreation and Public Purposes Act. Now known as the Dandini Research Park, it is the home of Truckee Meadows Community College and the Desert Research Institute's Northern Nevada Science Center.

Truckee Meadows Community College and its predecessor, Western Nevada Community College, have provided educational programs and opportunities to the residents of Reno, Sparks, and the surrounding communities for over 30 years. Construction of the College's facilities on the Dandini campus began in 1975, shortly after conveyance of the original patents.

For over 25 years the Desert Research Institute has excelled in applied scientific research and the application of technologies to improve people's lives in Nevada and throughout the world. Its three core divisions of Atmospheric, Hydrologic, and Earth and Ecosystem Sciences cooperate with two interdisciplinary centers to provide innovative solutions to pressing environmental problems. The Center for Arid Lands Environmental Management and the Center for Watersheds and Environmental Sustainability apply scientific understanding to the effective management of natural resources while addressing our needs for economic diversification and science-based educational opportunities. In doing so, DRI undertakes fundamental scientific research in Nevada and around the globe. For example, as a key participant in the U.S. Geological Survey Water Research Program, DRI plays a critical role in identifying and helping protect the region's scarce water resources.

DRI shares its facility with the Western Regional Climate Center, one of six regional climate centers operating under the National Oceanic and Atmospheric Administration's climate program. The Western Regional Climate Center conducts applied research and provides high quality climate data and information pertaining to the western United States.

The Desert Research Institute wishes to expand its Northern Nevada Science Center. DRI is considering an innovative means of financing the expansion, which would involve a private developer who would build and finance the expansion and lease it back to DRI. The private developers with whom DRI has discussed the proposal, as well as the Institute's counsel, however, have pointed out that the terms of the patents and the restrictions imposed by the Recreation and Public Purposes Act represent obstacles to such an arrangement.

Truckee Meadows Community College and the Northern Nevada Science Center are exceptional assets to the scientific and educational community in the Truckee Meadows. The Center serves not only the citizens of Washoe County, but the needs of all Nevadans and the western United States as well. It deserves the opportunity to grow and prosper with the community—one of the fastest-growing communities in the Nation.

The bill Senator ENSIGN and I will introduce simply directs the Secretary of the Interior to convey this property from the Bureau of Land Management to the University and Community College System of Nevada. Because of the overwhelming public benefit provided by the Center, we ask that the land be conveyed for free, but that the University cover the costs of the transaction.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1826

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Dandini Research Park Conveyance Act''.

SEC. 2. DEFINITIONS.

In this Act:

(1) BOARD OF REGENTS.—The term ''Board of Regents'' means the Board of Regents of the University and Community College System of Nevada.

(2) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

SEC. 2. CONVEYANCE TO THE UNIVERSITY AND COMMUNITY COLLEGE SYSTEM OF NEVADA.

(a) CONVEYANCE.—

(1) IN GENERAL.—The Secretary shall convey to the Board of Regents, without consideration, all right, title, and interest of the United States in and to the approximately 467 acres of land located in Washoe County, Nevada, patented to the University of Nevada under the Act of June 14, 1926 (commonly known as the ''Recreation and Public Purposes Act'') (43 U.S.C. 869 et seq.), and described in paragraph (2).

(2) DESCRIPTION OF LAND.—The land referred to in paragraph (1) is—

(A) the parcel of land consisting of approximately 309.11 acres and more particularly described as T. 20 N., R. 19 E., Sec. 25, lots 1, 2, 3, 4, 5, and 11, SE ¼ NW ¼, NE ¼ SW ¼, Mount Diablo Meridian, Nevada; and

(B) the parcel of land consisting of approximately 158.22 acres and more particularly described as T. 20 N., R. 19 E., Sec. 25, lots 6 and 7, SW ¼ NE ¼, NW ¼ SE ¼, Mount Diablo Meridian, Nevada.

(b) COSTS.—The Board of Regents shall pay to the United States an amount equal to the costs of the Secretary associated with the conveyance under subsection (a)(1).

(c) CONDITIONS.—If the Board of Regents sells any portion of the land conveyed to the Board of Regents under subsection (a)(1)—

(1) the amount of consideration for the sale shall reflect fair market value, as determined by an appraisal; and

(2) the Board of Regents shall pay to the Secretary an amount equal to the net proceeds of the sale, for use by the Director of the Bureau of Land Management in the State of Nevada, without further appropriation.

By Mr. KYL (for himself, Mr. CHAMBLISS, Mr. CRAIG, Mr. NICKLES, Mr. SESSIONS, and Mr. CORNYN):

S. 1828. A bill to eliminate the substantial backlog of DNA samples collected from crime scenes and convicted offenders, to improve and expand the DNA testing capacity of Federal, State, and local crime laboratories, to increase research and development of new DNA testing technologies, to develop new training programs regarding the collection and use of DNA evidence, and for other purposes; to the Committee on the Judiciary.

Mr. KYL. Mr. President, I rise today to introduce the ''Advancing Justice Through DNA Technology Act of 2003.'' This bill consists of the President's DNA initiative, which will expand and improve DNA databases used for criminal investigations and authorize additional funds to clear the backlog of untested DNA evidence in the nation's crime labs.

This bill offers several advantages over another version of the President's proposal that recently was introduced in the Senate. Today's bill gives States greater leeway in the use of DNA grants, removes arbitrary and unnecessary restrictions on the testing of criminal suspects' DNA samples, authorizes additional funds to clear the backlog of non-DNA forensics evidence, and—most importantly avoids tying this critical program to unrelated and highly controversial anti-death penalty legislation. I include in the record at the end of this statement a news story that describes the nature of the state counsel and other extraneous provisions that others have sought to attach to the President's proposal.

The bill that I introduce today is an unencumbered—and unabridged—version of the President's DNA initiative: the DNA Sexual Assault Justice Act and the Rape Kits and DNA Evidence Backlog Elimination Act, which authorize the Debbie Smith DNA Backlog Grant Program and provide $755 million over five years to address the DNA backlog crisis in the nation's crime labs.

Today's bill includes the following improvements over other congressional versions of the President's proposal: First, this bill also expands funding for non-DNA forensics funding. Section 211 of the bill authorizes $100 million in new grant programs to eliminate ''the backlog in the analysis of any area of forensic science evidence, including firearms examination, latent prints, toxicology, controlled substances, forensic pathology, questionable documents, and trace evidence.''

Second, this bill increases the authorization for the Paul Coverdell grant program, in recognition of the fact that this program never has been funded at more than a small fraction of its authorization. Other congressional versions of the President's DNA initiative only authorize decreasing Coverdell funding in the coming years. This bill resets the clock on the Coverdell program, authorizing 2004 funding at the level for 2001, and subsequent years accordingly. This will allow sharp increases in Coverdell funding in the coming years.

Third, today's bill allows states to test DNA samples from convicts seeking exoneration against the national DNA database, in order to determine if the convict has committed other rapes or murders. The other congressional versions of the President's DNA initiative would bar such testing; they effectively would give convicts a free roll of the dice to challenge their current convictions while protecting them against the risk that they will be linked to other crimes. There is no reason why states should be prevented from solving such other crimes. If DNA evidence is good enough to test a prisoner's conviction for the crimes that we do know that he committed, it also is good enough to establish the prisoner's involvement in crimes that we do not yet know that he committed.

Fourth, this bill includes all Federal felony arrestees in the federal DNA database. Other versions of this bill exclude arrestees and place other unnecessary and arbitrary limits on the federal DNA index. The federal government already maintains fingerprints for all federal felony arrestees—there is no reason to treat DNA evidence differently. Nor is there any reason to prevent states and the federal government from solving other crimes committed by suspects arrested for a federal felony offense.

The Department of Justice has expressly informed Congress of the benefits of casting a wide net when including criminal suspects in the federal DNA database. During a July 17 hearing on the President's DNA initiative before the Crime Subcommittee of the House Judiciary Committee, Sarah Hart, the Director of the National Institute of Justice, testified that:

> The efficacy of the DNA identification system depends entirely on the profiles entered into it. Experience demonstrates that broad collection and indexing of DNA samples is critical to the effective use of the DNA technology to solve rapes, murders, and other serious crimes.
>
> The DNA sample that enables law enforcement to identify the perpetrator of a rape, for example, often was not collected in connection with an earlier rape. Rather, in a large proportion of such cases, the sample was taken as a result of the perpetrator's prior conviction for a non-violent crime (such as a burglary, theft, or drug offense).
>
> For example, in Virginia, which has authorized the collection of DNA samples from all felons since 1991, a review of cases in which offenders were linked to sex crimes through DNA matching found that almost 40% of the offenders had no prior convictions for sexual or violent offenses. Most serious offenders do not confine themselves to violent crimes. The experience of States with broad DNA collection regimes demonstrates that DNA databases that include all felons dramatically increase law enforcement's ability to solve serious crimes.

Fifth, today's bill tolls the statute of limitations when a perpetrator has been identified through DNA—including in rape cases. Other congressional versions of the President's initiative inexplicably exclude sexual-assault crimes from the initiative's DNA tolling provision. There is no reason to do so. Indeed, it is in sexual-assault cases that DNA evidence is most likely to identify a perpetrator. At the July 17 hearing before the House Judiciary Committee's Crime Subcommittee, the Department of Justice testified in favor of tolling the statute of limitations to the full extent permitted by the Constitution.

Sixth, this bill allows grants for DNA training and research to be made to prosecutors' organizations, universities, and other private entities. Competing bill versions limit such grants to state and local governments, which is inconsistent with the President's DNA initiative.

Finally, the bill that I introduce today does not include the so-called ''Innocence Protection Act'' (IPA), a controversial anti-death penalty bill. The other congressional versions of the President's initiative have incorporated the IPA as a third title to the President's bill. At the July 17 hearing on the President's initiative, the Department of Justice made very clear that it ''do[es] not believe that legislation embodying the important proposals in the President's DNA initiative should be joined to these controversial [IPA] measures, which intrinsically are unrelated to DNA.''

In an October 27 letter to several members of Congress, the National District Attorneys Association also voiced strong objections to the capital-counsel provisions included in the IPA titles of the other bills. The NDAA's letter stated:

> Section 321 [of these bills] attempts to re-establish the old 'death penalty resource centers.' As you no doubt recall, Congress abolished funding for such centers because they devolved into organizations dedicated solely to the abolition of the death penalty and were staffed and controlled by those dedicated to the disruption of the criminal justice system by whatever means available, ethical or otherwise. Section 321 would cause a return to such tactics by removing the ability for the state judiciary to appoint counsel in death penalty cases and giving that authority to a self-appointed group of anti-death penalty attorneys.
>
> . . . NDAA strongly urges deletion of Section 321 from this bill . . . .
>
> Elimination of Section 321 . . . keeps the appointment and control of capital defense counsel in the hands of state court judges who are responsible for insuring that defendants receive quality representation. With Section 321 there is no oversight of those individuals selected to develop state standards for capital defense counsel.

The IPA titles included in the other congressional versions of the President's DNA initiative would authorize $500 million in Federal funding for State public defenders in State capital cases. There is no reason for Congress to finance the States' public-defender systems. The States adequately fund these programs themselves—indeed, many have enacted reforms and substantially increased funding for public defenders in recent years. When the IPA originally was introduced in 2000, it was targeted at the State of Texas. In 2001, the Texas legislature enacted reforms that completely overhauled the State's public-defender system. Yet the IPA provisions of the other Senate bill would declare Texas's reforms ''ineffective,'' and would force the State to again replace its indigent-defense system. Such a mandate makes no sense.

Moreover, there is no reason why States cannot or should not fund their own indigent-defender systems. Basic principles of federalism dictate that each level of government should finance its own operations. Once States become accustomed to and budget for Federal funds, they never are able to reject the money (or its conditions) in the future. And Federal funding inevitably comes with increasing Federal strings. In the long run, the States risk losing control over their own public-defender programs. There is no reason to start down this path.

The IPA proposals in the other congressional versions of the President's initiative begin by placing a number of conditions on the states' receipt of federal funds. Among these conditions is that states transfer control over capital defense to an ''entity'' composed of persons with ''demonstrated knowledge and expertise in capital representation.'' (This means private defense lawyers; public prosecutors likely would be barred by their jobs from serving or would be conflicted out.) This new ''entity'' would be charged with: (1) setting standards for capital-defense counsel; (2) deciding which lawyers meet those standards; and (3) appointing lawyers from the roster of qualifying attorneys to represent defendants in particular cases.

Essentially, the bill's new ''entity'' would completely control staffing of the defense in capital cases. From past experience with the ''capital resource centers,'' which were defunded by Congress in 1996, we know that hard-core death penalty opponents tend to gravitate toward these jobs, and will engage in litigation abuse when not supervised. Congress should not require the states to repeat its own past mistakes. It should not place anti-death penalty partisans in charge of public representation of capital defendants.

The other congressional versions of the President's proposal also include these additional highly problematic provisions:

They allow free DNA testing under very low standards. The competing bills provide that DNA tests shall be available to any prisoners if a negative test match would ''raise a reasonable probability that the applicant did not commit the offense.'' This standard is too low. Not all DNA evidence clearly came from the perpetrator of the crime or had anything to do with the crime—for example, a blood spot near the crime scene may or may not have come from the perpetrator. The ''reasonable probability'' standard means a prisoner could secure a test even if, despite a negative match, the other evidence would still show that the prisoner more likely than not committed the crime.

The bill requires only a chance that the prisoner did not commit the crime. Almost every prisoner with material to test will be able to meet this standard. Reopening old cases forces victims and their families to relive the ordeal of the crime. They should not be put through this unless a negative test result could at least show more likely than not that the prisoner did not commit the crime.

During the July 17 hearing before the House Crime Subcommittee, NIJ Director Sarah Hart expressly warned congress of the consequences of applying unduly low DNA testing standards. Director Hart testified:

[W]hile post-conviction DNA testing is necessary to correct erroneous convictions imposed prior to the ready availability of DNA technology, experience also points to the need to ensure that postconviction DNA testing is appropriately designed so as to benefit actually innocent persons, rather than actually guilty criminals who wish to game the system or retaliate against the victims of their crimes. Frequently, the results of postconviction DNA testing sought by prisoners confirm guilt, rather than establishing innocence. In such cases, justice system resources are squandered and the system has been misused to inflict further harm on the crime victim. The recent experience of a local jurisdiction is instructive:

''Twice last month, DNA tests at the police crime lab in St. Louis confirmed the guilt of convicted rapists. Two other tests, last year and in 2001, also showed the right men were behind bars for brutal rapes committed a decade or more earlier.

''[The St. Louis circuit attorney's] staff spent scores of hours and thousands of dollars on those tests. She personally counseled shaking, sobbing victims who were distraught to learn that their traumas were being aired again.

''One victim, she said, became suicidal and then vanished; her family has not heard from her for months. Another, a deaf elderly woman, grew so despondent that her son has not been able to tell her the results of the DNA tests. Every time he raises the issue, she squeezes her eyes shut so that she will not be able to read his lips.

'''She finally seemed to have some peace about the rape, and now she's gone back to being angry,' the woman's son said.

''DNA tests confirmed that she was raped by Kenneth Charron in 1985, when she was 59. To get that confirmation, however, investigators had to collect a swab of saliva from her so that they could analyze her DNA. They also had to inquire about her sexual past, so they could be sure the semen found in her home was not that of a consensual partner.

''The questioning sent the woman into such depression that she's now on medication. 'None of this needed to happen,' her son said.''

Post-conviction DNA testing is not without its costs. It should be allowed only in carefully measured circumstances.

Another problematic provision in the other congressional versions of the President's DNA initiative would employ an unduly low standard to authorize new trials for very old cases. This provision of these bills is designed to allow new trials for prisoners who may have been convicted 20 or more years ago. But it is very often impossible to retry a case this old—key witnesses die or disappear or their memories simply fade, and other evidence deteriorates or is lost. For many such cases, ordering a new trial effectively means that the prisoner walks free.

Congress should make sure that there is compelling evidence of innocence before ordering new trials in old cases. Unfortunately, these other bills would allow a new trial if test results simply ''establish by a preponderance of the evidence that a new trial would result in an acquittal.'' The key language here is ''result in acquittal.'' It means a test result would not even have to indicate actual innocence; it need only conflict with other evidence of guilt so as to undermine the jury's ability to convict beyond a reasonable doubt. Prisoners could win new trials—and go free—even if, despite the negative DNA match, other evidence still shows the prisoner very likely committed the crime. Current law, Federal Rule 33, uses the liberal ''result in acquittal'' standard to allow new trials based on new evidence, but only within three years of trial. It usually is not difficult to retry a case within three years. But for older cases, Congress should insist on a showing of actual innocence before ordering an often-impossible new trial.

There are other problems with the IPA titles in the various congressional versions of the President's DNA initiative. These titles would vastly expand DNA testing by authorizing tests even for prisoners who pleaded guilty. According to the Department of Justice, 90 percent of Federal prisoners pleaded guilty. Extending free tests to these prisoners literally expands the pool of potential test seekers by an order of magnitude. A guilty plea also means that there is no trial record, which makes it much more difficult to assess the potential relevance of DNA-test evidence.

These other bills also impose broad and potentially costly new evidence-retention requirements on the States—requirements that appear to require States to preserve all potential DNA evidence in all cases, indefinitely. And these bills also would give the newly created capital-counsel ''entities'' an unwarranted degree of control over defense attorneys' budgets. States traditionally have charged courts and other responsible agencies with monitoring budgets for capital representation. Prosecutors do not have unlimited budgets. There is no reason to allow the capital-counsel entity to draw a blank check on State treasuries.

There are other problems with the IPA titles of the competing bills. Suffice it to say that these titles are unrelated to the President's DNA initiative and both the Department of Justice and the NDAA oppose adding them to the President's bill. We should not weigh down the President's DNA initiative with the IPA. For this reason, my colleagues and I today introduce the President's proposal—important, consensus legislation that should be enacted by Congress without delay.

Mr. President, I ask unanimous consent that the text of the bill, the following letter, and the following article all be printed in the RECORD.

There being no objection, the additional material was ordered to be printed in the RECORD, as follows:

S. 1828

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Advancing Justice Through DNA Technology Act of 2003''.

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

Sec. 1. Short title; table of contents.
TITLE I—RAPE KITS AND DNA EVIDENCE BACKLOG ELIMINATION ACT OF 2003
Sec. 101. Short title.
Sec. 102. Debbie Smith DNA Backlog Grant Program.
Sec. 103. Expansion of Combined DNA Index System.
Sec. 104. Tolling of statute of limitations.
Sec. 105. Legal assistance for victims of violence.
Sec. 106. Ensuring private laboratory assistance in eliminating DNA backlog.
TITLE II—DNA SEXUAL ASSAULT JUSTICE ACT OF 2003
Sec. 201. Short title.
Sec. 202. Ensuring public crime laboratory compliance with Federal standards.
Sec. 203. DNA training and education for law enforcement, correctional personnel, and court officers.
Sec. 204. Sexual assault forensic exam program grants.
Sec. 205. DNA research and development.
Sec. 206. FBI DNA programs.
Sec. 207. DNA identification of missing persons.
Sec. 208. Enhanced criminal penalties for unauthorized disclosure or use of DNA information.
Sec. 209. Tribal coalition grants.
Sec. 210. Expansion of Paul Coverdell Forensic Science Improvement Grant Program.
Sec. 211. Creation of new Forensic Backlog Elimination Grant Program.
Sec. 212. Report to Congress.

TITLE I—RAPE KITS AND DNA EVIDENCE BACKLOG ELIMINATION ACT OF 2003

SEC. 101. SHORT TITLE.

This title may be cited as the ''Rape Kits and DNA Evidence Backlog Elimination Act of 2003''.

SEC. 102. DEBBIE SMITH DNA BACKLOG GRANT PROGRAM.

(a) DESIGNATION OF PROGRAM; ELIGIBILITY OF LOCAL GOVERNMENTS AS GRANTEES.—Section 2 of the DNA Analysis Backlog Elimination Act of 2000 (42 U.S.C. 14135) is amended—

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

''SEC. 2. THE DEBBIE SMITH DNA BACKLOG GRANT PROGRAM.'';

(2) in subsection (a)—

(A) in the matter preceding paragraph (1)—

(i) by inserting ''or units of local government'' after ''eligible States''; and

(ii) by inserting ''or unit of local government'' after ''State'';

(B) in paragraph (2), by inserting before the period at the end the following: '', including samples from rape kits, samples from other sexual assault evidence, and samples taken in cases without an identified suspect''; and

(C) in paragraph (3), by striking ''within the State'';

(3) in subsection (b)—

(A) in the matter preceding paragraph (1)—

(i) by inserting ''or unit of local government'' after ''State'' both places that term appears; and

(ii) by inserting '', as required by the Attorney General'' after ''application shall'';

(B) in paragraph (1), by inserting ''or unit of local government'' after ''State'';

(C) in paragraph (3), by inserting ''or unit of local government'' after ''State'' the first place that term appears;

(D) in paragraph (4)—

(i) by inserting ''or unit of local government'' after ''State''; and

(ii) by striking ''and'' at the end;

(E) in paragraph (5)—

(i) by inserting ''or unit of local government'' after ''State''; and

(ii) by striking the period at the end and inserting a semicolon; and

(F) by adding at the end the following:

''(6) if submitted by a unit of local government, certify that the unit of local government has taken, or is taking, all necessary steps to ensure that it is eligible to include, directly or through a State law enforcement agency, all analyses of samples for which it has requested funding in the Combined DNA Index System; and'';

(4) in subsection (d)—

(A) in paragraph (1)—

(i) in the matter preceding subparagraph (A), by striking ''The plan'' and inserting ''A plan pursuant to subsection (b)(1)'';

(ii) in subparagraph (A), by striking ''within the State''; and

(iii) in subparagraph (B), by striking ''within the State''; and

(B) in paragraph (2)(A), by inserting ''and units of local government'' after ''States'';

(5) in subsection (e)—

(A) in paragraph (1), by inserting ''or local government'' after ''State'' both places that term appears; and

(B) in paragraph (2), by inserting ''or unit of local government'' after ''State'';

(6) in subsection (f), in the matter preceding paragraph (1), by inserting ''or unit of local government'' after ''State'';

(7) in subsection (g)—

(A) in paragraph (1), by inserting ''or unit of local government'' after ''State''; and

(B) in paragraph (2), by inserting ''or units of local government'' after ''States''; and

(8) in subsection (h), by inserting ''or unit of local government'' after ''State'' both places that term appears.

(b) REAUTHORIZATION AND EXPANSION OF PROGRAM.—Section 2 of the DNA Analysis Backlog Elimination Act of 2000 (42 U.S.C. 14135) is amended—

(1) in subsection (a)—

(A) in paragraph (3), by inserting ''(1) or'' before ''(2)''; and

(B) by inserting at the end the following:

''(4) To collect DNA samples specified in paragraph (1).

''(5) To ensure that DNA testing and analysis of samples from crimes, including sexual assault and other serious violent crimes, are carried out in a timely manner.'';

(2) in subsection (b), as amended by this section, by inserting at the end the following:

''(7) specify that portion of grant amounts that the State or unit of local government shall use for the purpose specified in subsection (a)(4).'';

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

''(c) FORMULA FOR DISTRIBUTION OF GRANTS.—

''(1) IN GENERAL.—The Attorney General shall distribute grant amounts, and establish appropriate grant conditions under this section, in conformity with a formula or formulas that are designed to effectuate a distribution of funds among eligible States and units of local government that—

''(A) maximizes the effective utilization of DNA technology to solve crimes and protect public safety; and

''(B) allocates grants among eligible entities fairly and efficiently to address areas where significant backlogs exist, by considering—

''(i) the number of offender and casework samples awaiting DNA analysis in a jurisdiction;

''(ii) the population in the jurisdiction; and

''(iii) the number of part I violent crimes in the jurisdiction.

''(2) MINIMUM AMOUNT.—The Attorney General shall allocate to each State not less than 0.50 percent of the total amount appropriated in a fiscal year for grants under this section, except that the United States Virgin Islands, American Samoa, Guam, and the Northern Mariana Islands shall each be allocated 0.125 percent of the total appropriation.

''(3) LIMITATION.—Grant amounts distributed under paragraph (1) shall be awarded to conduct DNA analyses of samples from casework or from victims of crime under subsection (a)(2) in accordance with the following limitations:

''(A) For fiscal year 2004, not less than 50 percent of the grant amounts shall be awarded for purposes under subsection (a)(2).

''(B) For fiscal year 2005 not less than 50 percent of the grant amounts shall be awarded for purposes under subsection (a)(2).

''(C) For fiscal year 2006, not less than 45 percent of the grant amounts shall be awarded for purposes under subsection (a)(2).

''(D) For fiscal year 2007, not less than 40 percent of the grant amounts shall be awarded for purposes under subsection (a)(2).

''(E) For fiscal year 2008, not less than 40 percent of the grant amounts shall be awarded for purposes under subsection (a)(2).'';

(4) in subsection (g)—

(A) in paragraph (1), by striking ''and'' at the end;

(B) in paragraph (2), by striking the period at the end and inserting ''; and''; and

(C) by adding at the end the following:

''(3) a description of the priorities and plan for awarding grants among eligible States and units of local government, and how such plan will ensure the effective use of DNA technology to solve crimes and protect public safety.'';

(5) in subsection (j), by striking paragraphs (1) and (2) and inserting the following:

''(1) $151,000,000 for fiscal year 2004;

''(2) $151,000,000 for fiscal year 2005;

''(3) $151,000,000 for fiscal year 2006;

''(4) $151,000,000 for fiscal year 2007; and

''(5) $151,000,000 for fiscal year 2008.''; and

(6) by adding at the end the following:

''(k) USE OF FUNDS FOR ACCREDITATION AND AUDITS.—The Attorney General may distribute not more than 1 percent of the grant amounts under subsection (j)—

''(1) to States or units of local government to defray the costs incurred by laboratories operated by each such State or unit of local government in preparing for accreditation or reaccreditation;

''(2) in the form of additional grants to States, units of local government, or nonprofit professional organizations of persons actively involved in forensic science and nationally recognized within the forensic science community—

''(A) to defray the costs of external audits of laboratories operated by such State or unit of local government, which are participating in the National DNA Index System in order to ensure compliance with quality assurance standards;

''(B) to assess compliance with any plans submitted to the National Institute of Justice, which detail the use of funds received by States or units of local government under this Act; and

''(C) to support future capacity building efforts; and

''(3) in the form of additional grants to nonprofit professional associations actively involved in forensic science and nationally recognized within the forensic science community to defray the costs of training persons who conduct external audits of laboratories operated by States and units of local government and which participate in the National DNA Index System.

''(l) EXTERNAL AUDITS AND REMEDIAL EFFORTS.—In the event that a laboratory operated by a State or unit of local government which has received funds under this Act, has undergone an external audit conducted in order to demonstrate compliance with standards established by the Director of the Federal Bureau of Investigation, and, as a result of such audit, identifies measures to remedy deficiencies with respect to the compliance by the laboratory with such standards, the State or unit of local government shall implement any such remediation as soon as practicable.''.

SEC. 103. EXPANSION OF COMBINED DNA INDEX SYSTEM.

(a) INCLUSION OF ALL DNA SAMPLES FROM STATES.—Section 210304 of the DNA Identification Act of 1994 (42 U.S.C. 14132) is amended—

(1) in subsection (a)(1), by striking ''of persons convicted of crimes;'' and inserting the following: ''of—

''(A) persons convicted of crimes; and

''(B) other persons whose DNA samples are collected under applicable legal authorities;''; and

(2) by striking subsection (d).

(b) FELONS CONVICTED OF FEDERAL CRIMES.—Section 3(d) of the DNA Analysis Backlog Elimination Act of 2000 (42 U.S.C. 14135a(d)) is amended to read as follows:

''(d) QUALIFYING FEDERAL OFFENSES.—The offenses that shall be treated for purposes of this section as qualifying Federal offenses are the following offenses, as determined by the Attorney General:

''(1) Any felony.

''(2) Any offense under chapter 109A of title 18, United States Code.

''(3) Any crime of violence (as that term is defined in section 16 of title 18, United States Code).

''(4) Any attempt or conspiracy to commit any of the offenses in paragraphs (1) through (3).''.

(c) MILITARY OFFENSES.—Section 1565 of title 10, United States Code, is amended—

(1) by amending subsection (d) to read as follows:

''(d) QUALIFYING MILITARY OFFENSES.—The offenses that shall be treated for purposes of this section as qualifying military offenses are the following offenses, as determined by the Secretary of Defense, in consultation with the Attorney General:

''(1) Any offense under the Uniform Code of Military Justice for which a sentence of confinement for more than one year may be imposed.

''(2) Any other offense under the Uniform Code of Military Justice that is comparable to a qualifying Federal offense (as determined under section 3(d) of the DNA Analysis Backlog Elimination Act of 2000 (42 U.S.C. 14135a(d)).'';

(2) by striking subsection (e); and

(3) by redesignating subsection (f) as subsection (e).

(d) COLLECTION OF DNA IDENTIFICATION INFORMATION FROM PERSONS ARRESTED FOR QUALIFYING FEDERAL OFFENSES.—

(1) IN GENERAL.—Section 3 of the DNA Analysis Backlog Elimination Act of 2000 (42 U.S.C. 14135a) is amended—

(A) in subsection (a)—

(i) in paragraph (1), by striking ''The Director'', and inserting the following:

''(A) The Attorney General shall collect a DNA sample from each individual who is arrested for, or accused by information or indictment of, a qualifying Federal offense (as determined under subsection (d)). The Attorney General may delegate this function within the Department of Justice as provided in section 510 of title 28, United States Code, and may also authorize and direct any other agency that makes arrests for such offenses or supervises persons facing charges of such offenses to carry out any function and exercise any power of the Attorney General under this section.

''(B) The Director''; and

(ii) in paragraphs (3) and (4), by striking ''Director of the Bureau of Prisons'' each place it appears and inserting ''Attorney General, the Director of the Bureau of Prisons,''; and

(B) in subsection (b), by striking ''Director of the Bureau of Prisons'' and inserting ''Attorney General, the Director of the Bureau of Prisons,''.

(2) CONDITIONS OF RELEASE.—

(A) SECTION 3142 AMENDMENTS.—Subsections (b) and (c)(1)(A) of section 3142 of title 18, United States Code, are each amended by inserting ''and subject to the condition that the person cooperate in the collection of a DNA sample from the person if the collection of such a sample is authorized pursuant to section 3 of the DNA Analysis Backlog Elimination Act of 2000 (42 U.S.C. 14135a)'' after ''period of release''.

(B) BACKLOG ELIMINATION ACT AMENDMENT.—Section 7(d) of the DNA Analysis Backlog Elimination Act of 2000 (42 U.S.C. 14135c) is amended by inserting '', or on release under chapter 207 of title 18, United States Code,'' before ''is authorized''.

SEC. 104. TOLLING OF STATUTE OF LIMITATIONS.

(a) IN GENERAL.—Chapter 213 of title 18, United States Code, is amended by adding at the end the following:

''§ 3297. Cases involving DNA evidence

''In a case in which DNA testing implicates a person in the commission of a felony, no statute of limitations that would otherwise preclude prosecution of the offense shall preclude such prosecution until a period of time following the implication of the person by DNA testing has elapsed that is equal to the otherwise applicable limitation period.''.

(b) CLERICAL AMENDMENT.—The table of sections for chapter 213 of title 18, United States Code, is amended by adding at the end the following:

''3297. Cases involving DNA evidence.''.

(c) APPLICATION.—The amendments made by this section shall apply to the prosecution of any offense committed before, on, or after the date of the enactment of this section to the full extent permitted by the Constitution.

SEC. 105. LEGAL ASSISTANCE FOR VICTIMS OF VIOLENCE.

Section 1201 of the Violence Against Women Act of 2000 (42 U.S.C. 3796gg–6) is amended—

(1) in subsection (a), by inserting ''dating violence,'' after ''domestic violence,'';

(2) in subsection (b)—

(A) by redesignating paragraphs (1) through (3) as paragraphs (2) through (4), respectively;

(B) by inserting before paragraph (2), as redesignated by subparagraph (A), the following:

''(1) DATING VIOLENCE.—The term 'dating violence' means violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim. The existence of such a relationship shall be determined based on a consideration of—

''(A) the length of the relationship;

''(B) the type of relationship; and

''(C) the frequency of interaction between the persons involved in the relationship.''; and

(C) in paragraph (3), as redesignated by subparagraph (A), by inserting ''dating violence,'' after ''domestic violence,'';

(3) in subsection (c)—

(A) in paragraph (1)—

(i) by inserting '', dating violence,'' after ''between domestic violence''; and

(ii) by inserting ''dating violence,'' after ''victims of domestic violence,'';

(B) in paragraph (2), by inserting ''dating violence,'' after ''domestic violence,''; and

(C) in paragraph (3), by inserting ''dating violence,'' after ''domestic violence,'';

(4) in subsection (d)—

(A) in paragraph (1), by inserting '', dating violence,'' after ''domestic violence'';

(B) in paragraph (2), by inserting '', dating violence,'' after ''domestic violence'';

(C) in paragraph (3), by inserting '', dating violence,'' after ''domestic violence''; and

(D) in paragraph (4), by inserting ''dating violence,'' after ''domestic violence,'';

(5) in subsection (e), by inserting ''dating violence,'' after ''domestic violence,''; and

(6) in subsection (f)(2)(A), by inserting ''dating violence,'' after ''domestic violence,''.

SEC. 106. ENSURING PRIVATE LABORATORY ASSISTANCE IN ELIMINATING DNA BACKLOG.

Section 2(d)(3) of the DNA Analysis Backlog Elimination Act of 2000 (42 U.S.C. 14135(d)(3)) is amended to read as follows:

''(3) USE OF VOUCHERS OR CONTRACTS FOR CERTAIN PURPOSES.—

''(A) IN GENERAL.—A grant for the purposes specified in paragraph (1), (2), or (5) of subsection (a) may be made in the form of a voucher or contract for laboratory services, even if the laboratory makes a reasonable profit for the services.

''(B) REDEMPTION.—A voucher or contract under subparagraph (A) may be redeemed at a laboratory operated on a non-profit or for-profit basis by a private entity that satisfies quality assurance standards and has been approved by the Attorney General.

''(C) PAYMENTS.—The Attorney General may use amounts authorized under subsection (j) to make payments to a laboratory described under subparagraph (B).''.

TITLE II—DNA SEXUAL ASSAULT JUSTICE ACT OF 2003

SEC. 201. SHORT TITLE.

This title may be cited as the ''DNA Sexual Assault Justice Act of 2003''.

SEC. 202. ENSURING PUBLIC CRIME LABORATORY COMPLIANCE WITH FEDERAL STANDARDS.

Section 210304(b)(2) of the DNA Identification Act of 1994 (42 U.S.C. 14132(b)(2)), is amended to read as follows:

''(2) prepared by laboratories that—

''(A) not later than 2 years after the date of enactment of the DNA Sexual Assault Justice Act of 2003, have been accredited by a nonprofit professional association of persons actively involved in forensic science that is nationally recognized within the forensic science community; and

''(B) undergo external audits, not less than once every 2 years, that demonstrate compliance with standards established by the Director of the Federal Bureau of Investigation; and''.

SEC. 203. DNA TRAINING AND EDUCATION FOR LAW ENFORCEMENT, CORRECTIONAL PERSONNEL, AND COURT OFFICERS.

(a) IN GENERAL.—The Attorney General shall make grants to provide training, technical assistance, education, and information relating to the identification, collection, preservation, analysis, and use of DNA samples and DNA evidence by—

(1) law enforcement personnel, including police officers and other first responders, evidence technicians, investigators, and others who collect or examine evidence of crime;

(2) court officers, including State and local prosecutors, defense lawyers, and judges;

(3) forensic science professionals; and

(4) corrections personnel, including prison and jail personnel, and probation, parole, and other officers involved in supervision.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $12,500,000 for each of the fiscal years 2004 through 2008 to carry out this section.

SEC. 204. SEXUAL ASSAULT FORENSIC EXAM PROGRAM GRANTS.

(a) IN GENERAL.—The Attorney General shall make grants to eligible entities to provide training, technical assistance, education, equipment, and information relating to the identification, collection, preservation, analysis, and use of DNA samples and DNA evidence by medical personnel and other personnel, including doctors, medical examiners, coroners, nurses, victim service providers, and other professionals involved in treating victims of sexual assault and sexual assault examination programs, including SANE (Sexual Assault Nurse Examiner), SAFE (Sexual Assault Forensic Examiner), and SART (Sexual Assault Response Team).

(b) ELIGIBLE ENTITY.—For purposes of this section, the term ''eligible entity'' includes—

(1) States;

(2) units of local government; and

(3) sexual assault examination programs, including—

(A) sexual assault nurse examiner (SANE) programs;

(B) sexual assault forensic examiner (SAFE) programs;

(C) sexual assault response team (SART) programs; and

(D) State sexual assault coalitions.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $30,000,000 for each of the fiscal years 2004 through 2008 to carry out this section.

SEC. 205. DNA RESEARCH AND DEVELOPMENT.

(a) IMPROVING DNA TECHNOLOGY.—The Attorney General shall make grants for research and development to improve forensic DNA technology, including increasing the identification accuracy and efficiency of DNA analysis, decreasing time and expense, and increasing portability.

(b) DEMONSTRATION PROJECTS.—The Attorney General shall conduct research through grants for demonstration projects involving coordinated training and commitment of resources to law enforcement agencies and key criminal justice participants to demonstrate and evaluate the use of forensic DNA technology in conjunction with other forensic tools. The demonstration projects shall include scientific evaluation of the public safety benefits, improvements to law enforcement operations, and cost-effectiveness of increased collection and use of DNA evidence.

(c) NATIONAL FORENSIC SCIENCE COMMISSION.—

(1) APPOINTMENT.—The Attorney General shall appoint a National Forensic Science Commission (in this section referred to as

the ''Commission''), composed of persons experienced in criminal justice issues, including persons from the forensic science and criminal justice communities, to carry out the responsibilities under paragraph (2).

(2) RESPONSIBILITIES.—The Commission shall—

(A) assess the present and future resource needs of the forensic science community;

(B) make recommendations to the Attorney General for maximizing the use of forensic technologies and techniques to solve crimes and protect the public;

(C) identify potential scientific advances that may assist law enforcement in using forensic technologies and techniques to protect the public;

(D) make recommendations to the Attorney General for programs that will increase the number of qualified forensic scientists available to work in public crime laboratories;

(E) disseminate, through the National Institute of Justice, best practices concerning the collection and analyses of forensic evidence to help ensure quality and consistency in the use of forensic technologies and techniques to solve crimes and protect the public;

(F) examine additional issues pertaining to forensic science as requested by the Attorney General;

(G) examine Federal, State, and local privacy protection statutes, regulations, and practices relating to access to, or use of, stored DNA samples or DNA analyses, to determine whether such protections are sufficient;

(H) make specific recommendations to the Attorney General, as necessary, to enhance the protections described in subparagraph (G) to ensure—

(i) the appropriate use and dissemination of DNA information;

(ii) the accuracy, security, and confidentiality of DNA information;

(iii) the timely removal and destruction of obsolete, expunged, or inaccurate DNA information; and

(iv) that any other necessary measures are taken to protect privacy; and

(I) provide a forum for the exchange and dissemination of ideas and information in furtherance of the objectives described in subparagraphs (A) through (H).

(3) PERSONNEL; PROCEDURES.—The Attorney General shall—

(A) designate the Chair of the Commission from among its members;

(B) designate any necessary staff to assist in carrying out the functions of the Commission; and

(C) establish procedures and guidelines for the operations of the Commission.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $15,000,000 for each of the fiscal years 2004 through 2008 to carry out this section.

SEC. 206. FBI DNA PROGRAMS.

(a) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Federal Bureau of Investigation $42,100,000 for each of the fiscal years 2004 through 2008 to carry out the DNA programs and activities described under subsection (b).

(b) PROGRAMS AND ACTIVITIES.—The Federal Bureau of Investigation may use any amounts appropriated pursuant to subsection (a) for—

(1) nuclear DNA analysis;

(2) mitochondrial DNA analysis;

(3) regional mitochondrial DNA laboratories;

(4) the Combined DNA Index System;

(5) the Federal Convicted Offender DNA Program; and

(6) DNA research and development.

SEC. 207. DNA IDENTIFICATION OF MISSING PERSONS.

(a) IN GENERAL.—The Attorney General shall make grants to promote the use of forensic DNA technology to identify missing persons and unidentified human remains.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $2,000,000 for each of the fiscal years 2004 through 2008 to carry out this section.

SEC. 208. ENHANCED CRIMINAL PENALTIES FOR UNAUTHORIZED DISCLOSURE OR USE OF DNA INFORMATION.

Section 10(c) of the DNA Analysis Backlog Elimination Act of 2000 (42 U.S.C. 14135e(c)) is amended to read as follows:

''(c) CRIMINAL PENALTY.—A person who knowingly discloses a sample or result described in subsection (a) in any manner to any person not authorized to receive it, or obtains or uses, without authorization, such sample or result, shall be fined not more than $100,000. Each instance of disclosure, obtaining, or use shall constitute a separate offense under this subsection.''.

SEC. 209. TRIBAL COALITION GRANTS.

Section 2001 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796gg) is amended by adding at the end the following:

''(d) TRIBAL COALITION GRANTS.—

''(1) PURPOSE.—The Attorney General shall award grants to tribal domestic violence and sexual assault coalitions for purposes of—

''(A) increasing awareness of domestic violence and sexual assault against Indian women;

''(B) enhancing the response to violence against Indian women at the tribal, Federal, and State levels; and

''(C) identifying and providing technical assistance to coalition membership and tribal communities to enhance access to essential services to Indian women victimized by domestic and sexual violence.

''(2) GRANTS TO TRIBAL COALITIONS.—The Attorney General shall award grants under paragraph (1) to—

''(A) established nonprofit, nongovernmental tribal coalitions addressing domestic violence and sexual assault against Indian women; and

''(B) individuals or organizations that propose to incorporate as nonprofit, nongovernmental tribal coalitions to address domestic violence and sexual assault against Indian women.

''(3) ELIGIBILITY FOR OTHER GRANTS.—Receipt of an award under this subsection by tribal domestic violence and sexual assault coalitions shall not preclude the coalition from receiving additional grants under this title to carry out the purposes described in subsection (b).''.

SEC. 210. EXPANSION OF PAUL COVERDELL FORENSIC SCIENCES IMPROVEMENT GRANT PROGRAM.

(a) FORENSIC BACKLOG ELIMINATION GRANTS.—Section 2804 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3797m) is amended—

(1) in subsection (a)—

(A) by striking ''shall use the grant to carry out'' and inserting ''shall use the grant to—

''(1) carry out'';

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

(C) by adding at the end the following:

''(2) eliminate a backlog in the analysis of forensic science evidence, including firearms examination, latent prints, toxicology, controlled substances, forensic pathology, questionable documents, and trace evidence; and

''(3) train, assist, and employ forensic laboratory personnel, as needed, to eliminate a forensic evidence backlog.'';

(2) in subsection (b), by striking ''under this part'' and inserting ''for the purpose set forth in subsection (a)(1)''; and

(3) by adding at the end the following:

''(e) DEFINED TERM.—As used in this section, the term 'forensic evidence backlog' means forensic evidence that—

''(1) has been stored in a laboratory, medical examiner's office, or coroner's office; and

''(2) has not been subjected to all appropriate forensic testing because of a lack of resources or personnel.''.

(b) EXTERNAL AUDITS.—Section 2802 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3797k) is amended—

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

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

(3) by adding at the end the following:

''(4) a certification that a government entity exists and an appropriate process is in place to conduct independent external investigations into allegations of serious negligence or misconduct substantially affecting the integrity of the forensic results committed by employees or contractors of any forensic laboratory system, medical examiner's office, or coroner's office in the State that will receive a portion of the grant amount.''.

(c) THREE-YEAR EXTENSION OF AUTHORIZATION OF APPROPRIATIONS.—Section 1001(a) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793(a)) is amended by striking paragraph (24) and inserting the following:—

''(24) There are authorized to be appropriated to carry out part BB of this Act, to remain available until expended—

''(A) $35,000,000 for fiscal year 2004;

''(B) $85,400,000 for fiscal year 2005;

''(C) $134,733,000 for fiscal year 2006;

''(D) $128,067,000 for fiscal year 2007;

''(E) $56,733,000 for fiscal year 2008; and

''(F) $42,067,000 for fiscal year 2009.''.

SEC. 211. CREATION OF NEW FORENSIC BACKLOG ELIMINATION GRANT PROGRAM.

(a) GRANTS AUTHORIZED.—The Attorney General is authorized to award grants to States, units of local government, and tribal governments to eliminate forensic science backlogs.

(b) PURPOSE.—The purpose of the grant program established under this section is to—

(1) eliminate the backlog in the analysis of any area of forensic science evidence, including firearms examination, latent prints, toxicology, controlled substances, forensic pathology, questionable documents, and trace evidence; and

(2) train, assist, and employ forensic laboratory personnel as needed to eliminate a forensic evidence backlog.

(c) USE OF FUNDS.—

(1) SUPPLANTING PROHIBITED.—Grant funds made available to applicants under this section shall be used to supplement and not supplant other Federal or State funds.

(2) ADMINISTRATIVE COSTS.—An applicant may use not more than 5 percent of the funds received through grants awarded under this section for administrative costs.

(d) APPLICATION.—

(1) IN GENERAL.—A State, local government, or tribal government desiring a grant under this section, shall submit to the Attorney General an application in such form and containing such information as the Attorney General may require.

(2) ASSURANCES AND CERTIFICATION.—The application submitted under paragraph (1) shall—

(A) provide assurances that the applicant has implemented, or will implement not later than 120 days after the submission date

of such application, a comprehensive plan for the expeditious analysis of the forensic evidence currently backlogged; and

(B) certify that the forensic science laboratory—

(i) employs generally accepted practices and procedures; and

(ii) is accredited by the Laboratory Accreditation Board of the American Society of Crime Laboratory Directors or the National Association of Medical Examiners or any other nonprofit professional organization that may be recognized within the forensic science community as competent to award such accreditation.

(e) DEFINED TERM.—As used in this section, the term ''forensic evidence backlog'' means—

(1) particular forensic evidence has been admitted to the laboratory faster than it can be analyzed; or

(2) pertinent testing has been curtailed or not performed due to lack of resources.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Attorney General $20,000,000 for each of the fiscal years 2005 through 2009 for grants under this section.

SEC. 212. REPORT TO CONGRESS.

(a) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, the Attorney General shall submit to Congress a report on the implementation of this Act.

(b) CONTENTS.—The report submitted under subsection (a) shall include a description of—

(1) the progress made by Federal, State, and local entities in—

(A) collecting and entering DNA samples from offenders convicted of qualifying offenses for inclusion in the Combined DNA Index System (referred to in this subsection as ''CODIS'');

(B) analyzing samples from crime scenes, including evidence collected from sexual assaults and other serious violent crimes, and entering such DNA analyses in CODIS; and

(C) increasing the capacity of forensic laboratories to conduct DNA analyses;

(2) the priorities and plan for awarding grants among eligible States and units of local government to ensure that the purposes of this Act are carried out;

(3) the distribution of grant amounts under this Act among eligible States and local governments, and whether the distribution of such funds has served the purposes of the Debbie Smith DNA Backlog Grant Program;

(4) grants awarded and the use of such grants by eligible entities for DNA training and education programs for law enforcement, correctional personnel, court officers, medical personnel, victim service providers, and other personnel authorized under sections 203 and 204;

(5) grants awarded and the use of such grants by eligible entities to conduct DNA research and development programs to improve forensic DNA technology, and implement demonstration projects under section 205;

(6) the steps taken to establish the National Forensic Science Commission, and the activities of the Commission under section 205(c);

(7) the use of funds by the Federal Bureau of Investigation under section 206;

(8) grants awarded and the use of such grants by eligible entities to promote the use of forensic DNA technology to identify missing persons and unidentified human remains under section 207;

(9) grants awarded and the use of such grants by eligible entities to eliminate forensic science backlogs under sections 210 and 211; and

(10) any other matters considered relevant by the Attorney General.

CRIMINAL JUSTICE LEGAL FOUNDATION,
Sacramento, CA, November 5, 2003.

Hon. JON KYL,
U.S. Senate,
Washington, DC.

DEAR MR. KYL: Recently, the Judiciary Committee approved H.R. 3214, the ''Advancing Justice Through DNA Technology Act of 2003.'' Although the goals of this bill are laudable, one provision in particular is extremely ill-considered, and it will actually operate to obstruct the system rather than improve it. Section 321 should be deleted from the bill.

Section 321 authorizes grants ''for the purpose of improving the quality of legal representation provided to indigent defendants in State capital cases.'' That is certainly a worthy purpose, but this bill will not achieve it. Instead, it is a giant step backward in the direction of the discredited ''resource centers'' which Congress defunded years ago, after finding that they had become taxpayer-funded nests of saboteurs.

A condition for the grant is that a state establish an ''effective system'' for capital representation. However, ''effective system'' is nonsensically defined as one that removes the authority to appoint trial counsel from the trial judge and gives it to a central authority composed of capital defense lawyers.

We saw with the ''resource centers'' how these capital representation organizations were invariably staffed by hard-core, anti-death-penalty fanatics who saw it as their mission to bring the system to a screeching halt. In an unusual moment of candor, the head of one of the resource centers wrote in a published article that it was the duty of the lawyer to file motions just to ''make trouble,'' Lyon, Defending the Capital Case: What Makes Death Different? 42 Mercer L. Rev. 695, 700 (1991). Such conduct is, of course, clearly unethical. In 1996, Congress finally woke up to what was being done with taxpayer money and defunded the resource centers.

Appointment authority is one of the few checks available against unethical conduct by defense lawyers. The attorney discipline system is toothless. The prosecution cannot appeal on defense misconduct, the way the defense does on prosecutor misconduct. The trial judge's refusal to appoint lawyers who are notorious for obstructionism and other unethical behavior is the most effective deterrent. To remove the appointment authority to an entity full of people who actually encourage such misconduct is a recipe for chaos.

Congress has not removed the appointment authority from federal district judges, for good reason. A number of states have recently implemented improvements to their capital representation systems. These reforms have taken different shapes in different states, as is appropriate for a federal system. Instead of evaluating the different approaches to see which one works best in the real world, section 321 would declare most, if not all, of them ''ineffective,'' and deny defense grants to states that have chosen a different and possibly better path. Section 326 effectively makes a state ineligible for the prosecution grants if it chooses not to change its appointment system to qualify for the defense grants.

Congress should not mandate a single solution without the most careful consideration of the reforms the states have already enacted. The problem of effective counsel is a complex one. It requires more study and more debate before Congress endorses a particular solution. Section 321 of H.R. 3214 is half-baked, and it should be deleted.

Sincerely,

KENT S. SCHEIDEGGER,
Legal Director.

[From National Review Online, Oct. 29, 2003]

PROTECTION RACKET—CONGRESS PREPARES TO FUND THE ANTI-DEATH-PENALTY LOBBY

(By Ramesh Ponnuru)

Why is a Republican Congress considering a bill to fund anti-death-penalty activists? A bill that could result in murderers going free? A bill that was initially introduced to hurt George W. Bush? Beats me. But that's exactly what Congress is doing.

In early 2000, Democrats were portraying George W. Bush's Texas as a third-world hellhole where the water was dirty, the churches were filled with guns, and the streets ran red with blood of unlucky defendants. A few anecdotes in which public defenders really had been lax in capital murder cases were extrapolated into a critique of law enforcement in the state. At around this time, Senator Patrick Leahy of Vermont and Representative William Delahunt of Massachusetts, both Democrats, introduced the ''Innocence Protection Act.'' Supposedly, the bill was going to keep innocents from getting put on death row by, among other things, providing for better legal defenses for accused capital murderers.

In a modified form, the bill has been made part of the ''Advancing Justice Through DNA Technology Act of 2003.'' Sponsors of the bill include Orrin Hatch and James Sensenbrenner, the chairmen of the House and Senate judiciary committees. The House Judiciary Committee voted for the bill 28–1. Conservative Jeff Flake was the only dissenter.

There are two major problems with the bill. First, its low standard for requiring new trials makes it likely that murderers will go free. The bill says that federal prisoners have a right to a new trial if a DNA test ''establish[es] by a preponderance of evidence that a new trial would result in acquittal.'' This standard is very different from a requirement that the DNA test establish that the prisoner probably did not commit the crime. DNA at a murder scene can, of course, come from a variety of sources. It may be that the jury in the original trial, faced with a negative DNA result, would have found the defendant guilty anyway based on other evidence. But witnesses die and evidence deteriorates. Wait long enough to get a DNA test, and a new trial may be unlikely to yield a conviction even if the defendant actually committed the crime. The ''result in acquittal'' standard is used to allow new trials based on new evidence—but only within three years of the original trial. This bill has no such time limit. The result is not a reduced sentence, but the defendant's walking.

The second problem is that the bill bribes states to give up control of their public-defender systems. Essentially, the bill would funnel taxpayer dollars to the ''capital resource centers'' that Congress defunded in 1996, having found that they frequently abused the appeals process. (See pages 53–57 of this report for a long list of examples of such abuses.) Abuses would be likely since state courts, and other branches of state and local government, would no longer have supervisory authority over publicly funded defense counsel. Indeed, supporters of the Innocence Protection Act have been positively enthusiastic about one form of abuse. When Leahy ran the Judiciary Committee last year, it issued a report that said that capital resource centers ''may legitimately assert a large number of claims'' based on a ''reversal of existing law.'' In other words, it's legitimate for tax-funded public defenders to file a ''large number of claims'' that are precluded by current law.

Is federal intervention necessary? States have been busy reforming their own capital-

defense systems. But the same Leahy report mentioned earlier identified five cases in which ineffective counsel had led innocent people to be sentenced to death. But as the dissenting Republican report pointed out, the five cases Leahy discussed established no such thing. In one of the cases, the defendent was never actually sentenced to death. In three of the cases, it is not at all clear that the defendant was innocent. (Prosecutors declined to retry them because evidence had deteriorated. In one case, for example, the building in which the murder took place had been demolished.) The cases are marked more, in any case, by prosecutorial misconduct than by sloppy defenses.

That's true, by the way, of cases in which actually innocent people have been put on death row. It has generally been because prosecutors relied too much on unreliable evidence, such as the testimony of jailhouse informants, or because police and prosecutors acted in grossly improper ways. (Say hello to our friends in Cook County.) When prosecutors suppress evidence, the most competent defense attorneys will be at a disadvantage. The Innocence Protection Act's capital-defense provisions will not ameliorate that problem. But then, it's more about funneling tax money to opponents of the death penalty than springing truly innocent people from death row.

''What's disgusting is we're actually wasting time fighting this in a Republican Congress,'' says one Republican Senate staffer.

By Mr. CORNYN:

S.J. Res. 23. A joint resolution proposing an amendment to the Constitution of the United States providing for the event that one-fourth of the members of either the House of Representatives or the Senate are killed or incapacitated; to the Committee on the Judiciary

S.J. RES. 23

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States:

''ARTICLE—

''The Congress may by law provide for the case of death or inability of members of the House of Representatives, and the case of inability of members of the Senate, in the event that one-fourth of either House are killed or incapacitated, declaring who shall serve until the disability is removed, or a new member is elected. Any procedures established pursuant to such a law shall expire not later than 120 days after the death or inability of one-fourth of the House of Representatives or the Senate, but may be extended for additional 120-day periods if one-fourth of either the House of Representatives or the Senate remains vacant or occupied by members unable to serve.''.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 259—TO AUTHORIZE LEGAL REPRESENTATION IN BELL AVIATION, INC., ET AL. V. SINO SWEARINGEN AIRCRAFT CO., L.P., ET AL

Mr. FRIST (for himself and Mr. DASCHLE) submitted the following resolution; which was considered and agreed to:

S. RES. 259

Whereas, in the case of Bell Aviation, Inc., et al. v. Sino Swearingen Aircraft, Co., L.P., et al., Cause No. 03–02532, pending in the District Court of Dallas County, Texas, the plaintiffs have obtained from the Superior Court of the District of Columbia subpoenas for deposition testimony and document production by Senator John D. Rockefeller IV and Terri Giles, a staff member in the office of Senator Rockefeller;

Whereas, pursuant to section 703(a) and 704(a)(2) of the Ethics in Government Act of 1978, 2 U.S.C. §§288b(a) and 288c(a)(2), the Senate may direct its counsel to represent Members and employees of the Senate with respect to any subpoena, order, or request for testimony relating to their official responsibilities;

Whereas, by the privileges of the Senate of the United States and Rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate may, by the judicial or administrative process, be taken from such control or possession but by permission of the Senate; and

Whereas, by Rule VI of the Standing Rules of the Senate, no Senator shall absent himself from the service of the Senate without leave: Now, therefore, be it

Resolved, That the Senate Legal Counsel is authorized to represent Senator Rockefeller and Terri Giles in connection with the subpoenas issued at this action.

AMENDMENTS SUBMITTED AND PROPOSED

SA 2072. Mr. BENNETT (for himself and Mr. KOHL) proposed an amendment to the bill H.R. 2673, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for the fiscal year ending September 30, 2004, and for other purposes.

SA 2073. Mr. BENNETT (for himself and Mr. KOHL) proposed an amendment to the bill H.R. 2673, supra.

SA 2074. Mr. DASCHLE (for himself and Mr. FRIST) submitted an amendment intended to be proposed by him to the bill H.R. 2673, supra; which was ordered to lie on the table.

SA 2075. Mr. JEFFORDS submitted an amendment intended to be proposed by him to the bill H.R. 2673, supra; which was ordered to lie on the table.

SA 2076. Mr. JEFFORDS submitted an amendment intended to be proposed by him to the bill H.R. 2673, supra; which was ordered to lie on the table.

SA 2077. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill H.R. 2673, supra; which was ordered to lie on the table.

SA 2078. Mr. DASCHLE (for himself, Mr. ENZI, Mr. THOMAS, Mr. JOHNSON, Mr. HARKIN, Mr. GRASSLEY, Mr. BURNS, Mr. BINGAMAN, Mr. BAUCUS, Mr. DORGAN, Mr. CONRAD, and Mr. KERRY) submitted an amendment intended to be proposed by him to the bill H.R. 2673, supra; which was ordered to lie on the table.

SA 2079. Mr. CORNYN submitted an amendment intended to be proposed by him to the bill H.R. 2673, supra; which was ordered to lie on the table.

SA 2080. Mr. SPECTER submitted an amendment intended to be proposed by him to the bill H.R. 2673, supra.

SA 2081. Mr. GRAHAM, of Florida (for himself and Mr. NELSON, of Florida) submitted an amendment intended to be proposed by him to the bill H.R. 2673, supra; which was ordered to lie on the table.

SA 2082. Mr. NELSON, of Florida (for himself and Mr. GRAHAM, of Florida) submitted an amendment intended to be proposed by him to the bill H.R. 2673, supra; which was ordered to lie on the table.

SA 2083. Mrs. FEINSTEIN (for herself, Mr. LUGAR, Mr. LEVIN, Mr. HARKIN, Ms. CANTWELL, Mrs. BOXER, Mr. LEAHY, Mr. WYDEN, Mr. DURBIN, and Mr. HOLLINGS) proposed an amendment to the bill H.R. 2673, supra.

SA 2084. Mr. BENNETT (for himself and Mr. KOHL) proposed an amendment to the bill H.R. 2673, supra.

SA 2085. Mr. HARKIN submitted an amendment intended to be proposed by him to the bill H.R. 2673, supra; which was ordered to lie on the table.

SA 2086. Mr. HOLLINGS submitted an amendment intended to be proposed by him to the bill H.R. 2673, supra; which was ordered to lie on the table.

SA 2087. Ms. CANTWELL (for herself, Mr. BINGAMAN, Mr. HOLLINGS, Mr. JEFFORDS, Mr. DORGAN, and Mr. FEINGOLD) proposed an amendment to the bill H.R. 2673, supra.

SA 2088. Mr. AKAKA (for himself, Mr. LEVIN, Mr. LIEBERMAN, and Ms. CANTWELL) proposed an amendment to the bill H.R. 2673, supra.

SA 2089. Mr. DAYTON proposed an amendment to the bill H.R. 2673, supra.

SA 2090. Mr. HATCH (for himself, Mr. HARKIN, and Mr. DURBIN) submitted an amendment intended to be proposed by him to the bill H.R. 2673, supra.

SA 2091. Mr. BENNETT (for himself and Mr. KOHL) proposed an amendment to the bill H.R. 2673, supra.

SA 2092. Mr. BENNETT (for Mr. DURBIN) proposed an amendment to the bill H.R. 2673, supra.

SA 2093. Mr. BENNETT (for himself and Mr. KOHL) proposed an amendment to the bill H.R. 2673, supra.

SA 2094. Mr. BENNETT (for Ms. MURKOWSKI (for herself, Mr. STEVENS, Mr. INOUYE, and Mr. AKAKA)) proposed an amendment to the bill H.R. 2673, supra.

SA 2095. Mr. BENNETT (for Ms. SNOWE (for herself, Mr. DORGAN, and Ms. COLLINS)) proposed an amendment to the bill H.R. 2673, supra.

SA 2096. Mr. BENNETT (for Mr. LEVIN (for himself and Ms. STABENOW)) proposed an amendment to the bill H.R. 2673 , supra.

SA 2097. Mr. BENNETT (for Mr. INHOFE) proposed an amendment to the bill H.R. 2673, supra.

SA 2098. Mr. BENNETT (for himself and Mr. KOHL) proposed an amendment to the bill H.R. 2673, supra.

SA 2099. Mr. BENNETT (for Mr. INOUYE) proposed an amendment to the bill H.R. 2673, supra.

SA 2100. Mr. BENNETT (for himself and Mr. KOHL) proposed an amendment to the bill H.R. 2673, supra.

SA 2101. Mr. BENNETT (for Mr. KOHL) proposed an amendment to the bill H.R. 2673, supra.

SA 2102. Mr. BENNETT (for Mr. BROWNBACK) proposed an amendment to the bill H.R. 2673, supra.

SA 2103. Mr. BENNETT proposed an amendment to the bill H.R. 2673, supra.

SA 2104. Mr. BENNETT (for himself and Mr. KOHL) proposed an amendment to the bill H.R. 2673, supra.

SA 2105. Mr. BENNETT (for Mr. GRASSLEY (for himself and Mr. DORGAN)) proposed an amendment to the bill H.R. 2673, supra.

SA 2106. Mr. BENNETT (for Mr. CRAIG) proposed an amendment to the bill H.R. 2673, supra.

SA 2107. Mr. BENNETT (for Mr. GRAHAM, OF FLORIDA (for himself and Mr. NELSON, of Florida)) proposed an amendment to the bill H.R. 2673, supra.

SA 2108. Mr. BENNETT (for Mr. BURNS (for himself and Mrs. CLINTON)) proposed an amendment to the bill H.R. 2673 , supra.

SA 2109. Mr. BENNETT (for Mr. DURBIN) proposed an amendment to the bill H.R. 2673, supra.

SA 2110. Mr. BENNETT (for Mr. SCHUMER (for himself and Mrs. CLINTON)) proposed an amendment to the bill H.R. 2673 , supra.

SA 2111. Mr. BENNETT (for Mr. MILLER) proposed an amendment to the bill H.R. 2673, supra.

SA 2112. Mr. BENNETT (for Mr. FRIST (for himself and Mr. DASCHLE)) proposed an amendment to the bill H.R. 2673, supra.

SA 2113. Mr. BENNETT (for Mr. THOMAS (for himself, Mr. BINGAMAN, and Mr. HAGEL)) proposed an amendment to the bill H.R. 1442, to authorize the design and construction of a visitor center for the Vietnam Veterans Memorial.

SA 2114. Mr. BENNETT (for Ms. COLLINS) proposed an amendment to the bill S. 589, to strengthen and improve the management of national security, encourage Government service in areas of critical national security, and to assist government agencies in addressing deficiencies in personnel possessing specialized skills important to national security and incorporating the goals and strategies for recruitment and retention for such skilled personnel into the strategic and performance management systems of Federal agencies.

TEXT OF AMENDMENTS

SA 2072. Mr. BENNETT (for himself and Mr. KOHL) proposed an amendment to the bill H.R. 2673, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for the fiscal year ending September 30, 2004, and for other purposes; as follows:

Strike all after the enacting clause and insert the following:

That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 2004, and for other purposes, namely:

TITLE I

AGRICULTURAL PROGRAMS

PRODUCTION, PROCESSING, AND MARKETING

OFFICE OF THE SECRETARY

For necessary expenses of the Office of the Secretary of Agriculture, $10,046,000: *Provided,* That not to exceed $11,000 of this amount shall be available for official reception and representation expenses, not otherwise provided for, as determined by the Secretary.

EXECUTIVE OPERATIONS

CHIEF ECONOMIST

For necessary expenses of the Chief Economist, including economic analysis, risk assessment, cost-benefit analysis, energy and new uses, and the functions of the World Agricultural Outlook Board, as authorized by the Agricultural Marketing Act of 1946 (7 U.S.C. 1622g), $8,707,000.

NATIONAL APPEALS DIVISION

For necessary expenses of the National Appeals Division, $13,997,000.

OFFICE OF BUDGET AND PROGRAM ANALYSIS

For necessary expenses of the Office of Budget and Program Analysis, $7,544,000.

HOMELAND SECURITY STAFF

For necessary expenses of the Homeland Security Staff, $910,000.

OFFICE OF THE CHIEF INFORMATION OFFICER

For necessary expenses of the Office of the Chief Information Officer, $15,710,000.

COMMON COMPUTING ENVIRONMENT

For necessary expenses to acquire a Common Computing Environment for the Natural Resources Conservation Service, the Farm and Foreign Agricultural Service and Rural Development mission areas for information technology, systems, and services, $119,289,000, to remain available until expended, for the capital asset acquisition of shared information technology systems, including services as authorized by 7 U.S.C. 6915–16 and 40 U.S.C. 1421–28: *Provided,* That obligation of these funds shall be consistent with the Department of Agriculture Service Center Modernization Plan of the county-based agencies, and shall be with the concurrence of the Department's Chief Information Officer.

OFFICE OF THE CHIEF FINANCIAL OFFICER

For necessary expenses of the Office of the Chief Financial Officer, $5,496,000: *Provided,* That the Chief Financial Officer shall actively market and expand cross-servicing activities of the National Finance Center.

OFFICE OF THE ASSISTANT SECRETARY FOR CIVIL RIGHTS

For necessary salaries and expenses of the Office of the Assistant Secretary for Civil Rights, $794,000.

OFFICE OF CIVIL RIGHTS

For necessary expenses of the Office of Civil Rights, $15,445,000.

OFFICE OF THE ASSISTANT SECRETARY FOR ADMINISTRATION

For necessary salaries and expenses of the Office of the Assistant Secretary for Administration, $673,000.

AGRICULTURE BUILDINGS AND FACILITIES AND RENTAL PAYMENTS

(INCLUDING TRANSFERS OF FUNDS)

For payment of space rental and related costs pursuant to Public Law 92–313, including authorities pursuant to the 1984 delegation of authority from the Administrator of General Services to the Department of Agriculture under 40 U.S.C. 486, for programs and activities of the Department which are included in this Act, and for alterations and other actions needed for the Department and its agencies to consolidate unneeded space into configurations suitable for release to the Administrator of General Services, and for the operation, maintenance, improvement, and repair of Agriculture buildings and facilities, and for related costs, $188,022,000, to remain available until expended: *Provided,* That the Secretary of Agriculture may transfer a share of that agency's appropriation made available by this Act to this appropriation, or may transfer a share of this appropriation to that agency's appropriation to cover the costs of new or replacement space for such agency, but such transfers shall not exceed 5 percent of the funds made available for space rental and related costs to or from this account.

HAZARDOUS MATERIALS MANAGEMENT

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses of the Department of Agriculture, to comply with the Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. 9601 et seq.) and the Resource Conservation and Recovery Act (42 U.S.C. 6901 et seq.), $15,611,000, to remain available until expended: *Provided,* That appropriations and funds available herein to the Department for Hazardous Materials Management may be transferred to any agency of the Department for its use in meeting all requirements pursuant to the above Acts on Federal and non-Federal lands.

DEPARTMENTAL ADMINISTRATION

(INCLUDING TRANSFERS OF FUNDS)

For Departmental Administration, $23,031,000, to provide for necessary expenses for management support services to offices of the Department and for general administration security, repairs and alterations, and other miscellaneous supplies and expenses not otherwise provided for and necessary for the practical and efficient work of the Department: *Provided,* That this appropriation shall be reimbursed from applicable appropriations in this Act for travel expenses incident to the holding of hearings as required by 5 U.S.C. 551–558.

OFFICE OF THE ASSISTANT SECRETARY FOR CONGRESSIONAL RELATIONS

(INCLUDING TRANSFERS OF FUNDS)

For necessary salaries and expenses of the Office of the Assistant Secretary for Congressional Relations to carry out the programs funded by this Act, including programs involving intergovernmental affairs and liaison within the executive branch, $3,825,000: *Provided,* That these funds may be transferred to agencies of the Department of Agriculture funded by this Act to maintain personnel at the agency level: *Provided further,* That no other funds appropriated to the Department by this Act shall be available to the Department for support of activities of congressional relations.

OFFICE OF COMMUNICATIONS

For necessary expenses to carry out services relating to the coordination of programs involving public affairs, for the dissemination of agricultural information, and the coordination of information, work, and programs authorized by Congress in the Department, $9,228,000: *Provided,* That not to exceed $2,000,000 may be used for farmers' bulletins.

OFFICE OF THE INSPECTOR GENERAL

For necessary expenses of the Office of the Inspector General, including employment pursuant to the Inspector General Act of 1978, $75,781,000, including such sums as may be necessary for contracting and other arrangements with public agencies and private persons pursuant to section 6(a)(9) of the Inspector General Act of 1978, and including not to exceed $125,000 for certain confidential operational expenses, including the payment of informants, to be expended under the direction of the Inspector General pursuant to Public Law 95–452 and section 1337 of Public Law 97–98.

OFFICE OF THE GENERAL COUNSEL

For necessary expenses of the Office of the General Counsel, $35,343,000.

OFFICE OF THE UNDER SECRETARY FOR RESEARCH, EDUCATION AND ECONOMICS

For necessary salaries and expenses of the Office of the Under Secretary for Research, Education and Economics to administer the laws enacted by the Congress for the Economic Research Service, the National Agricultural Statistics Service, the Agricultural Research Service, and the Cooperative State Research, Education, and Extension Service, $596,000.

ECONOMIC RESEARCH SERVICE

For necessary expenses of the Economic Research Service in conducting economic research and analysis, as authorized by the Agricultural Marketing Act of 1946 (7 U.S.C. 1621–1627) and other laws, $69,902,000.

NATIONAL AGRICULTURAL STATISTICS SERVICE

For necessary expenses of the National Agricultural Statistics Service in conducting statistical reporting and service work, including crop and livestock estimates, statistical coordination and improvements, marketing surveys, and the Census of Agriculture, as authorized by 7 U.S.C. 1621–1627 and 2204g, and other laws, $128,922,000, of which up to $25,279,000 shall be available until expended for the Census of Agriculture.

AGRICULTURAL RESEARCH SERVICE

SALARIES AND EXPENSES

For necessary expenses to enable the Agricultural Research Service to perform agricultural research and demonstration relating to production, utilization, marketing, and distribution (not otherwise provided for); home economics or nutrition and consumer use including the acquisition, preservation, and dissemination of agricultural information; and for acquisition of lands by donation, exchange, or purchase at a nominal cost not to exceed $100, and for land exchanges where the lands exchanged shall be of equal value or shall be equalized by a payment of money to the grantor which shall not exceed 25 percent of the total value of the land or interests transferred out of Federal ownership, $1,045,533,000: *Provided,* That appropriations hereunder shall be available for the operation and maintenance of aircraft and the purchase of not to exceed one for replacement only: *Provided further,* That appropriations hereunder shall be available pursuant to 7 U.S.C. 2250 for the construction, alteration, and repair of buildings and improvements, but unless otherwise provided, the cost of constructing any one building shall not exceed $375,000, except for headhouses or greenhouses which shall each be limited to $1,200,000, and except for 10 buildings to be constructed or improved at a cost not to exceed $750,000 each, and the cost of altering any one building during the fiscal year shall not exceed 10 percent of the current replacement value of the building or $375,000, whichever is greater: *Provided further,* That the limitations on alterations contained in this Act shall not apply to modernization or replacement of existing facilities at Beltsville, Maryland: *Provided further,* That appropriations hereunder shall be available for granting easements at the Beltsville Agricultural Research Center: *Provided further,* That the foregoing limitations shall not apply to replacement of buildings needed to carry out the Act of April 24, 1948 (21 U.S.C. 113a): *Provided further,* That funds may be received from any State, other political subdivision, organization, or individual for the purpose of establishing or operating any research facility or research project of the Agricultural Research Service, as authorized by law: *Provided further,* That all rights and title of the United States in the 1.0664-acre parcel of land including improvements, as recorded at Book 1320, Page 253, records of Larimer County, State of Colorado, shall be conveyed to the Board of Governors of the Colorado State University for the benefit of Colorado State University.

None of the funds appropriated under this heading shall be available to carry out research related to the production, processing or marketing of tobacco or tobacco products.

BUILDINGS AND FACILITIES

For acquisition of land, construction, repair, improvement, extension, alteration, and purchase of fixed equipment or facilities as necessary to carry out the agricultural research programs of the Department of Agriculture, where not otherwise provided, $46,000,000, to remain available until expended.

COOPERATIVE STATE RESEARCH, EDUCATION, AND EXTENSION SERVICE

RESEARCH AND EDUCATION ACTIVITIES

For payments to agricultural experiment stations, for cooperative forestry and other research, for facilities, and for other expenses, $617,575,000, as follows: to carry out the provisions of the Hatch Act of 1887 (7 U.S.C. 361a–i), $178,977,000; for grants for cooperative forestry research (16 U.S.C. 582a through a–7), $21,742,000; for payments to the 1890 land-grant colleges, including Tuskegee University and West Virginia State College (7 U.S.C. 3222), $35,411,000, of which $1,507,496 shall be made available only for the purpose of ensuring that each institution shall receive no less than $1,000,000; for special grants for agricultural research (7 U.S.C. 450i(c)), $101,637,000; for special grants for agricultural research on improved pest control (7 U.S.C. 450i(c)), $14,976,000; for competitive research grants (7 U.S.C. 450i(b)), $180,000,000; for the support of animal health and disease programs (7 U.S.C. 3195), $5,065,000; for supplemental and alternative crops and products (7 U.S.C. 3319d), $840,000; for grants for research pursuant to the Critical Agricultural Materials Act (7 U.S.C. 178 et seq.), $1,242,000, to remain available until expended; for research grants for 1994 institutions pursuant to section 536 of Public Law 103–382 (7 U.S.C. 301 note), $1,093,000, to remain available until expended; for higher education graduate fellowship grants (7 U.S.C. 3152(b)(6)), $3,222,000, to remain available until expended (7 U.S.C. 2209b); for higher education challenge grants (7 U.S.C. 3152(b)(1)), $4,888,000; for a higher education multicultural scholars program (7 U.S.C. 3152(b)(5)), $992,000, to remain available until expended (7 U.S.C. 2209b); for an education grants program for Hispanic-serving Institutions (7 U.S.C. 3241), $4,073,000; for noncompetitive grants for the purpose of carrying out all provisions of 7 U.S.C. 3242 (section 759 of Public Law 106–78) to individual eligible institutions or consortia of eligible institutions in Alaska and in Hawaii, with funds awarded equally to each of the States of Alaska and Hawaii, $3,500,000; for a secondary agriculture education program and 2-year post-secondary education (7 U.S.C. 3152(j)), $994,000; for aquaculture grants (7 U.S.C. 3322), $4,471,000; for sustainable agriculture research and education (7 U.S.C. 5811), $13,661,000; for a program of capacity building grants (7 U.S.C. 3152(b)(4)) to colleges eligible to receive funds under the Act of August 30, 1890 (7 U.S.C. 321–326 and 328), including Tuskegee University and West Virginia State College, $11,404,000, to remain available until expended (7 U.S.C. 2209b); for payments to the 1994 Institutions pursuant to section 534(a)(1) of Public Law 103–382, $1,689,000; and for necessary expenses of Research and Education Activities, $26,698,000.

None of the funds in the foregoing paragraph shall be available to carry out research related to the production, processing or marketing of tobacco or tobacco products: *Provided,* That this paragraph shall not apply to research on the medical, biotechnological, food, and industrial uses of tobacco.

NATIVE AMERICAN INSTITUTIONS ENDOWMENT FUND

For the Native American Institutions Endowment Fund authorized by Public Law 103–382 (7 U.S.C. 301 note), $9,000,000.

EXTENSION ACTIVITIES

For payments to States, the District of Columbia, Puerto Rico, Guam, the Virgin Islands, Micronesia, Northern Marianas, and American Samoa, $450,084,000, as follows: payments for cooperative extension work under the Smith-Lever Act, to be distributed under sections 3(b) and 3(c) of said Act, and under section 208(c) of Public Law 93–471, for retirement and employees' compensation costs for extension agents and for costs of penalty mail for cooperative extension agents and State extension directors, $279,390,000; payments for extension work at the 1994 Institutions under the Smith-Lever Act (7 U.S.C. 343(b)(3)), $3,273,000; payments for the nutrition and family education program for low-income areas under section 3(d) of the Act, $58,185,000; payments for the pest management program under section 3(d) of the Act, $10,689,000; payments for the farm safety program under section 3(d) of the Act, $5,489,000; payments to upgrade research, extension, and teaching facilities at the 1890 land-grant colleges, including Tuskegee University and West Virginia State College, as authorized by section 1447 of Public Law 95–113 (7 U.S.C. 3222b), $14,903,000, to remain available until expended; payments for youth-at-risk programs under section 3(d) of the Smith-Lever Act, $8,426,000; for youth farm safety education and certification extension grants, to be awarded competitively under section 3(d) of the Act, $496,000; payments for carrying out the provisions of the Renewable Resources Extension Act of 1978 (16 U.S.C. 1671 et seq.), $4,516,000; payments for Indian reservation agents under section 3(d) of the Smith-Lever Act, $1,983,000; payments for sustainable agriculture programs under section 3(d) of the Act, $4,843,000; payments for rural health and safety education as authorized by section 502(i) of Public Law 92–419 (7 U.S.C. 2662(i)), $2,605,000; payments for cooperative extension work by the colleges receiving the benefits of the second Morrill Act (7 U.S.C. 321–326 and 328) and Tuskegee University and West Virginia State College, $31,908,000, of which $1,724,884 shall be made available only for the purpose of ensuring that each institution shall receive no less than $1,000,000; for grants to youth organizations pursuant to section 7630 of title 7, United States Code, $2,981,000; and for necessary expenses of extension activities, $20,397,000.

INTEGRATED ACTIVITIES

For the integrated research, education, and extension competitive grants programs, including necessary administrative expenses, as authorized under section 406 of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7626), $46,711,000, as follows: payments for the water quality program, $12,887,000; payments for the food safety program, $14,870,000; payments for the regional pest management centers program, $4,502,000; payments for the Food Quality Protection Act risk mitigation program for major food crop systems, $4,857,000; payments for the crops affected by Food Quality Protection Act implementation, $1,487,000; payments for the methyl bromide transition program, $3,500,000; payments for the organic transition program, $2,111,000; payments for the international science and education grants program under 7 U.S.C. 3291, to remain available until expended, $497,000; payments for the critical issues program under 7 U.S.C. 450i(c): *Provided,* That of the funds made available under this heading, $497,000 shall be for payments for the critical issues program under 7 U.S.C. 450i(c) and $1,503,000 shall be for payments for the regional rural development centers program under 7 U.S.C. 450i(c).

OUTREACH FOR SOCIALLY DISADVANTAGED FARMERS

For grants and contracts pursuant to section 2501 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 2279), $3,470,000, to remain available until expended.

OFFICE OF THE UNDER SECRETARY FOR MARKETING AND REGULATORY PROGRAMS

For necessary salaries and expenses of the Office of the Under Secretary for Marketing and Regulatory Programs to administer programs under the laws enacted by the Congress for the Animal and Plant Health Inspection Service; the Agricultural Marketing Service; and the Grain Inspection, Packers and Stockyards Administration; $736,000.

ANIMAL AND PLANT HEALTH INSPECTION SERVICE

SALARIES AND EXPENSES

(INCLUDING TRANSFERS OF FUNDS)

For expenses, not otherwise provided for, necessary to prevent, control, and eradicate pests and plant and animal diseases; to carry out inspection, quarantine, and regulatory activities; and to protect the environment, as authorized by law, $705,552,000, of which $4,112,000 shall be available for the control of outbreaks of insects, plant diseases, animal diseases and for control of pest animals and birds to the extent necessary to meet emergency conditions; of which $51,720,000 shall be used for the boll weevil eradication program for cost share purposes or for debt retirement for active eradication zones: *Provided,* That no funds shall be used to formulate or administer a brucellosis eradication program for the current fiscal year that does not require minimum matching by the States of at least 40 percent: *Provided further,* That this appropriation shall be available for the operation and maintenance of aircraft and the purchase of not to exceed four, of which two shall be for replacement only: *Provided further,* That, in addition, in emergencies which threaten any segment of the agricultural production industry of this country, the Secretary may transfer from other appropriations or funds available to the agencies or corporations of the Department such sums as may be deemed necessary, to be available only in such emergencies for the arrest and eradication of contagious or infectious disease or pests of animals, poultry, or plants, and for expenses in accordance with sections 10411 and 10417 of the Animal Health Protection Act (7 U.S.C. 8310 and 8316) and sections 431 and 442 of the Plant Protection Act (7 U.S.C. 7751 and 7772), and any unexpended balances of funds transferred for such emergency purposes in the preceding fiscal year shall be merged with such transferred amounts: *Provided further,* That appropriations hereunder shall be available pursuant to law (7 U.S.C. 2250) for the repair and alteration of leased buildings and improvements, but unless otherwise provided the cost of altering any one building during the fiscal year shall not exceed 10 percent of the current replacement value of the building.

In fiscal year 2004, the agency is authorized to collect fees to cover the total costs of providing technical assistance, goods, or services requested by States, other political subdivisions, domestic and international organizations, foreign governments, or individuals, provided that such fees are structured such that any entity's liability for such fees is reasonably based on the technical assistance, goods, or services provided to the entity by the agency, and such fees shall be credited to this account, to remain available until expended, without further appropriation, for providing such assistance, goods, or services.

BUILDINGS AND FACILITIES

For plans, construction, repair, preventive maintenance, environmental support, improvement, extension, alteration, and purchase of fixed equipment or facilities, as authorized by 7 U.S.C. 2250, and acquisition of land as authorized by 7 U.S.C. 428a, $4,996,000, to remain available until expended.

AGRICULTURAL MARKETING SERVICE

MARKETING SERVICES

For necessary expenses to carry out services related to consumer protection, agricultural marketing and distribution, transportation, and regulatory programs, as authorized by law, and for administration and coordination of payments to States, $75,263,000, including funds for the wholesale market development program for the design and development of wholesale and farmer market facilities for the major metropolitan areas of the country: *Provided,* That this appropriation shall be available pursuant to law (7 U.S.C. 2250) for the alteration and repair of buildings and improvements, but the cost of altering any one building during the fiscal year shall not exceed 10 percent of the current replacement value of the building.

Fees may be collected for the cost of standardization activities, as established by regulation pursuant to law (31 U.S.C. 9701).

LIMITATION ON ADMINISTRATIVE EXPENSES

Not to exceed $62,577,000 (from fees collected) shall be obligated during the current fiscal year for administrative expenses: *Provided,* That if crop size is understated and/or other uncontrollable events occur, the agency may exceed this limitation by up to 10 percent with notification to the Committees on Appropriations of both Houses of Congress.

FUNDS FOR STRENGTHENING MARKETS, INCOME, AND SUPPLY (SECTION 32)

(INCLUDING TRANSFERS OF FUNDS)

Funds available under section 32 of the Act of August 24, 1935 (7 U.S.C. 612c), shall be used only for commodity program expenses as authorized therein, and other related operating expenses, except for: (1) transfers to the Department of Commerce as authorized by the Fish and Wildlife Act of August 8, 1956; (2) transfers otherwise provided in this Act; and (3) not more than $15,392,000 for formulation and administration of marketing agreements and orders pursuant to the Agricultural Marketing Agreement Act of 1937 and the Agricultural Act of 1961.

PAYMENTS TO STATES AND POSSESSIONS

For payments to departments of agriculture, bureaus and departments of markets, and similar agencies for marketing activities under section 204(b) of the Agricultural Marketing Act of 1946 (7 U.S.C. 1623(b)), $3,338,000, of which not less than $2,000,000 shall be used to make noncompetitive grants under this heading.

GRAIN INSPECTION, PACKERS AND STOCKYARDS ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses to carry out the provisions of the United States Grain Standards Act, for the administration of the Packers and Stockyards Act, for certifying procedures used to protect purchasers of farm products, and the standardization activities related to grain under the Agricultural Marketing Act of 1946, $35,638,000: *Provided,* That this appropriation shall be available pursuant to law (7 U.S.C. 2250) for the alteration and repair of buildings and improvements, but the cost of altering any one building during the fiscal year shall not exceed 10 percent of the current replacement value of the building.

LIMITATION ON INSPECTION AND WEIGHING SERVICES EXPENSES

Not to exceed $42,463,000 (from fees collected) shall be obligated during the current fiscal year for inspection and weighing services: *Provided,* That if grain export activities require additional supervision and oversight, or other uncontrollable factors occur, this limitation may be exceeded by up to 10 percent with notification to the Committees on Appropriations of both Houses of Congress.

OFFICE OF THE UNDER SECRETARY FOR FOOD SAFETY

For necessary salaries and expenses of the Office of the Under Secretary for Food Safety to administer the laws enacted by the Congress for the Food Safety and Inspection Service, $611,000.

FOOD SAFETY AND INSPECTION SERVICE

For necessary expenses to carry out services authorized by the Federal Meat Inspection Act, the Poultry Products Inspection Act, and the Egg Products Inspection Act, including not to exceed $50,000 for representation allowances and for expenses pursuant to section 8 of the Act approved August 3, 1956 (7 U.S.C. 1766), $783,761,000, of which no less than $701,103,000 shall be available for Federal food safety inspection; and in addition, $1,000,000 may be credited to this account from fees collected for the cost of laboratory accreditation as authorized by section 1327 of the Food, Agriculture, Conservation and Trade Act of 1990 (7 U.S.C. 138f): *Provided,* That no fewer than 50 full time equivalent positions above the fiscal year 2002 level shall be employed during fiscal year 2004 for purposes dedicated solely to inspections and enforcement related to the Humane Methods of Slaughter Act: *Provided further,* That this appropriation shall be available pursuant to law (7 U.S.C. 2250) for the alteration and repair of buildings and improvements, but the cost of altering any one building during the fiscal year shall not exceed 10 percent of the current replacement value of the building.

OFFICE OF THE UNDER SECRETARY FOR FARM AND FOREIGN AGRICULTURAL SERVICES

For necessary salaries and expenses of the Office of the Under Secretary for Farm and Foreign Agricultural Services to administer the laws enacted by Congress for the Farm Service Agency, the Foreign Agricultural Service, the Risk Management Agency, and the Commodity Credit Corporation, $635,000.

FARM SERVICE AGENCY

SALARIES AND EXPENSES

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses for carrying out the administration and implementation of programs administered by the Farm Service Agency, $988,768,000: *Provided,* That the Secretary is authorized to use the services, facilities, and authorities (but not the funds) of the Commodity Credit Corporation to make program payments for all programs administered by the Agency: *Provided further,* That other funds made available to the Agency for authorized activities may be advanced to and merged with this account.

STATE MEDIATION GRANTS

For grants pursuant to section 502(b) of the Agricultural Credit Act of 1987, as amended (7 U.S.C. 5101–5106), $3,974,000.

DAIRY INDEMNITY PROGRAM

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses involved in making indemnity payments to dairy farmers and manufacturers of dairy products under a dairy indemnity program, $100,000, to remain available until expended: *Provided,* That such program is carried out by the Secretary in the same manner as the dairy indemnity program described in Public Law 106–387 (114 Stat. 1549A–12).

AGRICULTURAL CREDIT INSURANCE FUND PROGRAM ACCOUNT

(INCLUDING TRANSFERS OF FUNDS)

For gross obligations for the principal amount of direct and guaranteed farm ownership (7 U.S.C. 1922 et seq.) and operating (7 U.S.C. 1941 et seq.) loans, Indian tribe land acquisition loans (25 U.S.C. 488), and boll weevil loans (7 U.S.C. 1989), to be available from funds in the Agricultural Credit Insurance Fund, as follows: farm ownership loans, $1,079,158,000, of which $950,000,000 shall be for guaranteed loans and $129,158,000 shall be for direct loans; operating loans, $2,067,317,000, of which $1,200,000,000 shall be for unsubsidized guaranteed loans, $266,249,000 shall be for subsidized guaranteed loans and $601,068,000 shall be for direct loans; Indian tribe land acquisition loans, $2,000,000; and for boll weevil eradication program loans, $100,000,000: *Provided,* That the Secretary shall deem the

pink bollworm to be a boll weevil for the purpose of boll weevil eradication program loans.

For the cost of direct and guaranteed loans, including the cost of modifying loans as defined in section 502 of the Congressional Budget Act of 1974, as follows: farm ownership loans, $33,648,000, of which $5,130,000 shall be for guaranteed loans, and $28,518,000 shall be for direct loans; operating loans, $160,634,000, of which $39,960,000 shall be for unsubsidized guaranteed loans, $34,000,000 shall be for subsidized guaranteed loans, and $86,674,000 shall be for direct loans.

In addition, for administrative expenses necessary to carry out the direct and guaranteed loan programs, $290,968,000, of which $283,020,000 shall be transferred to and merged with the appropriation for ''Farm Service Agency, Salaries and Expenses''.

Funds appropriated by this Act to the Agricultural Credit Insurance Program Account for farm ownership and operating direct loans and guaranteed loans may be transferred among these programs: *Provided,* That the Committees on Appropriations of both Houses of Congress are notified at least 15 days in advance of any transfer.

RISK MANAGEMENT AGENCY

For administrative and operating expenses, as authorized by section 226A of the Department of Agriculture Reorganization Act of 1994 (7 U.S.C. 6933), $71,422,000: *Provided,* That not to exceed $1,000 shall be available for official reception and representation expenses, as authorized by 7 U.S.C. 1506(i).

CORPORATIONS

The following corporations and agencies are hereby authorized to make expenditures, within the limits of funds and borrowing authority available to each such corporation or agency and in accord with law, and to make contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Government Corporation Control Act as may be necessary in carrying out the programs set forth in the budget for the current fiscal year for such corporation or agency, except as hereinafter provided.

FEDERAL CROP INSURANCE CORPORATION FUND

For payments as authorized by section 516 of the Federal Crop Insurance Act (7 U.S.C. 1516), such sums as may be necessary, to remain available until expended.

COMMODITY CREDIT CORPORATION FUND

REIMBURSEMENT FOR NET REALIZED LOSSES

For the current fiscal year, such sums as may be necessary to reimburse the Commodity Credit Corporation for net realized losses sustained, but not previously reimbursed, pursuant to section 2 of the Act of August 17, 1961 (15 U.S.C. 713a–11).

HAZARDOUS WASTE MANAGEMENT

(LIMITATION ON EXPENSES)

For the current fiscal year, the Commodity Credit Corporation shall not expend more than $5,000,000 for site investigation and cleanup expenses, and operations and maintenance expenses to comply with the requirement of section 107(g) of the Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. 9607(g)), and section 6001 of the Resource Conservation and Recovery Act (42 U.S.C. 6961).

TITLE II

CONSERVATION PROGRAMS

OFFICE OF THE UNDER SECRETARY FOR NATURAL RESOURCES AND ENVIRONMENT

For necessary salaries and expenses of the Office of the Under Secretary for Natural Resources and Environment to administer the laws enacted by the Congress for the Forest Service and the Natural Resources Conservation Service, $761,000.

NATURAL RESOURCES CONSERVATION SERVICE

CONSERVATION OPERATIONS

For necessary expenses for carrying out the provisions of the Act of April 27, 1935 (16 U.S.C. 590a–f), including preparation of conservation plans and establishment of measures to conserve soil and water (including farm irrigation and land drainage and such special measures for soil and water management as may be necessary to prevent floods and the siltation of reservoirs and to control agricultural related pollutants); operation of conservation plant materials centers; classification and mapping of soil; dissemination of information; acquisition of lands, water, and interests therein for use in the plant materials program by donation, exchange, or purchase at a nominal cost not to exceed $100 pursuant to the Act of August 3, 1956 (7 U.S.C. 428a); purchase and erection or alteration or improvement of permanent and temporary buildings; and operation and maintenance of aircraft, $826,635,000, to remain available until expended, of which not less than $9,500,000 is for snow survey and water forecasting, and not less than $11,269,000 is for operation and establishment of the plant materials centers, and of which not less than $23,500,000 shall be for the grazing lands conservation initiative: *Provided,* That appropriations hereunder shall be available pursuant to 7 U.S.C. 2250 for construction and improvement of buildings and public improvements at plant materials centers, except that the cost of alterations and improvements to other buildings and other public improvements shall not exceed $250,000: *Provided further,* That when buildings or other structures are erected on non-Federal land, that the right to use such land is obtained as provided in 7 U.S.C. 2250a: *Provided further,* That this appropriation shall be available for technical assistance and related expenses to carry out programs authorized by section 202(c) of title II of the Colorado River Basin Salinity Control Act of 1974 (43 U.S.C. 1592(c)): *Provided further,* That qualified local engineers may be temporarily employed at per diem rates to perform the technical planning work of the Service: *Provided further,* That none of the funds made available under this paragraph by this or any other appropriations Act may be used to provide technical assistance with respect to programs listed in section 1241(a) of the Food Security Act of 1985 (16 U.S.C. 3841(a)).

WATERSHED SURVEYS AND PLANNING

For necessary expenses to conduct research, investigation, and surveys of watersheds of rivers and other waterways, and for small watershed investigations and planning, in accordance with the Watershed Protection and Flood Prevention Act (16 U.S.C. 1001–1009), $10,000,000: *Provided,* That qualified local engineers may be temporarily employed at per diem rates to perform the technical planning work of the Service: *Provided further,* That none of the funds made available under this paragraph by this or any other appropriations Act may be used to provide technical assistance with respect to programs listed in section 1241(a) of the Food Security Act of 1985 (16 U.S.C. 3841(a)).

WATERSHED AND FLOOD PREVENTION OPERATIONS

For necessary expenses to carry out preventive measures, including but not limited to research, engineering operations, methods of cultivation, the growing of vegetation, rehabilitation of existing works and changes in use of land, in accordance with the Watershed Protection and Flood Prevention Act (16 U.S.C. 1001–1005 and 1007–1009), the provisions of the Act of April 27, 1935 (16 U.S.C. 590a–f), and in accordance with the provisions of laws relating to the activities of the Department, $55,000,000, to remain available until expended (of which up to $5,000,000 may be available for the watersheds authorized under the Flood Control Act (33 U.S.C. 701 and 16 U.S.C. 1006a)): *Provided,* That not to exceed $20,000,000 of this appropriation shall be available for technical assistance: *Provided further,* That not to exceed $1,000,000 of this appropriation is available to carry out the purposes of the Endangered Species Act of 1973 (Public Law 93–205), including cooperative efforts as contemplated by that Act to relocate endangered or threatened species to other suitable habitats as may be necessary to expedite project construction: *Provided further,* That qualified local engineers may be temporarily employed at per diem rates to perform the technical planning work of the Service: *Provided further,* That none of the funds made available under this paragraph by this or any other appropriations Act may be used to provide technical assistance with respect to programs listed in section 1241(a) of the Food Security Act of 1985 (16 U.S.C. 3841(a)).

WATERSHED REHABILITATION PROGRAM

For necessary expenses to carry out rehabilitation of structural measures, in accordance with section 14 of the Watershed Protection and Flood Prevention Act (16 U.S.C. 1012), and in accordance with the provisions of laws relating to the activities of the Department, $29,805,000, to remain available until expended: *Provided,* That qualified local engineers may be temporarily employed at per diem rates to perform the technical planning work of the Service: *Provided further,* That none of the funds made available under this paragraph by this or any other appropriations Act may be used to provide technical assistance with respect to programs listed in section 1241(a) of the Food Security Act of 1985 (16 U.S.C. 3841(a)).

RESOURCE CONSERVATION AND DEVELOPMENT

For necessary expenses in planning and carrying out projects for resource conservation and development and for sound land use pursuant to the provisions of sections 31 and 32 of the Bankhead-Jones Farm Tenant Act (7 U.S.C. 1010–1011; 76 Stat. 607); the Act of April 27, 1935 (16 U.S.C. 590a–f); and subtitle H of title XV of the Agriculture and Food Act of 1981 (16 U.S.C. 3451–3461), $51,000,000, to remain available until expended.

TITLE III

RURAL DEVELOPMENT PROGRAMS

OFFICE OF THE UNDER SECRETARY FOR RURAL DEVELOPMENT

For necessary salaries and expenses of the Office of the Under Secretary for Rural Development to administer programs under the laws enacted by the Congress for the Rural Housing Service, the Rural Business-Cooperative Service, and the Rural Utilities Service of the Department of Agriculture, $651,000.

RURAL COMMUNITY ADVANCEMENT PROGRAM

(INCLUDING TRANSFERS OF FUNDS)

For the cost of direct loans, loan guarantees, and grants, as authorized by 7 U.S.C. 1926, 1926a, 1926c, 1926d, and 1932, except for sections 381E–H and 381N of the Consolidated Farm and Rural Development Act, $769,479,000, to remain available until expended, of which $79,838,000 shall be for rural community programs described in section 381E(d)(1) of such Act; of which $610,641,000 shall be for the rural utilities programs described in sections 381E(d)(2), 306C(a)(2), and 306D of such Act; and of which $79,000,000 shall be for the rural business and cooperative development programs described in sections 381E(d)(3) and 310B(f) of such Act: *Provided,* That of the amount appropriated for rural business and cooperative development programs, $100,000 shall be for a pilot program in the State of Alaska to assist communities with community planning: *Provided*

further, That of the total amount appropriated in this account, $24,000,000 shall be for loans and grants to benefit Federally Recognized Native American Tribes, including grants for drinking water and waste disposal systems pursuant to section 306C of such Act, of which $4,000,000 shall be available for community facilities grants to tribal colleges, as authorized by section 306(a)(19) of the Consolidated Farm and Rural Development Act, and of which $250,000 shall be available for a grant to a qualified national organization to provide technical assistance for rural transportation in order to promote economic development: *Provided further,* That of the amount appropriated for rural community programs, $6,000,000 shall be available for a Rural Community Development Initiative: *Provided further,* That such funds shall be used solely to develop the capacity and ability of private, nonprofit community-based housing and community development organizations, low-income rural communities, and Federally Recognized Native American Tribes to undertake projects to improve housing, community facilities, community and economic development projects in rural areas: *Provided further,* That such funds shall be made available to qualified private, nonprofit and public intermediary organizations proposing to carry out a program of financial and technical assistance: *Provided further,* That such intermediary organizations shall provide matching funds from other sources, including Federal funds for related activities, in an amount not less than funds provided: *Provided further,* That of the amount appropriated for the rural business and cooperative development programs, not to exceed $500,000 shall be made available for a grant to a qualified national organization to provide technical assistance for rural transportation in order to promote economic development; $2,000,000 shall be for grants to the Delta Regional Authority (7 U.S.C. 1921 et seq.); and not less than $5,000,000 shall be available for grants in accordance with section 310B(f) of the Consolidated Farm and Rural Development Act: *Provided further,* That of the amount appropriated for rural utilities programs, not to exceed $25,000,000 shall be for water and waste disposal systems to benefit the Colonias along the United States/Mexico border, including grants pursuant to section 306C of such Act; not to exceed $30,000,000 shall be for water and waste disposal systems for rural and native villages in Alaska pursuant to section 306D of such Act, with up to 1 percent available to administer the program and up to 1 percent available to improve interagency coordination may be transferred to and merged with the appropriation for ''Rural Development, Salaries and Expenses'', of which 25 percent shall be provided for water and sewer projects in regional hubs and $100,000 shall be provided to develop a regional system for centralized billing, operation, and management of rural water and sewer utilities through regional cooperatives, and the State of Alaska shall provide a 25 percent cost share; not to exceed $18,000,000 shall be for technical assistance grants for rural water and waste systems pursuant to section 306(a)(14) of such Act, of which $5,513,000 shall be for Rural Community Assistance Programs; and not to exceed $13,000,000 shall be for contracting with qualified national organizations for a circuit rider program to provide technical assistance for rural water systems: *Provided further,* That of the amount appropriated for the circuit rider program, Alaska shall receive no less than five percent and not less than $750,000 shall be for contracting with qualified national organizations to establish a Native American circuit rider program to provide technical assistance for rural water systems: *Provided further,* That not less than $2,000,000 shall be available to carry out Section 6012 of Public Law 107–171: *Provided further,* That of the total amount appropriated, not to exceed $22,132,000 shall be available through June 30, 2004, for authorized empowerment zones and enterprise communities and communities designated by the Secretary of Agriculture as Rural Economic Area Partnership Zones; of which $1,000,000 shall be for the rural community programs described in section 381E(d)(1) of such Act, of which $12,582,000 shall be for the rural utilities programs described in section 381E(d)(2) of such Act, and of which $8,550,000 shall be for the rural business and cooperative development programs described in section 381E(d)(3) of such Act: *Provided further,* That of the amount appropriated for rural community programs, not to exceed $25,000,000 shall be to provide grants for facilities in rural communities with extreme unemployment and severe economic depression (Public Law 106–387), with 5 percent for administration and capacity building in the State rural development offices: *Provided further,* That of the amount appropriated, $30,000,000 shall be transferred to and merged with the ''Rural Utilities Service, High Energy Cost Grants Account'' to provide grants authorized under section 19 of the Rural Electrification Act of 1936 (7 U.S.C. 918a): *Provided further,* That of the amount made available for high energy cost grants, up to $3,000,000 shall be available to a not-for-profit consumer-owned cooperative utility provider serving an island community in a non-contiguous State for the purpose of defraying transaction, transition, organizational, and other fair and reasonable costs, as determined by the Secretary, incurred during the period July 1, 1999 through December 31, 2002, and directly related to the successful acquisition by such provider of the investor-owned electric utility facilities (including generation, transmission, distribution, and other related assets) formerly serving ratepayers on the island: *Provided further,* That any prior year balances for high cost energy grants authorized by section 19 of the Rural Electrification Act of 1936 (7 U.S.C. 901(19)) shall be transferred to and merged with the ''Rural Utilities Service, High Energy Costs Grants'' account.

RURAL DEVELOPMENT SALARIES AND EXPENSES

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses for carrying out the administration and implementation of programs in the Rural Development mission area, including activities with institutions concerning the development and operation of agricultural cooperatives; and for cooperative agreements; $140,922,000: *Provided,* That notwithstanding any other provision of law, funds appropriated under this section may be used for advertising and promotional campaigns, including souvenirs, that support activities conducted by agencies of the Rural Development mission area: *Provided further,* That not more than $10,000 may be expended to provide modest nonmonetary awards to non-USDA employees: *Provided further,* That any balances available from prior years for the Rural Utilities Service, Rural Housing Service, and the Rural Business-Cooperative Service salaries and expenses accounts shall be transferred to and merged with this appropriation.

RURAL HOUSING SERVICE

RURAL HOUSING INSURANCE FUND PROGRAM ACCOUNT

(INCLUDING TRANSFERS OF FUNDS)

For gross obligations for the principal amount of direct and guaranteed loans as authorized by title V of the Housing Act of 1949, to be available from funds in the rural housing insurance fund, as follows: $4,084,589,000 for loans to section 502 borrowers, as determined by the Secretary, of which $1,359,417,000 shall be for direct loans, and of which $2,725,172,000 shall be for unsubsidized guaranteed loans; $35,004,000 for section 504 housing repair loans; $115,052,000 for section 515 rental housing; $100,000,000 for section 538 guaranteed multi-family housing loans; $5,045,000 for section 524 site loans; $11,500,000 for credit sales of acquired property, of which up to $1,500,000 may be for multi-family credit sales; and $1,623,000 for section 523 self-help housing land development loans.

For the cost of direct and guaranteed loans, including the cost of modifying loans, as defined in section 502 of the Congressional Budget Act of 1974, as follows: section 502 loans, $165,921,000, of which $126,018,000 shall be for direct loans, and of which $39,903,000, to remain available until expended, shall be for unsubsidized guaranteed loans; section 504 housing repair loans, $9,612,000; section 515 rental housing, $49,484,000; section 538 multi-family housing guaranteed loans, $5,950,000; multi-family credit sales of acquired property, $663,000; and section 523 self-help housing land development loans, $50,000: *Provided,* That of the total amount appropriated in this paragraph, $7,100,000 shall be available through June 30, 2004, for authorized empowerment zones and enterprise communities and communities designated by the Secretary of Agriculture as Rural Economic Area Partnership Zones.

In addition, for administrative expenses necessary to carry out the direct and guaranteed loan programs, $439,453,000, which shall be transferred to and merged with the appropriation for ''Rural Development, Salaries and Expenses''.

RENTAL ASSISTANCE PROGRAM

For rental assistance agreements entered into or renewed pursuant to the authority under section 521(a)(2) or agreements entered into in lieu of debt forgiveness or payments for eligible households as authorized by section 502(c)(5)(D) of the Housing Act of 1949, $721,281,000; and, in addition, such sums as may be necessary, as authorized by section 521(c) of the Act, to liquidate debt incurred prior to fiscal year 1992 to carry out the rental assistance program under section 521(a)(2) of the Act: *Provided,* That of this amount, not more than $5,900,000 shall be available for debt forgiveness or payments for eligible households as authorized by section 502(c)(5)(D) of the Act, and not to exceed $20,000 per project for advances to nonprofit organizations or public agencies to cover direct costs (other than purchase price) incurred in purchasing projects pursuant to section 502(c)(5)(C) of the Act: *Provided further,* That agreements entered into or renewed during the current fiscal year shall be funded for a 5-year period, although the life of any such agreement may be extended to fully utilize amounts obligated.

MUTUAL AND SELF-HELP HOUSING GRANTS

For grants and contracts pursuant to section 523(b)(1)(A) of the Housing Act of 1949 (42 U.S.C. 1490c), $34,000,000, to remain available until expended: *Provided,* That of the total amount appropriated, $1,000,000 shall be available through June 30, 2004, for authorized empowerment zones and enterprise communities and communities designated by the Secretary of Agriculture as Rural Economic Area Partnership Zones.

RURAL HOUSING ASSISTANCE GRANTS

For grants and contracts for very low-income housing repair, supervisory and technical assistance, compensation for construction defects, and rural housing preservation made by the Rural Housing Service, as authorized by 42 U.S.C. 1474, 1479(c), 1490e, and

1490m, $46,222,000, to remain available until expended, of which $5,000,000 shall be available for a processing and/or fishery workers housing demonstration project in Alaska, Mississippi, and Wisconsin: *Provided,* That of the total amount appropriated, $1,800,000 shall be available through June 30, 2004, for authorized empowerment zones and enterprise communities and communities designated by the Secretary of Agriculture as Rural Economic Area Partnership Zones.

FARM LABOR PROGRAM ACCOUNT

For the cost of direct loans, grants, and contracts, as authorized by 42 U.S.C. 1484 and 1486, $33,015,000, to remain available until expended, for direct farm labor housing loans and domestic farm labor housing grants and contracts.

RURAL BUSINESS—COOPERATIVE SERVICE

RURAL DEVELOPMENT LOAN FUND PROGRAM ACCOUNT

(INCLUDING TRANSFER OF FUNDS)

For the principal amount of direct loans, as authorized by the Rural Development Loan Fund (42 U.S.C. 9812(a)), $40,000,000.

For the cost of direct loans, $17,308,000, as authorized by the Rural Development Loan Fund (42 U.S.C. 9812(a)), of which $1,724,000 shall be available through June 30, 2004, for Federally Recognized Native American Tribes and of which $3,449,000 shall be available through June 30, 2004, for Delta Regional Authority (7 U.S.C. 1921 et seq.): *Provided,* That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974: *Provided further,* That of the total amount appropriated, $2,447,000 shall be available through June 30, 2004, for the cost of direct loans for authorized empowerment zones and enterprise communities and communities designated by the Secretary of Agriculture as Rural Economic Area Partnership Zones.

In addition, for administrative expenses to carry out the direct loan programs, $4,283,000 shall be transferred to and merged with the appropriation for ''Rural Development, Salaries and Expenses''.

RURAL ECONOMIC DEVELOPMENT LOANS PROGRAM ACCOUNT

(INCLUDING RESCISSION OF FUNDS)

For the principal amount of direct loans, as authorized under section 313 of the Rural Electrification Act, for the purpose of promoting rural economic development and job creation projects, $15,002,000.

For the cost of direct loans, including the cost of modifying loans as defined in section 502 of the Congressional Budget Act of 1974, $2,792,000.

Of the funds derived from interest on the cushion of credit payments in the current fiscal year, as authorized by section 313 of the Rural Electrification Act of 1936, $3,000,000 shall not be obligated and $3,000,000 are rescinded.

RURAL COOPERATIVE DEVELOPMENT GRANTS

For rural cooperative development grants authorized under section 310B(e) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1932), $8,967,000, of which $2,500,000 shall be for cooperative agreements for the appropriate technology transfer for rural areas program: *Provided,* That not to exceed $1,500,000 of the total amount appropriated shall be made available to cooperatives or associations of cooperatives whose primary focus is to provide assistance to small, minority producers and whose governing board and/or membership is comprised of at least 75 percent minority.

RURAL EMPOWERMENT ZONES AND ENTERPRISE COMMUNITIES GRANTS

For grants in connection with second and third rounds of empowerment zones and enterprise communities, $14,370,000, to remain available until expended, for designated rural empowerment zones and rural enterprise communities, as authorized by the Taxpayer Relief Act of 1997 and the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999 (Public Law 105–277): *Provided,* That of the funds appropriated, $1,000,000 shall be made available to third round empowerment zones, as authorized by the Community Renewal Tax Relief Act (Public Law 106–554).

RENEWABLE ENERGY PROGRAM

For the cost of a program of direct loans and grants, under the same terms and conditions as authorized by section 9006 of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 8106), $23,000,000 for direct renewable energy loans and grants: *Provided,* That the cost of direct loans and loan guarantees, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974.

RURAL UTILITIES SERVICE

RURAL ELECTRIFICATION AND TELECOMMUNICATIONS LOANS PROGRAM ACCOUNT

(INCLUDING TRANSFER OF FUNDS)

Insured loans pursuant to the authority of section 305 of the Rural Electrification Act of 1936 (7 U.S.C. 935) shall be made as follows: 5 percent rural electrification loans, $240,000,000; municipal rate rural electric loans, $1,000,000,000; loans made pursuant to section 306 of that Act, rural electric, $2,000,000,000; Treasury rate direct electric loans, $750,000,000; 5 percent rural telecommunications loans, $145,000,000; cost of money rural telecommunications loans, $250,000,000; loans made pursuant to section 306 of that Act, rural telecommunications loans, $120,000,000; and for guaranteed underwriting loans pursuant to section 313A, $1,000,000,000.

For the cost, as defined in section 502 of the Congressional Budget Act of 1974, including the cost of modifying loans, of direct and guaranteed loans authorized by sections 305 and 306 of the Rural Electrification Act of 1936 (7 U.S.C. 935 and 936), as follows: cost of rural electric loans, $60,000, and the cost of telecommunication loans, $125,000: *Provided,* That notwithstanding section 305(d)(2) of the Rural Electrification Act of 1936, borrower interest rates may exceed 7 percent per year.

In addition, for administrative expenses necessary to carry out the direct and guaranteed loan programs, $37,920,000 which shall be transferred to and merged with the appropriation for ''Rural Development, Salaries and Expenses''.

RURAL TELEPHONE BANK PROGRAM ACCOUNT

(INCLUDING TRANSFER OF FUNDS)

The Rural Telephone Bank is hereby authorized to make such expenditures, within the limits of funds available to such corporation in accord with law, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Government Corporation Control Act, as may be necessary in carrying out its authorized programs. During fiscal year 2004 and within the resources and authority available, gross obligations for the principal amount of direct loans shall be $173,503,000.

In addition, for administrative expenses, including audits, necessary to carry out the loan programs, $3,182,000, which shall be transferred to and merged with the appropriation for ''Rural Development, Salaries and Expenses''.

DISTANCE LEARNING, TELEMEDICINE, AND BROADBAND PROGRAM

For the principal amount of direct distance learning and telemedicine loans, $300,000,000; and for the principal amount of broadband telecommunications loans, $335,963,000, in areas that meet the definition of ''rural area'' used for the Distance Learning and Telemedicine Program authorized by 7 U.S.C. 950aaa.

For grants for telemedicine and distance learning services in rural areas, as authorized by 7 U.S.C. 950aaa et seq., $40,000,000, to remain available until expended: *Provided,* That $15,000,000 shall be made available to convert analog to digital operation those noncommercial educational television broadcast stations that serve rural areas and are qualified for Community Service Grants by the Corporation for Public Broadcasting under section 396(k) of the Communications Act of 1934, including associated translators, repeaters, and studio-to-transmitter links.

For the cost of direct and guaranteed broadband loans, as authorized by 7 U.S.C. 901, et seq., $9,116,000: *Provided,* That the cost of direct loans shall be as defined in section 502 of the Congressional Budget Act of 1974.

In addition, $10,000,000, to remain available until expended, for a grant program to finance broadband transmission in areas that meet the definition of ''rural area'' used for the Broadband Loan Program authorized by 7 U.S.C. 901.

TITLE IV

DOMESTIC FOOD PROGRAMS

OFFICE OF THE UNDER SECRETARY FOR FOOD, NUTRITION AND CONSUMER SERVICES

For necessary salaries and expenses of the Office of the Under Secretary for Food, Nutrition and Consumer Services to administer the laws enacted by the Congress for the Food and Nutrition Service, $611,000.

FOOD AND NUTRITION SERVICE

CHILD NUTRITION PROGRAMS

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses to carry out the National School Lunch Act (42 U.S.C. 1751 et seq.), except section 21, and the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.), except sections 17 and 21; $11,418,441,000, to remain available through September 30, 2005, of which $6,718,780,000 is hereby appropriated and $4,699,661,000 shall be derived by transfer from funds available under section 32 of the Act of August 24, 1935 (7 U.S.C. 612c): *Provided,* That none of the funds made available under this heading shall be used for studies and evaluations: *Provided further,* That up to $5,235,000 shall be available for independent verification of school food service claims.

SPECIAL SUPPLEMENTAL NUTRITION PROGRAM FOR WOMEN, INFANTS, AND CHILDREN (WIC)

For necessary expenses to carry out the special supplemental nutrition program as authorized by section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786), $4,639,232,000, to remain available through September 30, 2005, of which $10,000,000 shall be for a breastfeeding support initiative in addition to the activities specified in section 17(h)(3)(A) and $30,000,000 shall be for a management information system initiative: *Provided,* That of the total amount available, the Secretary shall obligate $25,000,000 for the farmers' market nutrition program: *Provided further,* That notwithstanding section 17(h)(10)(A) of such Act, $14,000,000 shall be available for the purposes specified in section 17(h)(10)(B): *Provided further,* That notwithstanding section 17(g)(5) of such Act, $5,000,000 shall be available for pilot projects to prevent childhood obesity: *Provided further,* That none of the funds in this Act shall be available to pay administrative expenses of WIC clinics except those that have an announced policy of prohibiting smoking within the space used to carry out the program: *Provided further,* That none of the funds provided in this account shall be available for

the purchase of infant formula except in accordance with the cost containment and competitive bidding requirements specified in section 17 of such Act: *Provided further,* That none of the funds provided shall be available for activities that are not fully reimbursed by other Federal Government departments or agencies unless authorized by section 17 of such Act.

FOOD STAMP PROGRAM

For necessary expenses to carry out the Food Stamp Act (7 U.S.C. 2011 et seq.), $27,745,981,000, of which $2,000,000,000 shall be placed in reserve for use only in such amounts and at such times as may become necessary to carry out program operations: *Provided,* That none of the funds made available under this heading shall be used for studies and evaluations: *Provided further,* That of the funds made available under this heading and not already appropriated to the Food Distribution Program on Indian Reservations (FDPIR) established under section 4(b) of the Food Stamp Act of 1977 (7 U.S.C. 2013(b)), not to exceed $4,000,000 shall be used to purchase bison meat for the FDPIR from Native American bison producers as well as from producer-owned cooperatives of bison ranchers: *Provided further,* That funds provided herein shall be expended in accordance with section 16 of the Food Stamp Act: *Provided further,* That this appropriation shall be subject to any work registration or workfare requirements as may be required by law: *Provided further,* That funds made available for Employment and Training under this heading shall remain available until expended, as authorized by section 16(h)(1) of the Food Stamp Act.

COMMODITY ASSISTANCE PROGRAM

For necessary expenses to carry out disaster assistance and the commodity supplemental food program as authorized by section 4(a) of the Agriculture and Consumer Protection Act of 1973 (7 U.S.C. 612c note); the Emergency Food Assistance Act of 1983; and special assistance for the nuclear affected islands, as authorized by Section 103(h)(2) of the Compacts of Free Association Act of 1985, $145,740,000, to remain available through September 30, 2005: *Provided,* That none of these funds shall be available to reimburse the Commodity Credit Corporation for commodities donated to the program.

NUTRITION PROGRAMS ADMINISTRATION

For necessary administrative expenses of the domestic nutrition assistance programs funded under this Act, $138,304,000, of which $5,000,000 shall be available only for simplifying procedures, reducing overhead costs, tightening regulations, improving food stamp benefit delivery, and assisting in the prevention, identification, and prosecution of fraud and other violations of law; and of which not less than $4,000,000 shall be available to improve integrity in the Food Stamp and Child Nutrition programs.

TITLE V

FOREIGN ASSISTANCE AND RELATED PROGRAMS

FOREIGN AGRICULTURAL SERVICE

SALARIES AND EXPENSES

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses of the Foreign Agricultural Service, including carrying out title VI of the Agricultural Act of 1954 (7 U.S.C. 1761–1769), market development activities abroad, and for enabling the Secretary to coordinate and integrate activities of the Department in connection with foreign agricultural work, including not to exceed $158,000 for representation allowances and for expenses pursuant to section 8 of the Act approved August 3, 1956 (7 U.S.C. 1766), $131,648,000: *Provided,* That the Service may utilize advances of funds, or reimburse this appropriation for expenditures made on behalf of Federal agencies, public and private organizations and institutions under agreements executed pursuant to the agricultural food production assistance programs (7 U.S.C. 1737) and the foreign assistance programs of the United States Agency for International Development.

PUBLIC LAW 480 TITLE I PROGRAM ACCOUNT

(INCLUDING TRANSFERS OF FUNDS)

For the cost, as defined in section 502 of the Congressional Budget Act of 1974, of agreements under the Agricultural Trade Development and Assistance Act of 1954, and the Food for Progress Act of 1985, including the cost of modifying credit arrangements under said Acts, $103,887,000, to remain available until expended.

In addition, for administrative expenses to carry out the credit program of title I, Public Law 83–480, and the Food for Progress Act of 1985, to the extent funds appropriated for Public Law 83–480 are utilized, $2,134,000, of which $1,075,000 may be transferred to and merged with the appropriation for ''Foreign Agricultural Service, Salaries and Expenses'', and of which $1,059,000 may be transferred to and merged with the appropriation for ''Farm Service Agency, Salaries and Expenses''.

PUBLIC LAW 480 TITLE I OCEAN FREIGHT DIFFERENTIAL GRANTS

(INCLUDING TRANSFER OF FUNDS)

For ocean freight differential costs for the shipment of agricultural commodities under title I of the Agricultural Trade Development and Assistance Act of 1954 and under the Food for Progress Act of 1985, $28,000,000, to remain available until expended: *Provided,* That funds made available for the cost of agreements under title I of the Agricultural Trade Development and Assistance Act of 1954 and for title I ocean freight differential may be used interchangeably between the two accounts with prior notice to the Committees on Appropriations of both Houses of Congress.

PUBLIC LAW 480 TITLE II GRANTS

For expenses during the current fiscal year, not otherwise recoverable, and unrecovered prior years' costs, including interest thereon, under the Agricultural Trade Development and Assistance Act of 1954, for commodities supplied in connection with dispositions abroad under title II of said Act, $1,192,000,000, to remain available until expended.

MCGOVERN-DOLE INTERNATIONAL FOOD FOR EDUCATION AND CHILD NUTRITION PROGRAM GRANTS

For necessary expenses to carry out the provisions of section 3107 of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 1736o–1), $25,000,000, to remain available until expended: *Provided,* That the Commodity Credit Corporation is authorized to provide the services, facilities, and authorities for the purpose of implementing such section, subject to reimbursement from amounts provided herein.

COMMODITY CREDIT CORPORATION EXPORT LOANS PROGRAM ACCOUNT

(INCLUDING TRANSFERS OF FUNDS)

For administrative expenses to carry out the Commodity Credit Corporation's export guarantee program, GSM 102 and GSM 103, $4,152,000; to cover common overhead expenses as permitted by section 11 of the Commodity Credit Corporation Charter Act and in conformity with the Federal Credit Reform Act of 1990, of which $3,306,000 may be transferred to and merged with the appropriation for ''Foreign Agricultural Service, Salaries and Expenses'', and of which $846,000 may be transferred to and merged with the appropriation for ''Farm Service Agency, Salaries and Expenses''.

TITLE VI

RELATED AGENCIES AND FOOD AND DRUG ADMINISTRATION

DEPARTMENT OF HEALTH AND HUMAN SERVICES

FOOD AND DRUG ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses of the Food and Drug Administration, including hire and purchase of passenger motor vehicles; for payment of space rental and related costs pursuant to Public Law 92–313 for programs and activities of the Food and Drug Administration which are included in this Act; for rental of special purpose space in the District of Columbia or elsewhere; and for miscellaneous and emergency expenses of enforcement activities, authorized and approved by the Secretary and to be accounted for solely on the Secretary's certificate, not to exceed $25,000; $1,663,228,000, of which not to exceed $249,825,000 to be derived from prescription drug user fees authorized by 21 U.S.C. 379h, including any such fees assessed prior to the current fiscal year but credited during the current year, in accordance with section 736(g)(4), shall be credited to this appropriation and remain available until expended; and of which not to exceed $29,190,000 to be derived from medical device user fees authorized by 21 U.S.C. 379j shall be credited to this appropriation, to remain available until expended: *Provided,* That fees derived from applications received during fiscal year 2004 shall be subject to the fiscal year 2004 limitation: *Provided further,* That none of these funds shall be used to develop, establish, or operate any program of user fees authorized by 31 U.S.C. 9701: *Provided further,* That of the total amount appropriated: (1) $412,020,000 shall be for the Center for Food Safety and Applied Nutrition and related field activities in the Office of Regulatory Affairs; (2) $475,655,000 shall be for the Center for Drug Evaluation and Research and related field activities in the Office of Regulatory Affairs, of which no less than $13,270,000 shall be available for grants and contracts awarded under section 5 of the Orphan Drug Act (21 U.S.C. 360ee); (3) $168,836,000 shall be for the Center for Biologics Evaluation and Research and for related field activities in the Office of Regulatory Affairs; (4) $84,646,000 shall be for the Center for Veterinary Medicine and for related field activities in the Office of Regulatory Affairs; (5) $207,686,000 shall be for the Center for Devices and Radiological Health and for related field activities in the Office of Regulatory Affairs; (6) $39,887,000 shall be for the National Center for Toxicological Research; (7) $40,851,000 shall be for Rent and Related activities, other than the amounts paid to the General Services Administration for rent; (8) $119,152,000 shall be for payments to the General Services Administration for rent; and (9) $114,495,000 shall be for other activities, including the Office of the Commissioner; the Office of Management and Systems; the Office of External Relations; the Office of Policy, Legislation, and Planning; and central services for these offices: *Provided further,* That funds may be transferred from one specified activity to another with the prior approval of the Committees on Appropriations of both Houses of Congress.

In addition, mammography user fees authorized by 42 U.S.C. 263b may be credited to this account, to remain available until expended.

In addition, export certification user fees authorized by 21 U.S.C. 381 may be credited

to this account, to remain available until expended.

BUILDINGS AND FACILITIES

For plans, construction, repair, improvement, extension, alteration, and purchase of fixed equipment or facilities of or used by the Food and Drug Administration, where not otherwise provided, $7,948,000, to remain available until expended.

INDEPENDENT AGENCIES

COMMODITY FUTURES TRADING COMMISSION

For necessary expenses to carry out the provisions of the Commodity Exchange Act (7 U.S.C. 1 et seq.), including the purchase and hire of passenger motor vehicles, and the rental of space (to include multiple year leases) in the District of Columbia and elsewhere, $90,435,000, including not to exceed $3,000 for official reception and representation expenses.

FARM CREDIT ADMINISTRATION

LIMITATION ON ADMINISTRATIVE EXPENSES

Not to exceed $40,900,000 (from assessments collected from farm credit institutions and from the Federal Agricultural Mortgage Corporation) shall be obligated during the current fiscal year for administrative expenses as authorized under 12 U.S.C. 2249: *Provided,* That this limitation shall not apply to expenses associated with receiverships.

TITLE VII—GENERAL PROVISIONS

SEC. 701. Within the unit limit of cost fixed by law, appropriations and authorizations made for the Department of Agriculture for the current fiscal year under this Act shall be available for the purchase, in addition to those specifically provided for, of not to exceed 398 passenger motor vehicles, of which 396 shall be for replacement only, and for the hire of such vehicles.

SEC. 702. Funds in this Act available to the Department of Agriculture shall be available for uniforms or allowances therefor as authorized by law (5 U.S.C. 5901–5902).

SEC. 703. Funds appropriated by this Act shall be available for employment pursuant to the second sentence of section 706(a) of the Department of Agriculture Organic Act of 1944 (7 U.S.C. 2225) and 5 U.S.C. 3109.

SEC. 704. The Secretary of Agriculture may transfer unobligated balances of discretionary funds appropriated by this Act or other available unobligated discretionary balances of the Department of Agriculture to the Working Capital Fund for the acquisition of plant and capital equipment necessary for the delivery of financial, administrative, and information technology services of primary benefit to the agencies of the Department of Agriculture: *Provided,* That none of the funds made available by this Act or any other Act shall be transferred to the Working Capital Fund without the prior approval of the agency administrator: *Provided further,* That none of the funds transferred to the Working Capital Fund pursuant to this section shall be available for obligation without the prior approval of the Committees on Appropriations of both Houses of Congress.

SEC. 705. New obligational authority provided for the following appropriation items in this Act shall remain available until expended: Animal and Plant Health Inspection Service, the contingency fund to meet emergency conditions, information technology infrastructure, fruit fly program, emerging plant pests, boll weevil program, and up to 25 percent of the screwworm program; Food Safety and Inspection Service, field automation and information management project; Cooperative State Research, Education, and Extension Service, funds for competitive research grants (7 U.S.C. 450i(b)), funds for the Research, Education and Economics Information System (REEIS), and funds for the Native American Institutions Endowment Fund; Farm Service Agency, salaries and expenses funds made available to county committees; Foreign Agricultural Service, middle-income country training program and up to $2,000,000 of the Foreign Agricultural Service appropriation solely for the purpose of offsetting fluctuations in international currency exchange rates, subject to documentation by the Foreign Agricultural Service.

SEC. 706. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 707. Not to exceed $50,000 of the appropriations available to the Department of Agriculture in this Act shall be available to provide appropriate orientation and language training pursuant to section 606C of the Act of August 28, 1954 (7 U.S.C. 1766b).

SEC. 708. No funds appropriated by this Act may be used to pay negotiated indirect cost rates on cooperative agreements or similar arrangements between the United States Department of Agriculture and nonprofit institutions in excess of 10 percent of the total direct cost of the agreement when the purpose of such cooperative arrangements is to carry out programs of mutual interest between the two parties. This does not preclude appropriate payment of indirect costs on grants and contracts with such institutions when such indirect costs are computed on a similar basis for all agencies for which appropriations are provided in this Act.

SEC. 709. None of the funds in this Act shall be available to restrict the authority of the Commodity Credit Corporation to lease space for its own use or to lease space on behalf of other agencies of the Department of Agriculture when such space will be jointly occupied.

SEC. 710. None of the funds in this Act shall be available to pay indirect costs charged against competitive agricultural research, education, or extension grant awards issued by the Cooperative State Research, Education, and Extension Service that exceed 19 percent of total Federal funds provided under each award: *Provided,* That notwithstanding section 1462 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3310), funds provided by this Act for grants awarded competitively by the Cooperative State Research, Education, and Extension Service shall be available to pay full allowable indirect costs for each grant awarded under section 9 of the Small Business Act (15 U.S.C. 638).

SEC. 711. Notwithstanding any other provision of this Act, all loan levels provided in this Act shall be considered estimates, not limitations.

SEC. 712. Appropriations to the Department of Agriculture for the cost of direct and guaranteed loans made available in the current fiscal year shall remain available until expended to cover obligations made in the current fiscal year for the following accounts: the Rural Development Loan Fund program account, the Rural Telephone Bank program account, the Rural Electrification and Telecommunications Loans program account, the Rural Housing Insurance Fund program account, and the Rural Economic Development Loans program account.

SEC. 713. None of the funds in this Act may be used to retire more than 5 percent of the Class A stock of the Rural Telephone Bank or to maintain any account or subaccount within the accounting records of the Rural Telephone Bank the creation of which has not specifically been authorized by statute: *Provided,* That notwithstanding any other provision of law, none of the funds appropriated or otherwise made available in this Act may be used to transfer to the Treasury or to the Federal Financing Bank any unobligated balance of the Rural Telephone Bank telephone liquidating account which is in excess of current requirements and such balance shall receive interest as set forth for financial accounts in section 505(c) of the Federal Credit Reform Act of 1990.

SEC. 714. Of the funds made available by this Act, not more than $1,800,000 shall be used to cover necessary expenses of activities related to all advisory committees, panels, commissions, and task forces of the Department of Agriculture, except for panels used to comply with negotiated rule makings and panels used to evaluate competitively awarded grants.

SEC. 715. None of the funds appropriated by this Act may be used to carry out section 410 of the Federal Meat Inspection Act (21 U.S.C. 679a) or section 30 of the Poultry Products Inspection Act (21 U.S.C. 471).

SEC. 716. No employee of the Department of Agriculture may be detailed or assigned from an agency or office funded by this Act to any other agency or office of the Department for more than 30 days unless the individual's employing agency or office is fully reimbursed by the receiving agency or office for the salary and expenses of the employee for the period of assignment.

SEC. 717. None of the funds appropriated or otherwise made available to the Department of Agriculture shall be used to transmit or otherwise make available to any non-Department of Agriculture employee questions or responses to questions that are a result of information requested for the appropriations hearing process.

SEC. 718. None of the funds made available to the Department of Agriculture by this Act may be used to acquire new information technology systems or significant upgrades, as determined by the Office of the Chief Information Officer, without the approval of the Chief Information Officer and the concurrence of the Executive Information Technology Investment Review Board: *Provided,* That notwithstanding any other provision of law, none of the funds appropriated or otherwise made available by this Act may be transferred to the Office of the Chief Information Officer without the prior approval of the Committees on Appropriations of both Houses of Congress.

SEC. 719. (a) None of the funds provided by this Act, or provided by previous Appropriations Acts to the agencies funded by this Act that remain available for obligation or expenditure in the current fiscal year, or provided from any accounts in the Treasury of the United States derived by the collection of fees available to the agencies funded by this Act, shall be available for obligation or expenditure through a reprogramming of funds which: (1) creates new programs; (2) eliminates a program, project, or activity; (3) increases funds or personnel by any means for any project or activity for which funds have been denied or restricted; (4) relocates an office or employees; (5) reorganizes offices, programs, or activities; or (6) contracts out or privatizes any functions or activities presently performed by Federal employees; unless the Committees on Appropriations of both Houses of Congress are notified 15 days in advance of such reprogramming of funds.

(b) None of the funds provided by this Act, or provided by previous Appropriations Acts to the agencies funded by this Act that remain available for obligation or expenditure in the current fiscal year, or provided from any accounts in the Treasury of the United States derived by the collection of fees available to the agencies funded by this Act, shall be available for obligation or expenditure for activities, programs, or projects through a reprogramming of funds in excess of $500,000

or 10 percent, whichever is less, that: (1) augments existing programs, projects, or activities; (2) reduces by 10 percent funding for any existing program, project, or activity, or numbers of personnel by 10 percent as approved by Congress; or (3) results from any general savings from a reduction in personnel which would result in a change in existing programs, activities, or projects as approved by Congress; unless the Committees on Appropriations of both Houses of Congress are notified 15 days in advance of such reprogramming of funds.

(c) The Secretary of Agriculture, the Secretary of Health and Human Services, or the Chairman of the Commodity Futures Trading Commission shall notify the Committees on Appropriations of both Houses of Congress before implementing a program or activity not carried out during the previous fiscal year unless the program or activity is funded by this Act or specifically funded by any other Act.

SEC. 720. With the exception of funds needed to administer and conduct oversight of grants awarded and obligations incurred in prior fiscal years, none of the funds appropriated or otherwise made available by this or any other Act may be used to pay the salaries and expenses of personnel to carry out the provisions of section 401 of Public Law 105–185, the Initiative for Future Agriculture and Food Systems (7 U.S.C. 7621).

SEC. 721. None of the funds made available to the Food and Drug Administration by this Act shall be used to reduce the Detroit, Michigan, Food and Drug Administration District Office below the operating and full-time equivalent staffing level of July 31, 1999; or to change the Detroit District Office to a station, residence post or similarly modified office; or to reassign residence posts assigned to the Detroit District Office: *Provided*, That this section shall not apply to Food and Drug Administration field laboratory facilities or operations currently located in Detroit, Michigan, except that field laboratory personnel shall be assigned to locations in the general vicinity of Detroit, Michigan, pursuant to cooperative agreements between the Food and Drug Administration and other laboratory facilities associated with the State of Michigan.

SEC. 722. None of the funds appropriated by this Act or any other Act shall be used to pay the salaries and expenses of personnel who prepare or submit appropriations language as part of the President's Budget submission to the Congress of the United States for programs under the jurisdiction of the Appropriations Subcommittees on Agriculture, Rural Development, Food and Drug Administration, and Related Agencies that assumes revenues or reflects a reduction from the previous year due to user fees proposals that have not been enacted into law prior to the submission of the Budget unless such Budget submission identifies which additional spending reductions should occur in the event the user fees proposals are not enacted prior to the date of the convening of a committee of conference for the fiscal year 2005 appropriations Act.

SEC. 723. None of the funds made available by this Act or any other Act may be used to close or relocate a State Rural Development office unless or until cost effectiveness and enhancement of program delivery have been determined.

SEC. 724. Of any shipments of commodities made pursuant to section 416(b) of the Agricultural Act of 1949 (7 U.S.C. 1431(b)), the Secretary of Agriculture shall, to the extent practicable, direct that tonnage equal in value to not more than $25,000,000 shall be made available to foreign countries to assist in mitigating the effects of the Human Immunodeficiency Virus and Acquired Immune Deficiency Syndrome on communities, including the provision of—

(1) agricultural commodities to—

(A) individuals with Human Immunodeficiency Virus or Acquired Immune Deficiency Syndrome in the communities; and

(B) households in the communities, particularly individuals caring for orphaned children; and

(2) agricultural commodities monetized to provide other assistance (including assistance under microcredit and microenterprise programs) to create or restore sustainable livelihoods among individuals in the communities, particularly individuals caring for orphaned children.

SEC. 725. In addition to amounts otherwise appropriated or made available by this Act, $2,981,000 is appropriated for the purpose of providing Bill Emerson and Mickey Leland Hunger Fellowships through the Congressional Hunger Center.

SEC. 726. Notwithstanding section 412 of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1736f), any balances available to carry out title III of such Act as of the date of enactment of this Act, and any recoveries and reimbursements that become available to carry out title III of such Act, may be used to carry out title II of such Act.

SEC. 727. Section 375(e)(6)(B) of the Consolidated Farm and Rural Development Act (7 U.S.C. 2008j(e)(6)(B)) is amended by striking ''$26,499,000'' and inserting ''$26,998,000''.

SEC. 728. None of the funds made available in this Act may be transferred to any department, agency, or instrumentality of the United States Government, except pursuant to a transfer made by, or transfer authority provided in, this Act or any other appropriation Act.

SEC. 729. None of the funds made available to the Food and Drug Administration by this Act shall be used to close or relocate, or to plan to close or relocate, the Food and Drug Administration Division of Pharmaceutical Analysis in St. Louis, Missouri, outside the city or county limits of St. Louis, Missouri.

SEC. 730. Notwithstanding any other provision of law, of the funds made available in this Act for competitive research grants (7 U.S.C. 450i(b)), the Secretary may use up to 20 percent of the amount provided to carry out a competitive grants program under the same terms and conditions as those provided in section 401 of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7621).

SEC. 731. Notwithstanding any other provision of law, the Natural Resources Conservation Service shall provide financial and technical assistance through the Watershed and Flood Prevention Operations program to carry out the Upper Tygart Valley Watershed project, West Virginia: *Provided*, That the Natural Resources Conservation Service is authorized to provide 100 percent of the engineering assistance and 75 percent cost share for installation of the water supply component of this project.

SEC. 732. Agencies and offices of the Department of Agriculture may utilize any unobligated salaries and expenses funds to reimburse the Office of the General Counsel for salaries and expenses of personnel, and for other related expenses, incurred in representing such agencies and offices in the resolution of complaints by employees or applicants for employment, and in cases and other matters pending before the Equal Employment Opportunity Commission, the Federal Labor Relations Authority, or the Merit Systems Protection Board with the prior approval of the Committees on Appropriations of both Houses of Congress.

SEC. 733. None of the funds appropriated or made available by this Act or any other Act may be used to pay the salaries and expenses of personnel to carry out section 14(h)(1) of the Watershed Protection and Flood Prevention Act (16 U.S.C. 1012(h)(1)).

SEC. 734. None of the funds appropriated or made available by this Act, or any other Act, may be used to pay the salaries and expenses of personnel to carry out subtitle I of the Consolidated Farm and Rural Development Act (7 U.S.C. 2009dd through dd–7).

SEC. 735. None of the funds appropriated or made available by this Act or any other Act may be used to pay the salaries and expenses of personnel to carry out section 6405 of Public Law 107–171 (7 U.S.C. 2655).

SEC. 736. Notwithstanding any other provision of law, the Natural Resources Conservation Service may provide financial and technical assistance through the Watershed and Flood Prevention Operations program for the Kuhn Bayou and Ditch 26 Improvement projects in Arkansas, the Matanuska River erosion control project in Alaska, the DuPage County Sawmill Creek Watershed project in Illinois, and the Coal Creek project in Utah.

SEC. 737. None of the funds made available in fiscal year 2004 or preceding fiscal years for programs authorized under the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1691 et seq.) in excess of $20,000,000 shall be used to reimburse the Commodity Credit Corporation for the release of eligible commodities under section 302(f)(2)(A) of the Bill Emerson Humanitarian Trust Act (7 U.S.C. 1736f–1): *Provided*, That any such funds made available to reimburse the Commodity Credit Corporation shall only be used pursuant to section 302(b)(2)(B)(i) of the Bill Emerson Humanitarian Trust Act.

SEC. 738. Notwithstanding any other provision of law, the Natural Resources Conservation Service may provide from appropriated funds financial and technical assistance to the Dry Creek project, Utah.

SEC. 739. The Secretary of Agriculture is authorized to permit employees of the United States Department of Agriculture to carry and use firearms for personal protection while conducting field work in remote locations in the performance of their official duties.

SEC. 740. None of the funds appropriated or otherwise made available by this Act shall be used to pay the salaries and expenses of personnel to carry out the provisions of sections 7404(a)(1) and 7404(c)(1) of Public Law 107–171.

SEC. 741. Of the funds made available under section 27(a) of the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.), the Secretary may use up to $10,000,000 for costs associated with the distribution of commodities.

SEC. 742. None of the funds appropriated or otherwise made available by this Act or any other Act shall be used to pay the salaries and expenses of personnel to enroll in excess of 189,144 acres in the calendar year 2004 wetlands reserve program as authorized by 16 U.S.C. 3837.

SEC. 743. Notwithstanding subsections (c) and (e)(2) of section 313A of the Rural Electrification Act (7 U.S.C. 940c(c) and (e)(2)) in implementing section 313A of that Act, the Secretary shall, with the consent of the lender, structure the schedule for payment of the annual fee, not to exceed an average of 30 basis points per year for the term of the loan, to ensure that sufficient funds are available to pay the subsidy costs for note guarantees under that section.

SEC. 744. None of the funds appropriated or otherwise made available by this Act or any other Act shall be used to pay the salaries and expenses of personnel to carry out a ground and surface water conservation program authorized by section 2301 of Public

Law 107–171, the Farm Security and Rural Investment Act of 2002, in excess of $51,000,000.

SEC. 745. None of the funds appropriated or otherwise made available by this Act or any other Act shall be used to pay the salaries and expenses of personnel to carry out section 2502 of Public Law 107–171, the Farm Security and Rural Investment Act of 2002, in excess of $42,000,000.

SEC. 746. None of the funds appropriated or otherwise made available by this Act or any other Act shall be used to pay the salaries and expenses of personnel to carry out section 2503 of Public Law 107–171, the Farm Security and Rural Investment Act of 2002, in excess of $112,044,000.

SEC. 747. There is hereby appropriated $3,000,000 to carry out section 6028 of Public Law 107–171, the Farm Security and Rural Investment Act of 2002: *Provided*, That notwithstanding section 383B(g)(1) of the Consolidated Farm and Rural Development Act (7 U.S.C. 2009bb–1(g)(1)), the Federal share of the administrative expenses of the Northern Great Plains Regional Authority for fiscal year 2004 shall be 100 percent.

SEC. 748. None of the funds appropriated or made available by this Act or any other Act may be used to pay the salaries and expenses of personnel to carry out section 6029 of Public Law 107–171, the Farm Security and Rural Investment Act of 2002: *Provided*, That this section shall not apply to activities related to the promulgation of regulations or the receipt and review of applications for the Rural Business Investment Program.

SEC. 749. None of the funds appropriated or otherwise made available by this Act or any other Act shall be used to pay the salaries and expenses of personnel to carry out section 6103 of Public Law 107–171, the Farm Security and Rural Investment Act of 2002.

SEC. 750. None of the funds appropriated or otherwise made available by this Act or any other Act shall be used to pay the salaries and expenses of personnel to carry out section 9006 of Public Law 107–171, the Farm Security and Rural Investment Act of 2002.

SEC. 751. Agencies and offices of the Department of Agriculture may utilize any available discretionary funds to cover the costs of preparing, or contracting for the preparation of, final agency decisions regarding complaints of discrimination in employment or program activities arising within such agencies and offices.

SEC. 752. Notwithstanding any other provision of law, for any fiscal year, in the case of a high cost isolated rural area that is not connected to a road system in Alaska, the maximum level for the single family housing assistance shall be 150 percent of the average income level in the metropolitan areas of the State and 115 percent of all other eligible areas of the State.

SEC. 753. Any unobligated balances in the Alternative Agricultural Research and Commercialization Revolving Fund are hereby rescinded.

SEC. 754. There is hereby appropriated $2,000,000, to remain available until expended, for the Denali Commission to address deficiencies in solid waste disposal sites which threaten to contaminate rural drinking water supplies.

SEC. 755. Notwithstanding any other provision of law, the Secretary shall consider the City of Vicksburg, Mississippi; the City of Aberdeen, South Dakota; and the City of Starkville, Mississippi as meeting the requirements of a rural area contained in section 520 of the Housing Act of 1949 (42 U.S.C. 1490) until receipt of the decennial Census for the year 2010.

SEC. 756. Notwithstanding any other provision of law, the Secretary shall consider the City of Berlin, New Hampshire, to be eligible for loans and grants provided through the Rural Community Advancement Program until receipt of the decennial Census in the year 2010.

SEC. 757. None of the funds made available in this Act or any other Act may be used to study or enter into a contract with a private party to carry out, without specific authorization in a subsequent Act of Congress, a competitive sourcing activity of the Secretary of Agriculture, including support personnel of the Department of Agriculture, relating to rural development or farm loan programs, animal disease research, or grant review or management activities.

SEC. 758. Section 501(b)(5)(B) of the Housing Act of 1949 (42 U.S.C. 1471(b)(5)(B) is amended by striking ''for fiscal years 2002 and 2003,''.

SEC. 759. AGRICULTURAL MANAGEMENT ASSISTANCE. Section 524(b)(1) of the Federal Crop Insurance Act (7 U.S.C. 1524(b)(1)) is amended—

(1) by striking ''financial assistance to producers in'' and inserting ''grants to''; and

(2) by inserting before the period at the end the following: ''which shall use the grants to provide financial assistance to producers for uses described in paragraph (2)''.

SEC. 760. TRAVEL RELATING TO COMMERCIAL SALES OF AGRICULTURAL AND MEDICAL GOODS. Section 910(a) of the Trade Sanctions Reform And Export Enhancement Act of 2000 (22 U.S.C. 7209(a)) is amended to read as follows:

''(a) AUTHORIZATION OF TRAVEL RELATING TO COMMERCIAL SALES OF AGRICULTURAL AND MEDICAL GOODS.—The Secretary of the Treasury shall promulgate regulations under which the travel-related transactions listed in paragraph (c) of section 515.560 of title 31, Code of Federal Regulations, are authorized by general license for travel to, from, or within Cuba for the purpose of conferring, exhibiting, marketing, planning, sales negotiation, delivery, expediting, facilitating, or servicing commercial export sale of agricultural and medical goods pursuant to the provisions of this title.''.

This Act may be cited as the ''Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2004''.

SA 2073. Mr. BENNETT (for himself and Mr. KOHL) proposed an amendment to the bill H.R. 2673, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for the fiscal year ending September 30, 2004, and for other purposes; as follows:

On page 47, line 13, insert a period after ''$335,963,000'' and striker the remainder of the sentence, and on page 48, lines 7 through 9, strike all after ''transmission in'' and insert in lieu thereof the following: ''rural areas eligible for Distance Learning and Telemedicine Program benefits authorized by 7 U.S.C. 950aaa.''.

SA 2074. Mr. DASCHLE (for himself and Mr. FRIST) submitted an amendment intended to be proposed by him to the bill H.R. 2673, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for the fiscal year ending September 30, 2004, and for other purposes; which was ordered to lie on the table; as follows:

On page 79, between lines 7 and 8, insert the following:

SEC. 7___. SUN GRANT RESEARCH INITIATIVE.

(a) SHORT TITLE.—This section may be cited as the ''Sun Grant Research Initiative Act of 2003''.

(b) RESEARCH, EXTENSION, AND EDUCATIONAL PROGRAMS ON BIOBASED ENERGY TECHNOLOGIES AND PRODUCTS.—Title IX of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 8101 et seq.) is amended by adding at the end the following:

''SEC. 9011. RESEARCH, EXTENSION, AND EDUCATIONAL PROGRAMS ON BIOBASED ENERGY TECHNOLOGIES AND PRODUCTS.

''(a) PURPOSES.—The purposes of the programs established under this section are—

''(1) to enhance national energy security through the development, distribution, and implementation of biobased energy technologies;

''(2) to promote diversification in, and the environmental sustainability of, agricultural production in the United States through biobased energy and product technologies;

''(3) to promote economic diversification in rural areas of the United States through biobased energy and product technologies; and

''(4) to enhance the efficiency of bioenergy and biomass research and development programs through improved coordination and collaboration between the Department of Agriculture, the Department of Energy, and the land-grant colleges and universities.

''(b) DEFINITIONS.—In this section:

''(1) LAND-GRANT COLLEGES AND UNIVERSITIES.—The term 'land-grant colleges and universities' means—

''(A) 1862 Institutions (as defined in section 2 of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7601));

''(B) 1890 Institutions (as defined in section 2 of that Act) and West Virginia State College; and

''(C) 1994 Institutions (as defined in section 2 of that Act).

''(2) SECRETARY.—The term 'Secretary' means the Secretary of Agriculture.

''(c) ESTABLISHMENT.—To carry out the purposes described in subsection (a), the Secretary shall establish programs under which—

''(1) the Secretary shall provide grants to sun grant centers specified in subsection (d); and

''(2) the sun grant centers shall use the grants in accordance with this section.

''(d) GRANTS TO CENTERS.—The Secretary shall use amounts made available for a fiscal year under subsection (j) to provide a grants in equal amounts to each of the following sun grant centers:

''(1) NORTH-CENTRAL CENTER.—A north-central sun grant center at South Dakota State University for the region composed of the States of Illinois, Indiana, Iowa, Minnesota, Montana, Nebraska, North Dakota, South Dakota, Wisconsin, and Wyoming.

''(2) SOUTHEASTERN CENTER.—A southeastern sun grant center at the University of Tennessee at Knoxville for the region composed of—

''(A) the States of Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee, and Virginia;

''(B) the Commonwealth of Puerto Rico; and

''(C) the United States Virgin Islands.

''(3) SOUTH-CENTRAL CENTER.—A south-central sun grant center at Oklahoma State University for the region composed of the States of Arkansas, Colorado, Kansas, Louisiana, Missouri, New Mexico, Oklahoma, and Texas.

''(4) WESTERN CENTER.—A western sun grant center at Oregon State University for the region composed of—

''(A) the States of Alaska, Arizona, California, Hawaii, Idaho, Nevada, Oregon, Utah, and Washington; and

''(B) territories and possessions of the United States (other than the territories referred to in subparagraphs (B) and (C) of paragraph (2)).

''(5) NORTHEASTERN CENTER.—A northeastern sun grant center at Cornell University for the region composed of the States of Connecticut, Delaware, Massachusetts, Maryland, Maine, Michigan, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Vermont, and West Virginia.

''(e) USE OF FUNDS.—

''(1) CENTERS OF EXCELLENCE.—Of the amount of funds that are made available for a fiscal year to a sun grant center under subsection (d), the center shall use not more than 25 percent of the amount for administration to support excellence in science, engineering, and economics at the center to promote the purposes described in subsection (a) through the State agricultural experiment station, cooperative extension services, and relevant educational programs of the university.

''(2) GRANTS TO LAND-GRANT COLLEGES AND UNIVERSITIES.—

''(A) IN GENERAL.—The sun grant center established for a region shall use the funds that remain available for a fiscal year after expenditures made under paragraph (1) to provide competitive grants to land-grant colleges and universities in the region of the sun grant center to conduct, consistent with the purposes described in subsection (a), multiinstitutional and multistate—

''(i) research, extension, and educational programs on technology development; and

''(ii) integrated research, extension, and educational programs on technology implementation.

''(B) PROGRAMS.—Of the amount of funds that are used to provide grants for a fiscal year under subparagraph (A), the center shall use—

''(i) not less than 30 percent of the funds to carry out programs described in subparagraph (A)(i); and

''(ii) not less than 30 percent of the funds to carry out programs described in subparagraph (A)(ii).

''(3) INDIRECT COSTS.—A sun grant center may not recover the indirect costs of making grants under paragraph (2) to other land-grant colleges and universities.

''(f) PLAN.—

''(1) IN GENERAL.—Subject to the availability of funds under subsection (j), in cooperation with other land-grant colleges and universities and private industry in accordance with paragraph (2), the sun grant centers shall jointly develop and submit to the Secretary, for approval, a plan for addressing at the State and regional levels the bioenergy, biomass, and gasification research priorities of the Department of Agriculture and the Department of Energy for the making of grants under paragraphs (1) and (2) of subsection (e).

''(2) GASIFICATION COORDINATION.—

''(A) IN GENERAL.—In developing the plan under paragraph (1) with respect to gasification research, the sun grant centers identified in paragraphs (1) and (2) of subsection (d) shall coordinate with land grant colleges and universities in their respective regions that have ongoing research activities with respect to the research.

''(B) FUNDING.—Funds made available under subsection (d) to the sun grant center identified in subsection (e)(2) shall be available to carry out planning coordination under paragraph (1) of this subsection.

''(g) GRANTS TO OTHER LAND-GRANT COLLEGES AND UNIVERSITIES.—

''(1) PRIORITY FOR GRANTS.—In making grants under subsection (e)(2), a sun grant center shall give a higher priority to programs that are consistent with the plan approved by the Secretary under subsection (f).

''(2) TERM OF GRANTS.—The term of a grant provided by a sun grant center under subsection (e)(2) shall not exceed 5 years.

''(h) GRANT INFORMATION ANALYSIS CENTER.—The sun grant centers shall maintain a Sun Grant Information Analysis Center at the sun grant center specified in subsection (d)(1) to provide sun grant centers analysis and data management support.

''(i) ANNUAL REPORTS.—Not later than 90 days after the end of a year for which a sun grant center receives a grant under subsection (d), the sun grant center shall submit to the Secretary a report that describes the policies, priorities, and operations of the program carried out by the center during the year, including a description of progress made in facilitating the priorities described in subsection (f).

''(j) AUTHORIZATION OF APPROPRIATIONS.—

''(1) IN GENERAL.—There are authorized to be appropriated to carry out this section—

''(A) $25,000,000 for fiscal year 2005;

''(B) $50,000,000 for fiscal year 2006; and

''(C) $75,000,000 for each of fiscal years 2007 through 2010.

''(2) GRANT INFORAMTION ANALYSIS CENTER.—Of amounts made available under paragraph (1), not more than $4,000,000 for each fiscal year shall be made available to carry out subsection (h).''.

SA 2075. Mr. JEFFORDS submitted an amendment intended to be proposed by him to the bill H.R. 2673, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for the fiscal year ending September 30, 2004, and for other purposes; which was ordered to lie on the table; as follows:

On page 42, between lines 13 and 14, insert the following:

HISTORIC BARN PRESERVATION PROGRAM

For the historic barn preservation program established under section 379A of the Consolidated Farm and Rural Development Act (7 U.S.C. 2008*o*), $2,000,000.

On page 58, line 19, strike ''$90,435,000'' and insert ''$88,435,000''.

SA 2076. Mr. JEFFORDS submitted an amendment intended to be proposed by him to the bill H.R. 2673, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for the fiscal year ending September 30, 2004, and for other purposes; which was ordered to lie on the table; as follows:

On page 42, between lines 13 and 14, insert the following:

HISTORIC BARN PRESERVATION PROGRAM

For the Vermont Division for Historic Preservation, to carry out activities under the historic barn preservation program established under section 379A of the Consolidated Farm and Rural Development Act (7 U.S.C. 2008*o*), $500,000.

On page 58, line 19, strike ''$90,435,000'' and insert ''$899,350,000''.

SA 2077. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill H.R. 2673, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for the fiscal year ending September 30, 2004, and for other purposes; which was ordered to lie on the table; as follows:

On page 79, between lines 7 and 8, insert the following:

SEC. 7___. PEST INFESTATION OF HASS AVOCADOS.

None of the funds appropriated or otherwise made available by this Act shall be used—

(1) to carry out any provision of law (including rules and regulations) relating to the expansion of imports of Mexican avocados until a scientific study by qualified independent researchers for a continuous 12-month period is completed on the susceptibility of Hass avocados to pest infestation as a result of the expansion of Mexican avocado imports; or

(2) to take any action that would expand imports into avocado-producing States as long as avocado-specific quarantine pests continue to be found in Michoacan, Mexico.

SA 2078. Mr. DASCHLE (for himself, Mr. ENZI, Mr. THOMAS, Mr. JOHNSON, Mr. HARKIN, Mr. GRASSLEY, Mr. BURNS, Mr. BINGAMAN, Mr. BAUCUS, Mr. DORGAN, Mr. CONRAD, and Mr. KERRY) submitted an amendment intended to be proposed by him to the bill H.R. 2673, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for the fiscal year ending September 30, 2004, and for other purposes; which was ordered to lie on the table; as follows:

On page 79, between lines 7 and 8, insert:

SEC. ___. SENSE OF SENATE REGARDING COUNTRY OF ORIGIN LABELING REQUIREMENTS.

It is the sense of the Senate that the conferees on the part of the Senate on this bill shall insist that no limits on the use of funds to enforce country of origin labeling requirements for meat or meat products be included in the conference report accompanying the bill.

SA 2079. Mr. CORNYN submitted an amendment intended to be proposed by him to the bill H.R. 2673, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for the fiscal year ending September 30, 2004, and for other purposes; which was ordered to lie on the table; as follows:

On page 79, between lines 7 and 8, insert the following:

SEC. 7___. PROHIBITION OF USE OF FUNDS TO IMPLEMENT COUNTRY OF ORIGIN LABELING FOR MEAT OR MEAT PRODUCTS.

None of the funds appropriated or otherwise made available by this Act shall be used to implement or enforce subtitle D of the Agricultural Marketing Act of 1946 (7 U.S.C. 1638 et seq.) with respect to a covered commodity described in clause (i) or (ii) of section 281(2)(A) of that Act (7 U.S.C. 1638(2)(A)).

SA 2080. Mr. SPECTER submitted an amendment intended to be proposed by him to the bill H.R. 2673, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for the fiscal year ending September 30, 2004, and for other purposes; as follows:

On page 79, between lines 7 and 8, insert the following:

SEC. 7___. LIMITATION ON ALLOCATION OF PURCHASE PRICES FOR BUTTER AND NONFAT DRY MILK.

None of the funds made available by this Act may be used to pay the salaries or expenses of employees of the Department of Agriculture to allocate the rate of price support between the purchase prices for nonfat dry milk and butter in a manner does not support the price of milk in accordance with section 1501(b) of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 7981(b)).

SA 2081. Mr. GRAHAM of Florida (for himself and Mr. NELSON of Florida) submitted an amendment intended to be proposed by him to the bill H.R. 2673, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for the fiscal year ending September 30, 2004, and for other purposes; as follows:

On page 79, between lines 7 and 8, insert the following:

SEC. 7___. CITRUS CANKER ASSISTANCE.

Section 211 of the Agricultural Assistance Act of 2003 (117 Stat. 545) is amended—

(1) in the section heading, by inserting ''**TREE REPLACEMENT AND**'' after ''**FOR**''; and

(2) in subsection (a), by inserting ''tree replacement and'' after ''Florida for''.

SA 2082. Mr. NELSON of Florida (for himself and Mr. GRAHAM of Florida) submitted an amendment intended to be proposed by him to the bill H.R. 2673, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for the fiscal year ending September 30, 2004, and for other purposes; as follows:

On page 79, between lines 7 and 8, insert the following:

SEC. 7___. ASSISTANCE TO CITRUS AND LIME GROWERS FOR LOST INCOME AND TREE REPLACEMENT FROM TREES REMOVED TO CONTROL CITRUS CANKER.

The Secretary of Agriculture shall use not more than $15,000,000 of the funds of the Commodity Credit Corporation to compensate commercial citrus and lime growers in the State of Florida for lost income and tree replacement with respect to trees removed to control citrus canker, to remain available until expended.

SA 2083. Mrs. FEINSTEIN (for herself, Mr. LUGAR, Mr. LEVIN, Mr. HARKIN, Ms. CANTWELL, Mrs. BOXER, Mr. LEAHY, Mr. WYDEN, Mr. DURBIN, and Mr. HOLLINGS) proposed an amendment to the bill H.R. 2673, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for the fiscal year ending September 30, 2004, and for other purposes; as follows:

At the appropriate place, insert the following:

TITLE ___—TRANSPARENCY IN WHOLESALE ELECTRICITY MARKETS

SEC. ___01. MARKET TRANSPARENCY.

Part II of the Federal Power Act (16 U.S.C. 824 et seq.) is amended by adding at the end the following:

''SEC. 215. MARKET TRANSPARENCY.

''(a) IN GENERAL.—Not later than 180 days after the date of enactment of this section, the Commission shall promulgate regulations establishing an electronic information system to provide the Commission and the public with access to such information as is appropriate to facilitate price transparency and participation in markets subject to the jurisdiction of the Commission.

''(b) INFORMATION TO BE MADE AVAILABLE.—

''(1) IN GENERAL.—The system under subsection (a) shall provide information about the availability and market price of wholesale electric energy and transmission services to the Commission, State commissions, buyers and sellers of wholesale electric energy, users of transmission services, and the public.

''(2) PROTECTION OF CONSUMERS AND COMPETITIVE MARKETS.—In determining the information to be made available under the system and the time at which to make such information available, the Commission shall seek to ensure that consumers and competitive markets are protected from false or misleading information and from the adverse effects of potential collusion or other anticompetitive behaviors that can be facilitated by untimely public disclosure of transaction-specific information.

''(c) AUTHORITY TO OBTAIN INFORMATION.—The Commission shall have authority to obtain information described in subsections (a) and (b) from any electric utility or transmitting utility (including any entity described in section 201(f)).

''(d) EXEMPTION.—The Commission shall exempt from disclosure information that the Commission determines would, if disclosed—

''(1) be detrimental to the operation of an effective market; or

''(2) jeopardize system security.

''(e) APPLICABILITY.—The system under subsection (a) shall not apply to an entity described in section 212(k)(2)(B) with respect to transactions for the purchase or sale of wholesale electric energy and transmission services within the area described in section 212(k)(2)(A).''.

SEC. ___02. ROUND TRIP TRADING.

Part II of the Federal Power Act (16 U.S.C. 824 et seq.) (as amended by section ___01) is amended by adding at the end the following:

''SEC. 216. ROUND TRIP TRADING.

''(a) PROHIBITION.—It shall be unlawful for any person or entity (including an entity described in section 201(f)) knowingly to enter into any contract or other arrangement to execute a round trip trade.

''(b) DEFINITION OF ROUND TRIP TRADE.—In this section, the term 'round trip trade' means a transaction (or combination of transactions) in which a person or entity, with the intent to affect reported revenues, trading volumes, or prices—

''(1) enters into a contract or other arrangement to purchase from, or sell to, any other person or entity electric energy at wholesale; and

''(2) simultaneously with entering into the contract or arrangement described in paragraph (1), arranges a financially offsetting trade with the other person or entity for the same electric energy at substantially the same location, price, quantity, and terms so that, collectively, the purchase and sale transactions in themselves result in a de minimis or no financial gain or loss.''.

SEC. ___03. ENFORCEMENT.

(a) COMPLAINTS.—Section 306 of the Federal Power Act (16 U.S.C. 825e) is amended—

(1) in the first sentence—

(A) by inserting ''(including an electric utility)'' after ''Any person''; and

(B) by inserting '', transmitting utility,'' after ''licensee''; and

(2) in the second sentence, by inserting '', transmitting utility,'' after ''licensee''.

(b) INVESTIGATIONS.—Section 307(a) of the Federal Power Act (16 U.S.C. 825f(a)) is amended in the first sentence by inserting ''(including a transmitting utility)'' after ''any person''.

(c) REVIEW OF COMMISSION ORDERS.—Section 313(a) of the Federal Power Act (16 U.S.C. 825*l*) is amended in the first sentence by inserting ''(including an electric utility)'' after ''Any person''.

(d) CRIMINAL PENALTIES.—Section 316 of the Federal Power Act (16 U.S.C. 825*o*) is amended—

(1) in subsection (a)—

(A) by striking ''$5,000'' and inserting ''$1,000,000''; and

(B) by striking ''two years'' and inserting ''5 years'';

(2) in subsection (b), by striking ''$500'' and inserting ''$25,000''; and

(3) by striking subsection (c).

(e) CIVIL PENALTIES.—Section 316A of the Federal Power Act (16 U.S.C. 825o–1) is amended—

(1) in subsections (a) and (b), by striking ''section 211, 212, 213, or 214'' each place it appears and inserting ''part II''; and

(2) in subsection (b), by striking ''$10,000'' and inserting ''$1,000,000''.

(f) GENERAL PENALTIES.—Section 21 of the Natural Gas Act (15 U.S.C. 717t) is amended—

(1) in subsection (a), by striking ''$5,000'' and inserting ''$1,000,000'', and by striking ''two years'' and inserting ''5 years''; and

(2) in subsection (b), by striking ''$500'' and inserting ''$50,000''.

SEC. ___04. REFUND EFFECTIVE DATE.

Section 206(b) of the Federal Power Act (16 U.S.C. 824e(b)) is amended—

(1) in the second sentence, by striking ''the date 60 days after the filing of such complaint nor later than 5 months after the expiration of such 60-day period'' and inserting ''the date of the filing of the complaint nor later than 5 months after the filing of the complaint'';

(2) in the third sentence—

(A) by striking ''60 days after the'' and inserting ''of''; and

(B) by striking ''expiration of such 60-day period'' and inserting ''publication date''; and

(3) by striking the fifth sentence and inserting the following: ''If no final decision is rendered by the conclusion of the 180-day period that begins on the date of institution of a proceeding under this section, the Commission shall state the reasons why the Commission has failed to do so and shall state its best estimate as to when the Commission reasonably expects to render a final decision.''.

SEC. ___05. DISCOVERY AND EVIDENTIARY HEARINGS UNDER THE FEDERAL POWER ACT.

The Federal Power Act is amended—

(1) in section 206 (16 U.S.C. 824e), by adding at the end the following:

''(e) DISCOVERY AND EVIDENTIARY HEARINGS.—On receipt of a complaint by a State or a State Commission under subsection (a), the Commission shall provide—

''(1) an opportunity for the State or the State Commission to conduct reasonable discovery; and

''(2) on request of the State or the State Commission and a showing of a dispute as to material facts, an evidentiary hearing.''; and

(2) in section 306 (16 U.S.C. 825e)—

(A) by inserting ''(a) IN GENERAL.—'' before ''Any person''; and

(B) by adding at the end the following:

''(b) DISCOVERY AND EVIDENTIARY HEARINGS.—On receipt of a complaint by a State or State Commission under this section, the Commission shall provide—

''(1) an opportunity for the State or the State Commission to conduct reasonable discovery; and

''(2) on request of the State or the State Commission and a showing of dispute as to material facts, an evidentiary hearing.''.

TITLE ___—MARKET MANIPULATION

SEC. ___01. PROHIBITION OF MARKET MANIPULATION.

(a) IN GENERAL.—Part II of the Federal Power Act (as amended by section ___02) is amended by adding at the end the following:

''SEC. 217. PROHIBITION OF MARKET MANIPULATION.

''(a) IN GENERAL.—It shall be unlawful for any person, directly or indirectly, to knowingly use or employ, in connection with the purchase or sale of electric energy or the purchase or sale of transmission services subject to the jurisdiction of the Commission, any manipulative or deceptive device or contrivance to affect the price, availability, or reliability of the electric energy or transmission services.

''(b) REGULATIONS.—The Commission may promulgate regulations as appropriate in the public interest or for the protection of electric ratepayers to enforce this section.''.

(b) ADDITIONAL REMEDY FOR MARKET MANIPULATION.—Section 206 of the Federal Power Act (16 U.S.C. 824e) is amended by adding at the end the following:

''(e) REMEDY FOR MARKET MANIPULATION.—If the Commission finds that a public utility has knowingly employed any manipulative or deceptive device or contrivance in violation of this Act (including a regulation promulgated under this Act), the Commission may, in addition to any other remedy available under this Act, revoke the authority of the public utility to charge market-based rates.''.

TITLE ___—ENERGY MARKET OVERSIGHT

SEC. ___01. OVER-THE-COUNTER TRANSACTIONS IN ENERGY COMMODITIES.

(a) DEFINITIONS.—Section 1a of the Commodity Exchange Act (7 U.S.C. 1a) is amended by adding at the end the following:

''(34) INCLUDED ENERGY TRANSACTION.—The term 'included energy transaction' means a contract, agreement, or transaction in an energy commodity that is—

''(A)(i) executed or traded on an electronic trading facility; and

''(ii) entered into on a principal-to-principal basis solely between persons that are eligible commercial entities at the time the persons enter into the agreement, contract, or transaction; or

''(B)(i) executed or traded not on or through a trading facility; and

''(ii) entered into solely between persons that are eligible contract participants at the time the persons enter into the agreement, contract, or transaction, regardless of the means of execution of the agreement, contract, or transaction.

''(35) ENERGY COMMODITY.—

''(A) IN GENERAL.—The term 'energy commodity' means a commodity (other than an excluded commodity, a metal, or an agricultural commodity) that is used as a source of energy.

''(B) INCLUSIONS.—The term 'energy commodity' includes—

''(i) coal;

''(ii) crude oil, gasoline, heating oil, and propane;

''(iii) electricity; and

''(iv) natural gas.

''(36) ELECTRONIC ENERGY TRADING FACILITY.—The term 'electronic energy trading facility' means an electronic trading facility on or through which included energy transactions are traded or executed.''.

(b) OFF-EXCHANGE TRANSACTIONS IN ENERGY COMMODITIES.—Section 2(g) of the Commodity Exchange Act (7 U.S.C. 2(g)) is amended—

(1) by inserting ''or an energy commodity'' after ''agricultural commodity'';

(2) by redesignating paragraphs (1) through (3) as subparagraphs (A) through (C), respectively;

(3) by striking ''No provision'' and inserting the following:

''(1) IN GENERAL.—No provision''; and

(4) by adding at the end the following:

''(2) TRANSACTIONS IN ENERGY COMMODITIES.—

''(A) IN GENERAL.—Except as provided in subparagraphs (B) and (C) and subsection (h)(7), nothing in this Act applies to an included energy transaction.

''(B) PROHIBITED CONDUCT.—

''(i) IN GENERAL.—An included energy transaction shall be subject to—

''(I) sections 5b, 12(e)(2)(B), and 22(a)(4); and

''(II) the prohibitions in sections 4b, 4c(a), 4c(b), 4o, 6(c), 6(d), 6c, 6d, 8a, and 9(a)(2).

''(ii) TRANSACTIONS EXEMPTED BY COMMISSION ACTION.—Notwithstanding any exemption by the Commission under section 4(c), an included energy transaction shall be subject to the sections specified in clause (i) of this subparagraph, subparagraph (C), and subsection (h)(7).

''(C) REPORTING AND RECORDKEEPING REQUIREMENTS.—

''(i) IN GENERAL.—An eligible contract participant that enters into or executes an included energy transaction that performs, or together with other such transactions performs, a significant price discovery function in the cash market for an energy commodity or in any other market for agreements, contracts, or transactions relating to an energy commodity, or an eligible commercial entity that enters into or executes an included energy transaction described in section 1a(34)(A) shall—

''(I) provide to the Commission on a timely basis the information required under clause (ii); and

''(II)(aa) consistent with section 4i, maintain books and records relating to each included energy transaction, for a period of at least 5 years after the date of the transaction, in such form as the Commission shall require; and

''(bb) keep the books and records open to inspection by any representative of the Commission or the Attorney General.

''(ii) REQUIRED INFORMATION.—

''(I) IN GENERAL.—The Commission shall require that such information regarding included energy transactions be provided to the Commission as the Commission considers necessary to assist in detecting and preventing price manipulation.

''(II) INFORMATION TO BE INCLUDED.—Such information shall include information regarding large trading positions obtained through 1 or more included energy transactions that involve—

''(aa) substantial quantities of the commodity in the cash market; or

''(bb) substantial positions, investments, or trades in agreements or contracts related to energy commodities.

''(III) MANNER OF COMPLIANCE.—The Commission shall specify when and how such information shall be provided and maintained by eligible contract participants and eligible commercial entities.

''(IV) PRICE DISCOVERY TRANSACTIONS.—

''(aa) IN GENERAL.—In specifying the information to be provided under this paragraph, the Commission shall identify the transactions or class of transactions that the Commission considers to perform a significant price discovery function.

''(bb) CONSIDERATIONS.—In determining which included energy transactions perform a significant price discovery function, the Commission shall consider the extent to which—

''(AA) standardized agreements are used to execute the transactions;

''(BB) the transactions involve standardized types or measures of a commodity;

''(CC) the prices of the transactions are reported to third parties, published, or disseminated;

''(DD) the prices of the transactions are referenced in other transactions; and

''(EE) other factors considered appropriate by the Commission.

''(V) PERSONS FILING.—

''(aa) IN GENERAL.—The Commission, in its discretion, may allow large trader position reports required to be provided by an eligible commercial entity to be provided by an electronic energy trading facility if the eligible commercial entity authorizes the facility to provide such information on its behalf.

''(bb) INFORMATION AND ENFORCEMENT.—Nothing in an authorization under item (aa) shall impair the ability of the Commission to obtain information from an eligible commercial entity or otherwise enforce this Act.

''(VI) REGULATIONS.—Not later than 180 days after the date of enactment of this paragraph, the Commission shall issue a notice of proposed rulemaking, and not later than 1 year after the date of enactment of this paragraph, the Commission shall promulgate final regulations, specifying the information to be provided and maintained under this subparagraph.''.

SEC. ___02. ELECTRONIC TRADING FACILITIES FOR ENERGY COMMODITIES.

Section 2(h) of the Commodity Exchange Act (7 U.S.C. 2(h)) is amended—

(1) in paragraph (1), by inserting after ''an exempt commodity'' the following: ''other than an energy commodity'';

(2) in paragraph (3), by inserting after ''an exempt commodity'' the following: ''other than an energy commodity''; and

(3) by adding at the end the following:

''(7) ENERGY TRANSACTIONS.—

''(A) IN GENERAL.—To the extent that the Commission determines to be appropriate under subparagraph (C), an electronic energy trading facility shall—

''(i) be subject to the requirements of section 5a, to the extent provided in sections 5a(g) and 5d;

''(ii)(I) consistent with section 4i, maintain books and records relating to the business of the electronic energy trading facility, including books and records relating to each transaction in such form as the Commission may require; and

''(II) make the books and records required under this section available to representatives of the Commission and the Attorney General for inspection for a period of at least 5 years after the date of each included energy transaction;

''(iii) make available to the public information on trading volumes, settlement prices, open interest (where applicable), and opening and closing ranges (or daily highs and lows, as appropriate) for included energy transactions; and

''(iv) provide the information to the Commission in such form and at such times as the Commission may require.

''(B) APPLICABILITY OF OTHER PROVISIONS.—

''(i) PARAGRAPH 5.—An electronic energy trading facility shall comply with paragraph (5).

''(ii) PARAGRAPH 6.—Paragraph (6) shall apply with respect to a subpoena issued to any foreign person that the Commission believes is conducting or has conducted transactions on or through an electronic energy trading facility.

''(C) REGULATIONS.—Not later than 180 days after the date of enactment of this paragraph, the Commission shall issue a notice of proposed rulemaking, and not later than 1 year after the date of enactment of this paragraph, the Commission shall promulgate final regulations, specifying the information to be provided, maintained, or made available to the public under subparagraphs (A) and (B).

''(8) NONDISCLOSURE OF PROPRIETARY INFORMATION.—In carrying out paragraph (7) and subsection (g)(2), the Commission shall not—

''(A) require the real-time publication of proprietary information;

''(B) prohibit the commercial sale or licensing of real-time proprietary information; or

''(C) publicly disclose information regarding market positions, business transactions, trade secrets, or names of customers, except as provided in section 8.''.

SEC. ___03. NO EFFECT ON OTHER AUTHORITY.

(a) NO EFFECT ON FERC AUTHORITY.—Nothing contained in this title shall affect the jurisdiction of the Federal Energy Regulatory Commission with respect to the authority of the Federal Energy Regulatory Commission under the Federal Power Act (16 U.S.C. 791a et seq.), the Natural Gas Act (15 U.S.C. 717 et seq.), or other law to obtain information or otherwise carry out the responsibilities of the Federal Energy Regulatory Commission.''.

(b) NO EFFECT ON EXCLUDED COMMODITIES.—The amendments made by this title have no effect on the regulation of excluded commodities under the Commodity Exchange Act (7 U.S.C. 1a et seq.).

(c) NO EFFECT ON METALS.—The amendments made by this title have no effect on the regulation of metals under the Commodity Exchange Act (7 U.S.C. 1a et seq.).

SEC. ___04. PROHIBITION OF FRAUDULENT TRANSACTIONS.

Section 4b of the Commodity Exchange Act (7 U.S.C. 6b) is amended by striking subsection (a) and inserting the following:

''(a) PROHIBITIONS.—

''(1) IN GENERAL.—It shall be unlawful (A) for any person, in or in connection with any order to make, or the making of, any contract of sale of any commodity for future delivery or in interstate commerce, that is made, or to be made, on or subject to the rules of a designated contract market, for or on behalf of any other person, or (B) for any person, in or in connection with any order to make, or the making of, any contract of sale of any commodity for future delivery or other agreement, contract or transaction subject to paragraphs (1) and (2) of section 5a(g), that is made, or to be made, for or on behalf of or with, any other person, other than on or subject to the rules of a designated contract market—

''(i) to cheat or defraud or attempt to cheat or defraud the other person;

''(ii) willfully to make or cause to be made to such other person any false report or statement or willfully to enter or cause to be entered for the other person any false record;

''(iii) willfully to deceive or attempt to deceive the other person by any means whatsoever in regard to any order or contract or the disposition or execution of any order or contract, or in regard to any act of agency performed, with respect to any order or contract for (or, in the case of a contract described in subparagraph (B), with the other person); or

''(iv)(I) to bucket an order represented by the person as an order to be executed, for or on behalf of the other person, on an organized exchange; or

''(II) to—

''(aa) fill an order by offset against the order or orders of the other person; or

''(bb) willfully and knowingly and without the prior consent of the other person, to—

''(AA) become the buyer in respect to any selling order of the other person; or

''(BB) become the seller in respect to any buying order of the other person;

if the order is to be executed on or subject to the rules of a designated contract market.

''(2) LIMITATION.—This subsection does not obligate any person, in connection with a transaction in a contract of sale of a commodity for future delivery with another person, to disclose to any other person nonpublic information that may be material to the market price of the commodity or transaction, except as necessary to make any statement made to the other person in connection with the transaction not misleading in any material respect.''.

SEC. ___05. CRIMINAL AND CIVIL PENALTIES.

(a) ENFORCEMENT POWERS OF COMMISSION.—Section 6(c) of the Commodity Exchange Act (7 U.S.C. 9, 15) is amended in paragraph (3) of the tenth sentence—

(1) by inserting ''(A)'' after ''assess such person''; and

(2) by inserting after ''each such violation'' the following: '', or (B) in any case of manipulation of, or attempt to manipulate, the price of any commodity, a civil penalty of not more than the greater of $1,000,000 or triple the monetary gain to such person for each such violation,''.

(b) MANIPULATIONS AND OTHER VIOLATIONS.—Section 6(d) of the Commodity Exchange Act (7 U.S.C. 13b) is amended in the first sentence—

(1) by striking ''paragraph (a) or (b) of section 9 of this Act'' and inserting ''subsection (a), (b), or (f) of section 9''; and

(2) by striking ''said paragraph 9(a) or 9(b)'' and inserting ''subsection (a), (b), or (f) of section 9''.

(c) NONENFORCEMENT OF RULES OF GOVERNMENT OR OTHER VIOLATIONS.—Section 6b of the Commodity Exchange Act (7 U.S.C. 13a) is amended—

(1) in the first sentence, by inserting before the period at the end the following: '', or, in any case of manipulation of, or an attempt to manipulate, the price of any commodity, a civil penalty of not more than $1,000,000 for each such violation''; and

(2) in the second sentence, by inserting before the period at the end the following: '', except that if the failure or refusal to obey or comply with the order involved any offense under section 9(f), the registered entity, director, officer, agent, or employee shall be guilty of a felony and, on conviction, shall be subject to penalties under section 9(f)''.

(d) ACTION TO ENJOIN OR RESTRAIN VIOLATIONS.—Section 6c(d) of the Commodity Exchange Act (7 U.S.C. 13a–1(d)) is amended by striking ''(d)'' and all that follows through the end of paragraph (1) and inserting the following:

''(d) CIVIL PENALTIES.—In any action brought under this section, the Commission may seek and the court shall have jurisdiction to impose, on a proper showing, on any person found in the action to have committed any violation—

''(1) a civil penalty in the amount of not more than the greater of $100,000 or triple the monetary gain to the person for each violation; or

''(2) in any case of manipulation of, or an attempt to manipulate, the price of any commodity, a civil penalty in the amount of not more than the greater of $1,000,000 or triple the monetary gain to the person for each violation.''.

(e) VIOLATIONS GENERALLY.—Section 9(a) of the Commodity Exchange Act (7 U.S.C. 13) is amended—

(1) by striking ''(or $500,000 in the case of a person who is an individual)'';

(2) by striking ''five years'' and inserting ''10 years''; and

(3) in paragraph (2), by striking ''false or misleading or knowingly inaccurate reports'' and inserting ''knowingly false, misleading, or inaccurate reports''.

SEC. ___06. CONFORMING AMENDMENTS.

(a) Section 2 of the Commodity Exchange Act (7 U.S.C. 2) is amended—

(1) in subsection (d)(1), by striking ''section 5b'' and inserting ''section 5a(g), 5b,'';

(2) in subsection (e)(1), by inserting ''(1)'' after ''(g)''; and

(3) in subsection (i)—

(A) in paragraph (1)—

(i) by striking ''No provision'' and inserting ''IN GENERAL.—Subject to subsections (g)(2) and (h)(7), no provision''; and

(ii) in subparagraph (A), by inserting ''(1)'' after ''2(g)''; and

(B) in paragraph (2), by striking ''No provision'' and inserting ''IN GENERAL.—Subject to subsections (g)(2) and (h)(7), no provision''.

(b) Section 4i of the Commodity Exchange Act (7 U.S.C. 6i) is amended in the first sentence by inserting '', or pursuant to an exemption under section 4(c)'' after ''transaction execution facility''.

(c) Section 8a(9) of the Commodity Exchange Act (7 U.S.C. 12a(9)) is amended—

(1) by inserting ''or an electronic energy trading facility'' after ''direct the contract market'';

(2) by inserting after ''liquidation of any futures contract'' the following: ''or included energy transaction''; and

(3) by inserting ''or an electronic energy trading facility'' after ''given by a contract market''.

SA 2084. Mr. BENNETT (for himself and Mr. KOHL) proposed an amendment to the bill H.R. 2673, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for the fiscal year ending September 30, 2004, and for other purposes; as follows:

On page 79, between lines 7 and 8, insert the following new section:

''SEC. . Statements made by the Chairman and/or Ranking Member of the Agriculture Appropriations Subcommittee, and colloquies engaging the Chairman and/or Ranking Member of the Agriculture Appropriations Subcommittee, given on the Senate Floor or submitted for the Record during Senate consideration of this Act shall be deemed part of Senate Committee Report 108–107 for purposes of conference with the House of Representatives.''.

SA 2085. Mr. HARKIN submitted an amendment intended to be proposed by him to the bill H.R. 2673, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for the fiscal year ending September 30, 2004, and for other purposes; which was ordered to lie on the table; as follows:

On page 79, between lines 7 and 8, insert the following:

SEC. 7___. CONSERVATION RESERVE PROGRAM.

Land shall be considered eligible land under section 1231(b) of the Food Security Act of 1985 (16 U.S.C. 3831(b)) for purposes of enrollment into the conservation reserve program established under subchapter B of chapter 1 of subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3831 et seq.) if the land—

(1) is planted to hardwood trees as of the date of enactment of this Act; and

(2) was enrolled in the conservation reserve program under a contract that expired before the date of enactment of this Act.

SA 2086. Mr. HOLLINGS submitted an amendment intended to be proposed by him to the bill H.R. 2673, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for the fiscal year ending September 30, 2004, and for other purposes; which was ordered to lie on the table; as follows:

On page 79, between lines 7 and 8, insert the following:

SEC. ___. CENTER OF EXCELLENCE FOR COMMODITY AND CONSERVATION DECISION SUPPORT SYSTEMS.

To encourage the Chief of the Natural Resources Conservation Service to work with the University of South Carolina to establish a Center of Excellence for Department of Agriculture Commodity and Conservation Decision Support Systems.

SA 2087. Ms. CANTWELL (for herself, Mr. BINGAMAN, Mr. HOLLINGS, Mr. JEFFORDS, Mr. DORGAN, and Mr. FEINGOLD) proposed an amendment to the bill H.R. 2673, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for the fiscal year ending September 30, 2004, and for other purposes; as follows:

On page 79, between lines 7 and 8, insert the following:

SEC. 7___. PROHIBITION OF ENERGY MARKET MANIPULATION.

(a) PROHIBITION.—Part II of the Federal Power Act (16 U.S.C. 824 et seq.) is amended by adding at the end the following:

"SEC. 215. PROHIBITION OF MARKET MANIPULATION.

''It shall be unlawful for any person, directly or indirectly, to use or employ, in connection with the purchase or sale of electric energy or the purchase or sale of transmission services subject to the jurisdiction of the Commission, any manipulative or deceptive device or contrivance in contravention of such regulations as the Commission may promulgate as appropriate in the public interest or for the protection of electric ratepayers.''.

(b) RATES RESULTING FROM MARKET MANIPULATION.—Section 205(a) of the Federal Power Act (16 U.S.C. 824d(a)) is amended by inserting after ''not just and reasonable'' the following: ''or that result from a manipulative or deceptive device or contrivance''.

SA 2088. Mr. AKAKA (for himself, Mr. LEVIN, Mr. LIEBERMAN, and Ms. CANTWELL) proposed an amendment to the bill H.R. 2673, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for the fiscal year ending September 30, 2004, and for other purposes; as follows:

On page 79, between lines 7 and 8, insert the following:

SEC. 7___. PROTECTION OF DOWNED ANIMALS.

None of the funds appropriated or otherwise made available by this Act to pay the salaries or expenses of employees or agents of the Department of Agriculture may be used to approve for human consumption under the Federal Meat Inspection Act (21 U.S.C. 601 et seq.) any cattle, sheep, swine, goats, horses, mules, or other equines that are unable to stand or walk unassisted at an establishment subject to inspection at the point of examination and inspection, as required by section 3(a) of that Act (21 U.S.C. 603(a)).

SA 2089. Mr. DAYTON proposed an amendment to the bill H.R. 2673, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for the fiscal year ending September 30, 2004, and for other purposes; as follows:

On page 79, between lines 7 and 8, insert the following:

SEC. 7___. EMERGENCY DISASTER ASSISTANCE FOR AGRICULTURAL PRODUCERS.

(a) CROP DISASTER ASSISTANCE.—

(1) IN GENERAL.—Subject to paragraphs (2) through (4), the Secretary of Agriculture (referred to in this section as the ''Secretary'') shall use such sums as are necessary of funds of the Commodity Credit Corporation to make emergency financial assistance authorized under this subsection available to producers on a farm that have incurred qualifying crop losses for the 2001, 2002, or 2003 crop, or any combination of those crops, due to damaging weather or related condition, as determined by the Secretary.

(2) ADMINISTRATION.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the Secretary shall make assistance available under this subsection in the same manner as provided under section 815 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2001 (Public Law 106–387; 114 Stat. 1549A–55), including using the same loss thresholds for the quantity and quality losses as were used in administering that section.

(B) PAYMENT RATES.—The Secretary shall make a disaster payment available to producers on a farm for a crop under this subsection at a rate equal to—

(i) 40 percent of the established price for the crop for any deficiency in production greater than 20 percent, but less than 35 percent, for the crop; and

(ii) 65 percent of the established price for the crop for any deficiency in production of 35 percent or more for the crop.

(3) CROP INSURANCE.—In carrying out this subsection, the Secretary shall not discriminate against or penalize producers on a farm that have purchased crop insurance under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.).

(4) OTHER ASSISTANCE.—Subject to paragraph (3), the amount of assistance that producers on a farm would otherwise receive under this section shall be reduced by the amount of assistance provided to the producers on the farm for crop losses described in paragraph (1) under any other Federal law.

(b) LIVESTOCK ASSISTANCE PROGRAM.—

(1) IN GENERAL.—Subject to paragraphs (2) and (3), the Secretary shall use such sums as are necessary of funds of the Commodity Credit Corporation as are necessary to make and administer payments for livestock losses to producers for 2001, 2002, or 2003, or any combination of those years, in a county that has received a corresponding emergency designation by the President or the Secretary, of which an amount determined by the Secretary shall be made available for the American Indian livestock program under section 806 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2001 (Public Law 106–387; 114 Stat. 1549, 1549A–51).

(2) ADMINISTRATION.—The Secretary shall make assistance available under this subsection in the same manner as provided under section 806 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2001 (Public Law 106–387; 114 Stat. 1549, 1549A–51).

(3) OTHER ASSISTANCE.—The amount of assistance that a producer would otherwise receive under this subsection shall be reduced by the amount of assistance provided to the producer for losses described in paragraph (1) under any other Federal law.

(c) REMOVAL OF TREES ADVERSELY AFFECTED BY THE EMERALD ASH BORER.—

(1) IN GENERAL.—The Secretary shall use funds of the Commodity Credit Corporation to pay the costs of removing trees that have been adversely affected by the emerald ash borer.

(2) PRIORITY.—In carrying out paragraph (1), the Secretary shall give priority to trees on public property or that threaten public safety.

(d) REIMBURSEMENT OF COSTS OF REMOVING COMMERCIAL CITRUS TREES TO CONTROL CITRUS CANCER.—

(1) PAYMENTS FOR TREES REMOVED.—

(A) IN GENERAL.—The Secretary shall use funds of the Commodity Credit Corporation to make payments to commercial citrus growers located in the State of Florida in the amount of $26 for each commercial citrus tree removed after January 1, 1986, to control citrus canker to allow for tree replacement and associated business costs.

(B) PAYMENT LIMITS.—A payment to any citrus grower under this paragraph shall be limited to—

(i) in the case of grapefruit, 104 trees per acre;

(ii) in the case of valencias, 123 trees per acre;

(iii) in the case of navels, 118 trees per acre;

(iv) in the case of tangelos, 114 trees per acre;

(v) in the case of limes, 154 trees per acre; and

(vi) in the case of other citrus or mixed citrus, 104 trees per acre.

(2) COMPENSATION FOR LOST PRODUCTION.—

(A) IN GENERAL.—The Secretary shall use funds of the Commodity Credit Corporation to make payments to commercial citrus growers located in the State of Florida to compensate the citrus growers for lost production, as determined by the Secretary, with respect to trees removed after January 1, 1986, to control citrus canker.

(B) CROP INSURANCE.—

(i) COVERED.—In the case of a removed tree that was covered by a crop insurance tree policy, compensation for lost production under subparagraph (A) shall be reduced by the amount of any indemnity received with respect to the tree.

(ii) NOT COVERED.—In the case of a removed tree that was not covered by a crop insurance tree policy (even though such insurance may have been available), compensation for lost production under subparagraph (A), shall be reduced by 5 percent.

(e) PROMOTION OF SPECIALTY CROP AGRICULTURE.—The Secretary of Agriculture shall use funds of the Commodity Credit Corporation to provide a grant to each State for the promotion of agricultural commodities produced in the State in same proportion as grants are provided under section 7(b) of Public Law 107–25 (115 Stat.202).

(f) PHYTOPHTORA CROWN AND ROOT AND FRUIT ROT.—The Secretary of Agriculture shall use funds of the Commodity Credit Corporation to carry out agricultural research on growth and irradiation of Phytophthora crown and root and fruit rot in the State of Michigan.

(g) REIMBURSEMENT OF TREATMENT COSTS OF AVOCADO TREES TO COMPLY WITH FRUIT FLY QUARANTINE AND LOSSES DUE TO WINDFALL.—

(1) PAYMENTS FOR BAIT TREATMENT COSTS.—The Secretary shall use funds of the Commodity Credit Corporation to make payments to commercial avocado growers located in the State of California in the amount of $35 per acre for each individual bait treatment necessary for compliance with a Government-imposed quarantine after November 15, 2002, to control fruit flies.

(2) COMPENSATION FOR WINDFALL LOSSES.—The Secretary shall use funds of the Commodity Credit Corporation to make payments to commercial avocado growers in the State of California to compensate avocado

growers for windfall losses, as determined by the Secretary, with respect to loss due to winds after November 15, 2002, that occurred in a quarantine area.

(h) COMPENSATION OF ORCHARDISTS FOR TREE LOSSES.—The Secretary of Agriculture shall use funds of the Commodity Credit Corporation to provide assistance under the tree assistance program under subtitle C of title X of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 8201 et seq.), to compensate eligible orchardists (as defined in section 10201 of that Act (7 U.S.C. 8201)) for tree losses incurred since October 24, 2003 due to wildfires in Southern California.

(i) FIRE ASSISTANCE.—The Secretary of Agriculture shall use funds of the Commodity Credit Corporation to provide assistance to agricultural producers with farms or ranches located in Ventura County, California for losses (including crop, livestock, and related losses) resulting from the Simi Valley and Piru fires occurring during calendar year 2003.

(j) FISHERIES DISASTER.—In addition to amounts appropriated or otherwise made available, $50,000,000 is appropriated to the Department of Commerce for fisheries disaster assistance to the shrimp industries in the States of North Carolina, South Carolina, Georgia, Florida, Alabama, Mississippi, Louisiana and Texas, of which $45,000,000 shall be made available to such States in amounts that are in proportion to the percentage of shrimp catch landed in each State, and $5,000,000 shall be for a national research and development program for new products, improved quality assurance, and marketing, of domestic wild shrimp: *Provided*, That the funds distributed to the States may be used only for: (A) assistance for small business including fishing vessels, fish processors, and shoreside related businesses serving the fishing industry; (B) assistance for the additional incremental costs to fishermen associated with the purchase, installation and use, including but not limited to the loss in revenues due to any reduction in shrimp retention associated with such use of new Turtle Excluder Devices (TEDs) and Bycatch Reduction Devices (BRDs) required by Federal Regulations; (C) State seafood inspection and testing programs; (D) voluntary capacity reduction programs for shrimp fisheries under limited access; *Provided Further*, That not more than 5 percent of such funds may be used for administrative expenses, and no funds may be used for lobbying activities or representational expenses.

(k) FUNDING.—

(1) IN GENERAL.—Of the funds of the Commodity Credit Corporation, the Secretary shall use—

(A) such sums as are necessary to carry out subsections (a) and (b);

(B) $20,000,000 to carry out subsection (c);

(C) $15,000,000 to carry out subsection (d);

(D) $26,000,000 to carry out subsection (e);

(E) $184,000 to carry out subsection (f);

(F) $15,000,000 to carry out subsection (g);

(G) such sums as are necessary to carry out subsection (h); and

(H) $12,000,000 to carry out subsection (i).

(2) AVAILABILITY.—Funds made available under this section shall remain available until expended.

(l) REGULATIONS.—

(1) IN GENERAL.—The Secretary may promulgate such regulations as are necessary to implement this section.

(2) PROCEDURE.—The promulgation of the regulations and administration of this section shall be made without regard to—

(A) the notice and comment provisions of section 553 of title 5, United States Code;

(B) the Statement of Policy of the Secretary of Agriculture effective July 24, 1971 (36 Fed. Reg. 13804), relating to notices of proposed rulemaking and public participation in rulemaking; and

(C) chapter 35 of title 44, United States Code (commonly known as the ''Paperwork Reduction Act'').

(3) CONGRESSIONAL REVIEW OF AGENCY RULEMAKING.—In carrying out this section, the Secretary shall use the authority provided under section 808 of title 5, United States Code.

(m) EMERGENCY DESIGNATION.—The entire amount made available under this section is designated by Congress as an emergency requirement under section 502(c) of H. Con. Res. 95 (108th Cong.).

(n) BUDGETARY TREATMENT.—Notwithstanding Rule 3 of the Budget Scorekeeping Guidelines set forth in the Joint Explanatory Statement of the Committee of Conference accompanying Conference Report No. 105–217, the provisions of this section that would have been estimated by the Office of Management and Budget as changing direct spending or receipts under section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 902) were it included in an Act other than an appropriation Act shall be treated as direct spending or receipts legislation, as appropriate, under section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 902).

SA 2090. Mr. HATCH (for himself, Mr. HARKIN, and Mr. DURBIN) submitted an amendment intended to be proposed by him to the bill H.R. 2673, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for the fiscal year ending September 30, 2004, and for other purposes; as follows:

On page 79, between lines 7 and 8, insert the following:

SEC. 7___. DIETARY SUPPLEMENTS.

The Commissioner of Food and Drugs shall provide not less than $11,400,000 from within funds appropriated or otherwise made available by this Act for regulation by the Food and Drug Administration of dietary supplements.

SA 2091. Mr. BENNETT (for himself and Mr. KOHL) proposed an amendment to the bill H.R. 2673, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for the fiscal year ending September 30, 2004, and for other purposes; as follows:

On page 50, line 14, strike ''$27,745,981,000'' and insert in lieu thereof ''$29,945,981,000''.

SA 2092. Mr. BENNETT (for Mr. DURBIN) proposed an amendment to the bill H.R. 2673, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for the fiscal year ending September 30, 2004, and for other purposes; as follows:

On page 79, between lines 7 and 8, insert the following new section:

''SEC. . Hereafter, no funds provided in this or any other Act shall be available to the Secretary of Agriculture acting through the Foreign Agricultural Service to promote the sale or export of tobacco or tobacco products.''.

SA 2093. Mr. BENNETT (for himself and Mr. KOHL) proposed an amendment to the bill H.R. 2673, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for the fiscal year ending September 30, 2004, and for other purposes; as follows:

On page 51, lines 14 through 17, strike ''special'' and all that follows through ''1985,'' and insert in lieu thereof ''special assistance (in a form determined by the Secretary of Agriculture) for the nuclear affected islands, as authorized by section 103(h)(2) of the Compact of Free Association Act of 1985 (48 U.S.C. 1903(h)(2)) (or a successor law),''.

SA 2094. Mr. BENNETT (for Ms. MURKOWSKI (for herself, Mr. STEVENS, Mr. INOUYE, and Mr. AKAKA)) proposed an amendment to the bill H.R. 2673, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for the fiscal year ending September 30, 2004, and for other purposes; as follows:

On page 33, line 9, strike ''$769,479,000'' and insert in lieu thereof ''$767,479,000'' and on page 37, line 2, strike $25,000,000'' and insert in lieu thereof ''$23,000,000''.

On page 79, between lines 7 and 8, insert the following new section:

''SEC. . (a) IN GENERAL.—Section 3(o)(4) of the Food Stamp Act of 1977, as amended, (7 U.S.C. 2012(o)(4)) is amended by inserting before the period at the end the following: '', and except that on October 1, 2003 in the case of households residing in Alaska and Hawaii the Secretary may not reduce the cost of such diet in effect on September 30, 2002.''.

''(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall be effective beginning on September 30, 2003.''.

SA 2095. Mr. BENNETT (for Ms. SNOWE (for herself, Mr. DORGAN, and Ms. COLLINS)) proposed an amendment to the bill H.R. 2673, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for the fiscal year ending September 30, 2004, and for other purposes; as follows:

On page 79, between lines 7 and 8, insert the following new section:

''SEC. . MODIFICATION OF BOUNDARIES OF AROOSTOOK COUNTY AND GRIGGS-STEELE EMPOWERMENT ZONES.

''(a) AROOSTOOK COUNTY EMPOWERMENT ZONE.—Notwithstanding any other provision of law, the Aroostook County empowerment zone shall include for the period such empowerment zone remains designated, in addition to the area designated as of the date of the enactment of this Act, the remaining area of the county not included in such designation.

''(b) GRIGGS-STEELE EMPOWERMENT ZONE.—Notwithstanding any other provision of law, the Griggs-Steele empowerment zone shall include for the period such empowerment zone remains designated, in addition to the area designated as of the date of the enactment of this Act, the remaining area of Griggs County not included in such designation.''.

SA 2096. Mr. BENNETT (for Mr. LEVIN (for himself and Ms. STABENOW)) proposed an amendment to the bill H.R. 2673, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for the fiscal year ending September 30, 2004, and for other purposes; as follows:

On page 79, between lines 7 and 8, insert the following:

SEC. 7___. COST-SHARING FOR ANIMAL AND PLANT HEALTH EMERGENCY PROGRAMS.

None of the funds made available by this Act may be used to issue a final rule in furtherance of, or otherwise implement, the proposed rule on cost-sharing for animal and plant health emergency programs of the Animal and Plant Health Inspection Service published on July 8, 2003 (Docket No. 02–062–1; 68 Fed. Reg. 40541).

SA 2097. Mr. BENNETT (for Mr. INHOFE) proposed an amendment to the bill H.R. 2673, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for the fiscal year ending September 30, 2004, and for other purposes; as follows:

On page 77, line 18, strike the comma and insert ''; the City of Guymon, Oklahoma; the City of Shawnee, Oklahoma; and the City of Altus, Oklahoma,''.

SA 2098. Mr. BENNETT (for himself and Mr. KOHL) proposed an amendment to the bill H.R. 2673, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for the fiscal year ending September 30, 2004, and for other purposes; as follows:

On page 79, between lines 7 and 8, insert the following new section:

SEC. . Section 601(b)(2) of the Rural Electrification Act of 1936 (7 U.S.C. 950bb(b)(2)) is amended to read as follows:

''(2) ELIGIBLE RURAL COMMUNITY.—The term 'eligible rural community' means any area of the United States that is not contained in an incorporated city or town with a population in excess of 20,000 inhabitants.''.

SA 2099. Mr. BENNETT (for Mr. INOUYE) proposed an amendment to the bill H.R. 2673, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for the fiscal year ending September 30, 2004, and for other purposes; as follows:

On page 79, between lines 7 and 8, insert the following new section:

''SEC. . Notwithstanding any other provision of law, for all activities under programs of the Rural Development Mission Area within the County of Honolulu, Hawaii, the Secretary may designate any portion of the country as a rural area or eligible rural community that the Secretary determines is not urban in character.''.

SA 2100. Mr. BENNETT (for himself and Mr. KOHL) proposed an amendment to the bill H.R. 2673, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for the fiscal year ending September 30, 2004, and for other purposes; as follows:

On page 79, between lines 7 and 8, insert the following new section:

SEC. . The first sentence of section 306(g)(1) of the National Housing Act (12 U.S.C. 1721(g)(1)) is amended—

(1) by striking ''or title V of the Housing Act of 1949''; and

(2) by inserting after ''1994'' the following: '', title V of the Housing Act of 1949,''.

SA 2101. Mr. BENNETT (for Mr. KOHL) proposed an amendment to the bill H.R. 2673, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for the fiscal year ending September 30, 2004, and for other purposes; as follows:

On page 79, between lines 7 and 8, insert the following new section:

''SEC. . Notwithstanding the provisions of the Consolidated Farm and Rural Development Act (including the associated regulations) governing the Community Facilities Program, the Secretary shall allow all Community Facility Program facility borrowers and grantees to enter into contracts with not-for-profit third parties for services consistent with the requirements of the Program, grant, and/or loan; *Provided,* That the contracts protect the interests of the Government regarding cost, liability, maintenance, and administrative fees.''.

SA 2102. Mr. BENNETT (for Mr. BROWNBACK) proposed an amendment to the bill H.R. 2673, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for the fiscal year ending September 30, 2004, and for other purposes; as follows:

On page 72, line 20, after the word ''Utah'' insert the following: '', and four flood control structures in Marmaton, Kansas''.

SA 2103. Mr. BENNETT proposed an amendment to the bill H.R. 2673, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for the fiscal year ending September 30, 2004, and for other purposes; as follows:

On page 42, line 1, insert ''Utah,'' after ''Mississippi,''.

SA 2104. Mr. BENNETT (for himself and Mr. KOHL) proposed an amendment to the bill H.R. 2673, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for the fiscal year ending September 30, 2004, and for other purposes; as follows:

On page 74, line 7, insert ''(a)'' before the word ''Notwithstanding'' and on line 15 insert the following new subsection:

''(b) The Secretary shall publish a proposed rule to carry out Section 313A of the Rural Electrification Act of 1936 within 60 days of enactment of this Act.''.

SA 2105. Mr. BENNETT (for Mr. GRASSLEY (for himself and Mr. DORGAN)) proposed an amendment to the bill H.R. 2673, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for the fiscal year ending September 30, 2004, and for other purposes; as follows:

On page 79, between lines 7 and 8, insert the following:

SEC. 7___. EQIP PAYMENT LIMIT.

None of the funds made available under this Act or any other Act shall be used to pay the salaries and expenses of personnel to carry out chapter 4 of subtitle D of the Food Security Act of 1985 (16 U.S.C. 3839aa et seq.) to make payments to an individual, entity, or agricultural operation, directly or indirectly, in excess of an aggregate of $300,000 for all contracts entered into by the individual, entity, or agricultural operation during the period of fiscal years 2002 through 2007.

SA 2106. Mr. BENNETT (for Mr. CRAIG) proposed an amendment to the bill H.R. 2673, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for the fiscal year ending September 30, 2004, and for other purposes; as follows:

At the appropriate place insert the following:

''Notwithstanding any other provision of law, the Secretary of Agriculture may use appropriations available to the Secretary for activities authorized under 7 U.S.C. 426–426c, under this or any other Act, to enter into cooperative agreements, with a State, political subdivision, or agency thereof, a public or private agency, organization, or any other person, to lease aircraft if the Secretary determines that the objectives of the agreement will: (1) Serve a mutual interest of the parties to the agreement in carrying out the programs administered by the Animal Plant Health Inspection Service, Wildlife Service; and (2) all parties will contribute resources to the accomplishment of these objectives; award of a cooperative agreement authorized by the Secretary may be made for an initial term not to exceed 5 years.''

SA 2107. Mr. BENNETT (for Mr. GRAHAM of Florida (for himself and Mr. NELSON of Florida)) proposed an amendment to the bill H.R. 2673, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for the fiscal year ending September 30, 2004, and for other purposes; as follows:

On page 79, between lines 7 and 8, insert the following:

SEC. 7___. CITRUS CANKER ASSISTANCE.

Section 211 of the Agricultural Assistance Act of 2003 (117 Stat. 545) is amended—

(1) in the section heading, by inserting ''**tree replacement and**'' after ''**for**''; and

(2) in subsection (a), by inserting ''tree replacement and'' after ''Florida for''.

SA 2108. Mr. BENNETT (for Mr. BURNS (for himself and Mrs. CLINTON)) proposed an amendment to the bill H.R. 2673, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for the fiscal year ending September 30, 2004, and for other purposes; as follows:

On page 79, between lines 7 and 8, insert the following:

SEC. 7___. RURAL ELECTRIFICATION.

For fiscal year 2004, the Secretary of Agriculture may use any unobligated carryover funds made available for any program administered by the Rural Utilities Service (not including funds made available under the heading ''RURAL COMMUNITY ADVANCEMENT PROGRAM'' in any Act of appropriation) to carry out section 315 of the Rural Electrification Act of 1936 (7 U.S.C. 940e).

SA 2109. Mr. BENNETT (for Mr. DURBIN) proposed an amendment to the bill H.R. 2673, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for the fiscal year ending September 30, 2004, and for other purposes; as follows:

At the appropriate place, insert the following:

SEC. . The Commissioner of the Food and Drug Administration shall provide no less than $250,000, from within funds appropriated or otherwise made available in this Act for the Food and Drug Administration, to process comments submitted in response to Docket No. 95N–0304 published in the Federal Register on March 5, 2003 (68 FR 10417). Provided further, the Commissioner should expedite and complete review of available scientific evidence of ephedra's pharmacology and mechanism of action.

SA 2110. Mr. BENNETT (for Mr. SCHUMER (for himself and Mrs. CLINTON)) proposed an amendment to the bill H.R. 2673, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for the fiscal year ending September 30, 2004, and for other purposes; as follows:

On page 57, line 4, insert ''and of which no less than $52,845,000 shall be available for the generic drugs program'' before the semicolon.

SA 2111. Mr. BENNETT (for Mr. MILLER) proposed an amendment to the bill H.R. 2673, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for the fiscal year ending September 30, 2004, and for other purposes; as follows:

On page 79, between lines 7 and 8, insert the following:

SEC. 7___. WORKLOAD ANALYSIS OF FARM SERVICE AGENCY.

None of the funds made available by this Act may be used to pay more than ½ of the salary of the Under Secretary for Farm and Foreign Agricultural Services after January 31, 2004, unless and until the Secretary of Agriculture provides to the Committee on Agriculture of House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a workload analysis of employees of the Farm Service Agency for each of fiscal years 2001, 2002, and 2003 (including an analysis of the number of workload items and required man-years, by State).

SA 2112. Mr. BENNETT (for Mr. FRIST (for himself and Mr. DASCHLE)) proposed an amendment to the bill H.R. 2673, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for the fiscal year ending September 30, 2004, and for other purposes; as follows:

On page 79, between lines 7 and 8, insert the following:

SEC. 7___. SUN GRANT RESEARCH INITIATIVE.

(a) SHORT TITLE.—This section may be cited as the ''Sun Grant Research Initiative Act of 2003''.

(b) RESEARCH, EXTENSION, AND EDUCATIONAL PROGRAMS ON BIOBASED ENERGY TECHNOLOGIES AND PRODUCTS.—Title IX of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 8101 et seq.) is amended by adding at the end the following:

''SEC. 9011. RESEARCH, EXTENSION, AND EDUCATIONAL PROGRAMS ON BIOBASED ENERGY TECHNOLOGIES AND PRODUCTS.

''(a) PURPOSES.—The purposes of the programs established under this section are—

''(1) to enhance national energy security through the development, distribution, and implementation of biobased energy technologies;

''(2) to promote diversification in, and the environmental sustainability of, agricultural production in the United States through biobased energy and product technologies;

''(3) to promote economic diversification in rural areas of the United States through biobased energy and product technologies; and

''(4) to enhance the efficiency of bioenergy and biomass research and development programs through improved coordination and collaboration between the Department of Agriculture, the Department of Energy, and the land-grant colleges and universities.

''(b) DEFINITIONS.—In this section:

''(1) LAND-GRANT COLLEGES AND UNIVERSITIES.—The term 'land-grant colleges and universities' means—

''(A) 1862 Institutions (as defined in section 2 of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7601));

''(B) 1890 Institutions (as defined in section 2 of that Act) and West Virginia State College; and

''(C) 1994 Institutions (as defined in section 2 of that Act).

''(2) SECRETARY.—The term 'Secretary' means the Secretary of Agriculture.

''(c) ESTABLISHMENT.—To carry out the purposes described in subsection (a), the Secretary shall establish programs under which—

''(1) the Secretary shall provide grants to sun grant centers specified in subsection (d); and

''(2) the sun grant centers shall use the grants in accordance with this section.

''(d) GRANTS TO CENTERS.—The Secretary shall use amounts made available for a fiscal year under subsection (j) to provide a grants in equal amounts to each of the following sun grant centers:

''(1) NORTH-CENTRAL CENTER.—A north-central sun grant center at South Dakota State University for the region composed of the States of Illinois, Indiana, Iowa, Minnesota, Montana, Nebraska, North Dakota, South Dakota, Wisconsin, and Wyoming.

''(2) SOUTHEASTERN CENTER.—A southeastern sun grant center at the University of Tennessee at Knoxville for the region composed of—

''(A) the States of Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee, and Virginia;

''(B) the Commonwealth of Puerto Rico; and

''(C) the United States Virgin Islands.

''(3) SOUTH-CENTRAL CENTER.—A south-central sun grant center at Oklahoma State University for the region composed of the States of Arkansas, Colorado, Kansas, Louisiana, Missouri, New Mexico, Oklahoma, and Texas.

''(4) WESTERN CENTER.—A western sun grant center at Oregon State University for the region composed of—

''(A) the States of Alaska, Arizona, California, Hawaii, Idaho, Nevada, Oregon, Utah, and Washington; and

''(B) territories and possessions of the United States (other than the territories referred to in subparagraphs (B) and (C) of paragraph (2)).

''(5) NORTHEASTERN CENTER.—A northeastern sun grant center at Cornell University for the region composed of the States of Connecticut, Delaware, Massachusetts, Maryland, Maine, Michigan, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Vermont, and West Virginia.

''(e) USE OF FUNDS.—

''(1) CENTERS OF EXCELLENCE.—Of the amount of funds that are made available for a fiscal year to a sun grant center under subsection (d), the center shall use not more than 25 percent of the amount for administration to support excellence in science, engineering, and economics at the center to promote the purposes described in subsection (a) through the State agricultural experiment station, cooperative extension services, and relevant educational programs of the university.

''(2) GRANTS TO LAND-GRANT COLLEGES AND UNIVERSITIES.—

''(A) IN GENERAL.—The sun grant center established for a region shall use the funds that remain available for a fiscal year after expenditures made under paragraph (1) to provide competitive grants to land-grant colleges and universities in the region of the sun grant center to conduct, consistent with the purposes described in subsection (a), multiinstitutional and multistate—

''(i) research, extension, and educational programs on technology development; and

''(ii) integrated research, extension, and educational programs on technology implementation.

''(B) PROGRAMS.—Of the amount of funds that are used to provide grants for a fiscal year under subparagraph (A), the center shall use—

''(i) not less than 30 percent of the funds to carry out programs described in subparagraph (A)(i); and

''(ii) not less than 30 percent of the funds to carry out programs described in subparagraph (A)(ii).

''(3) INDIRECT COSTS.—A sun grant center may not recover the indirect costs of making grants under paragraph (2) to other land-grant colleges and universities.

''(f) PLAN.—

''(1) IN GENERAL.—Subject to the availability of funds under subsection (j), in cooperation with other land-grant colleges and universities and private industry in accordance with paragraph (2), the sun grant centers shall jointly develop and submit to the Secretary, for approval, a plan for addressing at the State and regional levels the bioenergy, biomass, and gasification research priorities of the Department of Agriculture and the Department of Energy for the making of grants under paragraphs (1) and (2) of subsection (e).

''(2) GASIFICATION COORDINATION.—

''(A) IN GENERAL.—In developing the plan under paragraph (1) with respect to gasification research, the sun grant centers identified in paragraphs (1) and (2) of subsection (d) shall coordinate with land grant colleges and universities in their respective regions that have ongoing research activities with respect to the research.

''(B) FUNDING.—Funds made available under subsection (d) to the sun grant center identified in subsection (e)(2) shall be available to carry out planning coordination under paragraph (1) of this subsection.

''(g) GRANTS TO OTHER LAND-GRANT COLLEGES AND UNIVERSITIES.—

''(1) PRIORITY FOR GRANTS.—In making grants under subsection (e)(2), a sun grant center shall give a higher priority to programs that are consistent with the plan approved by the Secretary under subsection (f).

''(2) TERM OF GRANTS.—The term of a grant provided by a sun grant center under subsection (e)(2) shall not exceed 5 years.

''(h) GRANT INFORMATION ANALYSIS CENTER.—The sun grant centers shall maintain a Sun Grant Information Analysis Center at the sun grant center specified in subsection (d)(1) to provide sun grant centers analysis and data management support.

''(i) ANNUAL REPORTS.—Not later than 90 days after the end of a year for which a sun grant center receives a grant under subsection (d), the sun grant center shall submit to the Secretary a report that describes the policies, priorities, and operations of the program carried out by the center during the

year, including a description of progress made in facilitating the priorities described in subsection (f).

''(j) AUTHORIZATION OF APPROPRIATIONS.—

''(1) IN GENERAL.—There are authorized to be appropriated to carry out this section—

''(A) $25,000,000 for fiscal year 2005;

''(B) $50,000,000 for fiscal year 2006; and

''(C) $75,000,000 for each of fiscal years 2007 through 2010.

''(2) GRANT INFORMATION ANALYSIS CENTER.—Of amounts made available under paragraph (1), not more than $4,000,000 for each fiscal year shall be made available to carry out subsection (h).''.

SA 2113. Mr. BENNETT (for Mr. THOMAS (for himself, Mr. BINGAMAN, and Mr. HAGEL)) proposed an amendment to the bill H.R. 1442, to authorize the design and construction of a visitor center for the Vietnam Veterans Memorial; as follows:

Strike all after the enacting clause and insert the following:

TITLE I—VIETNAM VETERANS MEMORIAL VISITOR CENTER

SEC. 101. VISITOR CENTER

Public Law 96–297 (16 U.S.C. 431 note) is amended by adding at the end the following:

''SEC. 6. VISITOR CENTER.

''(a) AUTHORIZATION.—

''(1) IN GENERAL.—The Vietnam Veterans Memorial Fund, Inc., is authorized to construct a visitor center at or near the Vietnam Veterans Memorial on Federal land in the District of Columbia, or its environs, subject to the provisions of this section, in order to better inform and educate the public about the Vietnam Veterans Memorial and the Vietnam War.

''(2) LOCATION.—The visitor center shall be located underground.

''(3) CONSULTATION ON DESIGN PHASE.—The Vietnam Veterans Memorial Fund, Inc. shall consult with educators, veterans groups, and the National Park Service in developing the proposed design of the visitor center.

''(b) COMPLIANCE WITH STANDARDS APPLICABLE TO COMMEMORATIVE WORKS.—Chapter 89 of title 40, United States Code, shall apply, including provisions related to the siting, design, construction, and maintenance of the visitor center, and the visitor center shall be considered a commemorative work for the purposes of that Act, except that—

''(1) final approval of the visitor center shall not be withheld;

''(2) the provisions of subsections (b) and (c) of section 8908 of title 40, United States Code, requiring further approval by law for the location of a commemorative work within Area I and prohibiting the siting of a visitor center within the Reserve shall not apply;

''(3) the size of the visitor center shall be limited to the minimum necessary—

''(A) to provide for appropriate educational and interpretive functions; and

''(B) to prevent interference or encroachment on the Vietnam Veterans Memorial and to protect open space and visual sightlines on the Mall; and

''(4) the visitor center shall be constructed and landscaped in a manner harmonious with the site of the Vietnam Veterans Memorial, consistent with the special nature and sanctity of the Mall.

''(c) OPERATION AND MAINTENANCE.—

''(1) IN GENERAL.—The Secretary of the Interior shall—

''(A) operate and maintain the visitor center, except that the Secretary shall enter into a written agreement with the Vietnam Veterans Memorial Fund, Inc. for specified maintenance needs of the visitor center, as determined by the Secretary; and

''(B) as soon as practicable, in consultation with educators and veterans groups, develop a written interpretive plan for the visitor center in accordance with National Park Service policy.

''(2) DONATION FOR PERPETUAL MAINTENANCE AND PRESERVATION.—Paragraph (1)(A) does not waive the requirements of section 8906(b) of title 40, United States Code, with respect to the visitor center.

''(d) FUNDING.—The Vietnam Veterans Memorial Fund, Inc. shall be solely responsible for acceptance of contributions for, and payment of expenses of, the establishment of the visitor center. No Federal funds shall be used to pay any expense of the establishment of the visitor center.''.

TITLE II—COMMEMORATIVE WORKS

SEC. 201. SHORT TITLE.

This title may be cited as the ''Commemorative Works Clarification and Revision Act of 2003''.

SEC. 202. ESTABLISHMENT OF RESERVE.

(a) FINDINGS.—Congress finds that—

(1) the great cross-axis of the Mall in the District of Columbia, which generally extends from the United States Capitol to the Lincoln Memorial, and from the White House to the Jefferson Memorial, is a substantially completed work of civic art; and

(2) to preserve the integrity of the Mall, a reserve area should be designated within the core of the great cross-axis of the Mall where the siting of new commemorative works is prohibited.

(b) RESERVE.—Section 8908 of title 40, United States Code, is amended by adding at the end the following:

''(c) RESERVE.—After the date of enactment of the Commemorative Works Clarification and Revision Act of 2003, no commemorative work or visitor center shall be located within the Reserve.''.

SEC. 203. CLARIFYING AND CONFORMING AMENDMENTS.

(a) PURPOSES.—Section 8901(2) of title 40, United States Code, is amended by striking ''Columbia;'' and inserting ''Columbia and its environs, and to encourage the location of commemorative works within the urban fabric of the District of Columbia;''.

(b) DEFINITIONS.—Section 8902 of title 40, United States Code, is amended by striking subsection (a) and inserting the following:

''(a) DEFINITIONS.—In this chapter:

''(1) COMMEMORATIVE WORK.—The term 'commemorative work' means any statue, monument, sculpture, memorial, plaque, inscription, or other structure or landscape feature, including a garden or memorial grove, designed to perpetuate in a permanent manner the memory of an individual, group, event or other significant element of American history, except that the term does not include any such item which is located within the interior of a structure or a structure which is primarily used for other purposes.

''(2) THE DISTRICT OF COLUMBIA AND ITS ENVIRONS.—The term 'the District of Columbia and its environs' means those lands and properties administered by the National Park Service and the General Services Administration located in the Reserve, Area I, and Area II as depicted on the map entitled 'Commemorative Areas Washington, DC and Environs', numbered 869/86501 B, and dated June 24, 2003.

''(3) RESERVE.—The term 'Reserve' means the great cross-axis of the Mall, which generally extends from the United States Capitol to the Lincoln Memorial, and from the White House to the Jefferson Memorial, as depicted on the map referenced in paragraph (2).

''(4) SPONSOR.—The term 'sponsor' means a public agency, or an individual, group or organization that is described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from tax under section 501(a) of such Code, and which is authorized by Congress to establish a commemorative work in the District of Columbia and its environs.''.

(c) AUTHORIZATION.—Section 8903 of title 40, United States Code, is amended—

(1) in subsection (b)—

(A) by striking ''work commemorating a lesser conflict'' and inserting ''work solely commemorating a limited military engagement''; and

(B) by striking ''the event'' and inserting ''such war or conflict'';

(2) in subsection (d)—

(A) by striking ''CONSULTATION WITH NATIONAL CAPITAL MEMORIAL COMMISSION.—'' and inserting ''CONSULTATION WITH NATIONAL CAPITAL MEMORIAL ADVISORY COMMISSION.—'';

(B) by striking ''House Administration'' and inserting ''Resources''; and

(C) by inserting ''Advisory'' before ''Commission''; and

(3) by striking subsection (e) and inserting the following:

''(e) EXPIRATION OF LEGISLATIVE AUTHORITY.—Any legislative authority for a commemorative work shall expire at the end of the seven-year period beginning on the date of the enactment of such authority, or at the end of the seven-year period beginning on the date of the enactment of legislative authority to locate the commemorative work within Area I, if such additional authority has been granted, unless—

''(1) the Secretary of the Interior or the Administrator of General Services (as appropriate) has issued a construction permit for the commemorative work during that period; or

''(2) the Secretary or the Administrator (as appropriate), in consultation with the National Capital Memorial Advisory Commission, has made a determination that—

''(A) final design approvals have been obtained from the National Capital Planning Commission and the Commission of Fine Arts; and

''(B) 75 percent of the amount estimated to be required to complete the commemorative work has been raised.

If these two conditions have been met, the Secretary or the Administrator (as appropriate) may extend the seven-year legislative authority for a period not to exceed three additional years. Upon expiration of the legislative authority, any previous site and design approvals shall also expire.''.

(d) NATIONAL CAPITAL MEMORIAL ADVISORY COMMISSION.—Section 8904 of title 40, United States Code, is amended—

(1) in the heading, by inserting ''**Advisory**'' before ''**Commission**'';

(2) in subsection (a), by striking ''There is a National'' and all that follows through ''consists of'' and inserting the following: ''There is established the National Capital Memorial Advisory Commission, which shall be composed of'';

(3) in subsection (c)—

(A) by inserting ''Advisory'' before ''Commission shall''; and

(B) by striking ''Services'' and inserting ''Services (as appropriate)''; and

(4) in subsection (d) by inserting ''Advisory'' before ''Commission''.

(e) SITE AND DESIGN APPROVAL.—Section 8905 of title 40, United States Code, is amended—

(1) in subsection (a)—

(A) by striking ''person'' each place it appears and inserting ''sponsor''; and

(B) in paragraph (1)—

(i) by inserting ''Advisory'' before ''Commission''; and

(ii) by striking ''designs'' and inserting ''design concepts''; and

(2) in subsection (b)—

(A) by striking ''Secretary, and Administrator'' and inserting ''and the Secretary or Administrator (as appropriate)''; and

(B) in paragraph (2)(B), by striking, ''open space and existing public use.'' and inserting ''open space, existing public use, and cultural and natural resources.''.

(f) CRITERIA FOR ISSUANCE OF CONSTRUCTION PERMIT.—Section 8906 of title 40, United States Code, is amended—

(1) in subsection (a)(3) and (a)(4) by striking ''person'' and inserting ''sponsor''; and

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

''(b) DONATION FOR PERPETUAL MAINTENANCE AND PRESERVATION.—

''(1) In addition to the criteria described above in subsection (a), no construction permit shall be issued unless the sponsor authorized to construct the commemorative work has donated an amount equal to 10 percent of the total estimated cost of construction to offset the costs of perpetual maintenance and preservation of the commemorative work. All such amounts shall be available for those purposes pursuant to the provisions of this subsection. The provisions of this subsection shall not apply in instances when the commemorative work is constructed by a Department or agency of the Federal Government and less than 50 percent of the funding for such work is provided by private sources.

''(2) Notwithstanding any other provision of law, money on deposit in the Treasury on the date of enactment of the Commemorative Works Clarification and Revision Act of 2003 provided by a sponsor for maintenance pursuant to this subsection shall be credited to a separate account in the Treasury.

''(3) Money provided by a sponsor pursuant to the provisions of this subsection after the date of enactment of the Commemorative Works Clarification and Revision Act of 2003 shall be credited to a separate account with the National Park Foundation.

''(4) Upon request of the Secretary or Administrator (as appropriate), the Secretary of the Treasury or the National Park Foundation shall make all or a portion of such moneys available to the Secretary or the Administrator (as appropriate) for the maintenance of a commemorative work. Under no circumstances may the Secretary or Administrator request funds from a separate account exceeding the total money in the account established under paragraph (2) or (3). The Secretary and the Administrator shall maintain an inventory of funds available for such purposes. Funds provided under this paragraph shall be available without further appropriation and shall remain available until expended.''.

(g) AREAS I AND II.—Section 8908(a) of title 40, United States Code, is amended—

(1) by striking ''Secretary of the Interior and Administrator of General Services'' and inserting ''Secretary of the Interior or the Administrator of General Services (as appropriate)''; and

(2) by striking ''numbered 869/86581, and dated May 1, 1986'' and inserting ''entitled 'Commemorative Areas Washington, DC and Environs', numbered 869/86501 B, and dated June 24, 2003''.

SEC. 204. SITE AND DESIGN CRITERIA.

Section 8905(b) of title 40, United States Code (as amended by section 203(e)), is amended by adding at the end the following:

''(5) MUSEUMS.—No commemorative work primarily designed as a museum may be located on lands under the jurisdiction of the Secretary in Area I or in East Potomac Park as depicted on the map referenced in section 8902(2).

''(6) SITE-SPECIFIC GUIDELINES.—The National Capital Planning Commission and the Commission of Fine Arts may develop such criteria or guidelines specific to each site that are mutually agreed upon to ensure that the design of the commemorative work carries out the purposes of this chapter.

''(7) DONOR CONTRIBUTIONS.—Donor contributions to commemorative works shall not be acknowledged in any manner as part of the commemorative work or its site.''.

SEC. 205. NO EFFECT ON PREVIOUSLY APPROVED SITES.

Except for the provision in the amendment made by section 202(b) prohibiting a visitor center from being located in the Reserve (as defined in section 8902 of title 40, United States Code), nothing in this title shall apply to a commemorative work for which a site was approved in accordance with chapter 89 of title 40, United States Code, prior to the date of enactment of this title.

SEC. 206. NATIONAL PARK SERVICE REPORTS.

Within six months after the date of enactment of this title, the Secretary of the Interior, in consultation with the National Capital Planning Commission and the Commission of Fine Arts, shall submit to the Committee on Energy and Natural Resources of the United States Senate, and to the Committee on Resources of the United States House of Representatives reports setting forth plans for the following:

(1) To relocate, as soon as practicable after the date of enactment of this Act, the National Park Service's stable and maintenance facilities that are within the Reserve (as defined in section 8902 of title 40, United States Code).

(2) To relocate, redesign or otherwise alter the concession facilities that are within the Reserve to the extent necessary to make them compatible with the Reserve's character.

(3) To limit the sale or distribution of permitted merchandise to those areas where such activities are less intrusive upon the Reserve, and to relocate any existing sale or distribution structures that would otherwise be inconsistent with the plan.

(4) To make other appropriate changes, if any, to protect the character of the Reserve.

SA 2114. Mr. BENNETT (for Ms. COLLINS) proposed an amendment to the bill S. 589, to strengthen and improve the management of national security, encourage Government service in areas of critical national security, and to assist government agencies in addressing deficiencies in personnel possessing specialized skills important to national security and incorporating the goals and strategies for recruitment and retention for such skilled personnel into the strategic and performance management systems of Federal agencies; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Homeland Security Federal Workforce Act of 2003''.

SEC. 2. FINDINGS, PURPOSE, AND EFFECT OF LAW.

(a) FINDINGS.—Congress makes the following findings:

(1) The security of the United States requires the fullest development of the intellectual resources and technical skills of its young men and women.

(2) The security of the United States depends upon the mastery of modern techniques developed from complex scientific principles. It depends as well upon the discovery and development of new principles, new techniques, and new knowledge.

(3) The United States finds itself on the brink of an unprecedented human capital crisis in Government. Due to increasing competition from the private sector in recruiting high-caliber individuals, Government departments and agencies, particularly those involved in national security affairs, are finding it hard to attract and retain talent.

(4) The United States must strengthen Federal civilian and military personnel systems in order to improve recruitment, retention, and effectiveness at all levels.

(5) The ability of the United States to exercise international leadership is, and will increasingly continue to be, based on the political and economic strength of the United States, as well as on United States military strength around the world.

(6) The Federal Government has an interest in ensuring that the employees of its departments and agencies with national security responsibilities are prepared to meet the challenges of this changing international environment.

(7) In January 2001, the General Accounting Office reported that, at the Department of Defense ''attrition among first-time enlistees has reached an all-time high. The services face shortages among junior officers, and problems in retaining intelligence analysts, computer programmers, and pilots.'' The General Accounting Office also warned of the Immigration and Naturalization Service's ''lack of staff to perform intelligence functions and unclear guidance for retrieving and analyzing information.''

(8) The United States Commission on National Security also cautioned that ''the U.S. need for the highest quality human capital in science, mathematics, and engineering is not being met.'' The Commission wrote, ''we must ensure the highest caliber human capital in public service. U.S. national security depends on the quality of the people, both civilian and military, serving within the ranks of government.''

(9) The events on and after September 11th have highlighted the weaknesses in the Federal and State government's human capital and its personnel management practices, especially as it relates to our national security.

(b) PURPOSES.—It is the purpose of this Act to—

(1) provide attractive incentives to recruit capable individuals for Government and military service; and

(2) provide the necessary resources, accountability, and flexibility to meet the national security educational needs of the United States, especially as such needs change over time.

(c) EFFECT OF LAW.—Nothing in this Act, or an amendment made by this Act, shall be construed to affect the collective bargaining unit status or rights of any Federal employee.

TITLE I—PILOT PROGRAM FOR STUDENT LOAN REPAYMENT FOR FEDERAL EMPLOYEES IN NATIONAL SECURITY POSITIONS

SEC. 101. STUDENT LOAN REPAYMENTS.

(a) IN GENERAL.—Subchapter VII of chapter 53 of title 5, United States Code, is amended by inserting after section 5379, the following:

''§ 5379a. Pilot program for student loan repayment for Federal employees in national security positions

''(a) In this section:

''(1) The term 'agency' means the Department of Defense, the Department of Homeland Security, the Department of State, the Department of Energy, the Department of the Treasury, the Department of Justice, the National Security Agency, and the Central Intelligence Agency.

''(2) The term 'national security position' means an employment position determined by the head of an agency for the purposes of a pilot program established under this section, to involve important homeland security applications.

''(3) The term 'student loan' means—

''(A) a loan made, insured, or guaranteed under part B of title IV of the Higher Education Act of 1965 (20 U.S.C. 1071 et seq.);

''(B) a loan made under part D or E of title IV of the Higher Education Act of 1965 (20 U.S.C. 1087a et seq., 1087aa et seq.); and

''(C) a health education assistance loan made or insured under part A of title VII of the Public Health Service Act (42 U.S.C. 292 et seq.) or under part E of title VIII of such Act (42 U.S.C. 297a et seq.).

''(b)(1) The head of an agency shall, in order to recruit or retain highly qualified professional personnel, establish a pilot program under which the head of that agency may agree to repay (by direct payments on behalf of the employee) any student loan previously taken out by such employee if the employee is employed by the agency in a national security position. The head of an agency may provide for a program to apply to, and be administered with respect to, 1 or more organizational units of the agency.

''(2) Payments under this section shall be made subject to such terms, limitations, or conditions as may be mutually agreed to by the agency and employee concerned.

''(3) The amount paid by the agency on behalf of an employee under this section may not exceed $10,000 in any calendar year toward the remaining balance of the student loan for each year that the employee remains in service in the position, except that the employee shall remain in such position for at least 3 years. The maximum total amount that may be paid on behalf of an employee under this paragraph shall be $60,000.

''(4) An employee may participate in the program under section 5379 and any program under this section at the same time, except the total amount paid by all agencies on behalf of that employee under section 5379 and this section may not exceed—

''(A) $10,000 in any calendar year; or

''(B) $60,000 in total.

''(5) Nothing in this section shall be considered to authorize an agency to pay any amount to reimburse an employee for any repayments made by such employee prior to the agency's entering into an agreement under this section with such employee.

''(6) Nothing in this section shall be construed—

''(A) to affect student loan repayment programs existing on the date of enactment of this section;

''(B) to revoke or rescind any existing law, collective bargaining agreement, or recognition of a labor organization;

''(C) to authorize the head of an agency to determine national security positions for any other purpose other than to make such determinations as are required by this section in order to carry out the purposes of this section; or

''(D) as a basis for determining the exemption of any position from inclusion in a bargaining unit under chapter 71 of title 5, United States Code, or from the right of any incumbent of a national security position determined by the head of an agency under this section, from entitlement to all rights and benefits under such chapter.

''(c)(1)(A) Not later than 6 months after the date of enactment of this section, the Director of the Office of Personnel Management shall report to the appropriate committees of Congress on the implementation of the program under this section.

''(B) Not later than 4 years after the date of enactment of this section, the Director of the Office of Personnel Management shall report to the appropriate committees of Congress on the status of the programs established under this section and the success of such programs in recruiting and retaining employees for national security positions, including an assessment as to whether the program should be expanded to other agencies or to non-national security positions to improve overall Federal workforce recruitment and retention.

''(2) The head of each agency establishing a program under this section shall provide any necessary information to the Office of Personnel Management to carry out this subsection.

''(d) An employee shall not be eligible for benefits under this section if such employee—

''(1) occupies a position that is excepted from the competitive service because of its confidential, policy-determining, policy-making, or policy-advocating character; or

''(2) does not occupy a national security position.

''(e)(1) An employee selected to receive benefits under this section shall agree in writing, before receiving any such benefit, that the employee shall—

''(A) remain in the service of the agency in a national security position for a period to be specified in the agreement, but not less than 3 years, unless involuntarily separated; and

''(B) if separated involuntarily on account of misconduct, or voluntarily, before the end of the period specified in the agreement, repay to the Government the amount of any benefits received by such employee from that agency under this section.

''(2) The repayment provided for under paragraph (1)(B) may not be required of an employee who leaves the service of such employee's agency voluntarily to enter into the service of any other agency unless the head of the agency that authorized the benefits notifies the employee before the effective date of such employee's entrance into the service of the other agency that repayment will be required under this subsection.

''(3) If an employee who is involuntarily separated on account of misconduct or who (excluding any employee relieved of liability under paragraph (2)) is voluntarily separated before completing the required period of service fails to repay the amount provided for under paragraph (1)(B), a sum equal to the amount outstanding is recoverable by the Government from the employee (or such employee's estate, if applicable) by—

''(A) setoff against accrued pay, compensation, amount of retirement credit, or other amount due the employee from the Government; and

''(B) such other method as is provided for by law for the recovery of amounts owing to the Government.

''(4) The head of the agency concerned may waive, in whole or in part, a right of recovery under this subsection if it is shown that recovery would be against equity and good conscience or against the public interest.

''(5) Any amount repaid by, or recovered from, an individual (or an estate) under this subsection shall be credited to the appropriation, fund, or account from which the original payment was made. Any amount so credited shall be merged with other sums in such appropriation, fund, or account and shall be available for the same purposes and period, and subject to the same limitations (if any), as the sums with which merged.

''(f) An employee receiving benefits under this section from an agency shall be ineligible for continued benefits under this section from such agency if the employee—

''(1) separates from such agency; or

''(2) does not maintain an acceptable level of performance, as determined under standards and procedures which the agency head shall by regulation prescribe.

''(g) In selecting employees to receive benefits under this section, an agency shall, consistent with the merit system principles set forth in paragraphs (1) and (2) of section 2301(b) of this title, take into consideration the need to maintain a balanced workforce in which women and members of racial and ethnic minority groups are appropriately represented in Government service.

''(h) Any benefit under this section shall be in addition to basic pay and any other form of compensation otherwise payable to the employee involved.

''(i)(1) Not later than 60 days after the date of enactment of this section and after consultations with the heads of agencies, the Office of Personnel Management shall propose regulations for criteria to be used by the heads of agencies to make determinations of national security positions.

''(2) Not later than 180 days after the date on which the comment period for proposed regulations under paragraph (1) ends, the Office of Personnel Management shall promulgate final regulations containing such criteria.

''(j) A program established under this section may remain in effect for the 8-year period beginning on the date of enactment of this section. Such program shall continue to pay employees recruited under this program who are in compliance with this section their benefits through their commitment period regardless of the preceding sentence.

''(k) For the purpose of enabling the Federal Government to recruit and retain employees critical to the national security under this section, there are authorized to be appropriated such sums as may be necessary to carry out this section for each fiscal year.''.

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 53 of title 5, United States Code, is amended by inserting after the item relating to section 5379 the following:

''5379a. Pilot program for student loan repayment for Federal employees in national security positions.''.

TITLE II—FELLOWSHIPS FOR GRADUATE STUDENTS TO ENTER FEDERAL SERVICE AND NATIONAL SECURITY SERVICE CORPS

SEC. 201. FELLOWSHIPS FOR GRADUATE STUDENTS TO ENTER FEDERAL SERVICE.

The David L. Boren National Security Education Act of 1991 (50 U.S.C. 1901 et seq.) is amended by inserting after section 802 the following:

''SEC. 802a. FELLOWSHIPS FOR GRADUATE STUDENTS TO ENTER FEDERAL SERVICE.

''(a) DEFINITIONS.—In this section:

''(1) AGENCY.—The term 'agency' means the Department of Defense, the Department of Homeland Security, the Department of State, the Department of Energy, the Department of the Treasury, the Department of Justice, the National Security Agency, and the Central Intelligence Agency, and other Federal Government agencies as determined by the Board.

''(2) INSTITUTION OF HIGHER EDUCATION.—The term 'institution of higher education' has the meaning given to such term in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001).

''(3) NATIONAL SECURITY POSITION.—The term 'national security position' means an employment position determined by the Board, in consultation with an agency, for the purposes of a program established under this section, to involve important homeland security applications.

''(4) SCIENCE.—The term 'science' means any of the natural and physical sciences including chemistry, biology, physics, and computer science. Such term does not include any of the social sciences.

''(b) IN GENERAL.—The Board shall establish and implement a program for the awarding of fellowships (to be known as 'National Security Fellowships') to graduate students who, in exchange for receipt of the fellowship, agree to employment with the Federal Government in a national security position. The Board may provide for the program to apply to, and be administered with respect to, 1 or more organizational units of an agency.

''(c) ELIGIBILITY.—To be eligible to participate in the program established under subsection (b), a student shall—

''(1) have been accepted into a graduate school program at an accredited institution of higher education within the United States and be pursuing or intend to pursue graduate education in the United States in the disciplines of foreign languages, science, mathematics, engineering, nonproliferation education, or other international fields that are critical areas of national security (as determined by the Board);

''(2) be a United States citizen, United States national, permanent legal resident, or citizen of the Freely Associated States; and

''(3) agree to employment with an agency or office of the Federal Government in a national security position.

''(d) SERVICE AGREEMENT.—In awarding a fellowship under the program under this section, the Board shall require the recipient to enter into an agreement under which, in exchange for such assistance, the recipient—

''(1) will maintain satisfactory academic progress (as determined in accordance with regulations issued by the Board) and provide regularly scheduled updates to the Board on the progress of their education and how their employment continues to relate to a national security objective of the Federal Government;

''(2) will, upon completion of such education, be employed by the agency for which the fellowship was awarded for a period of at least 3 years as specified by the Board; and

''(3) agrees that if the recipient is unable to meet either of the requirements described in paragraph (1) or (2), the recipient will reimburse the United States for the amount of the assistance provided to the recipient under the fellowship, together with interest at a rate determined in accordance with regulations issued by the Board, but not higher than the rate generally applied in connection with other Federal education loans.

''(e) FEDERAL EMPLOYMENT ELIGIBILITY.—If a recipient of a fellowship under this section demonstrates to the satisfaction of the Board that, after completing their education, the recipient is unable to obtain a national security position in the Federal Government because such recipient is not eligible for a security clearance or other applicable clearance necessary for such position, the Board may permit the recipient to fulfill the service obligation under the agreement under subsection (d) by working in another office or agency in the Federal Government for which their skills are appropriate, by teaching math, science, or foreign languages, or by performing research, at an institution of higher education, for a period of not less than 3 years, in the area of study for which the fellowship was awarded.

''(f) FELLOWSHIP SELECTION.—

''(1) IN GENERAL.—The Board shall consult with agencies in the selection and placement of national security fellows under this section.

''(2) FUNCTIONS.—The Board shall carry out the following functions:

''(A) Develop criteria for awarding fellowships under this section.

''(B) Provide for the wide dissemination of information regarding the activities assisted under this section.

''(C) Establish qualifications for students desiring fellowships under this section, including a requirement that the student have a demonstrated commitment to the study of the discipline for which the fellowship is to be awarded.

''(D) Provide for the establishment and semiannual update of a list of fellowship recipients, including an identification of their skills, who are available to work in a national security position.

''(E) Not later than 30 days after a fellowship recipient completes the study or education for which assistance was provided under this section, work in conjunction with agencies to make reasonable efforts to hire and place the fellow in an appropriate national security position.

''(F) Review the administration of the program established under this section.

''(G) Develop and provide to Congress a strategic plan that identifies the skills needed by the Federal national security workforce and how the provisions of this Act, and related laws, regulations, and policies will be used to address such needs.

''(g) SPECIAL CONSIDERATION FOR CURRENT FEDERAL EMPLOYEES.—

''(1) SET ASIDE OF FELLOWSHIPS.—Twenty percent of the fellowships awarded under this section shall be set aside for Federal employees who are working in national security positions on the date of enactment of this section to enhance the education and training of such employees in areas important to national security.

''(2) FULL- OR PART-TIME EDUCATION.—Federal employees who are awarded fellowships under paragraph (1) shall be permitted to obtain advanced education under the fellowship on a full-time or part-time basis.

''(3) PART-TIME EDUCATION.—A Federal employee who pursues education or training under a fellowship under paragraph (1) on a part-time basis shall be eligible for a stipend in an amount which, when added to the employee's part-time compensation, does not exceed the amount described in subsection (i)(2).

''(h) FELLOWSHIP SERVICE.—Any individual under this section who is employed by the Federal Government in a national security position shall be able to count the time that the individual spent in the fellowship program towards the time requirement for a reduction in student loans as described in section 5379a of title 5, United States Code.

''(i) AMOUNT OF AWARD.—A National Security Fellow who complies with the requirements of this section may receive funding under the fellowship for up to 3 years at an amount determined appropriate by the Board, but not to exceed the sum of—

''(1) the amount of tuition paid by the fellow; and

''(2) a stipend in an amount equal to the maximum stipend available to recipients of fellowships under section 10 of the National Science Foundation Act of 1950 (42 U.S.C. 1869) for the year involved.

''(j) CONSULTATION WITH CHIEF HUMAN CAPITAL OFFICERS.—The Board shall consult with the chief human capital officers of participating agencies in carrying out this section.

''(k) RULE OF CONSTRUCTION.—Nothing in this section shall be construed—

''(1) to authorize the Board to determine national security positions for any other purpose other than to make such determinations as are required by this section in order to carry out the purposes of this section; and

''(2) as a basis for determining the exemption of any position from inclusion in a bargaining unit under chapter 71 of title 5, United States Code, or from the right of any incumbent of a national security position determined by the Board under this section, from entitlement to all rights and benefits under such chapter.

''(l) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of enabling the Board to provide for the recruitment and retention of highly qualified employees in national security positions, there are authorized to be appropriated $100,000,000 for fiscal year 2004, and such sums as may be necessary for each fiscal year thereafter.''.

SEC. 202. NATIONAL SECURITY SERVICE CORPS.

The David L. Boren National Security Education Act of 1991 (50 U.S.C. 1901 et seq.) is amended by inserting after section 802a (as added by section 201 of this Act) the following:

''SEC. 802b. NATIONAL SECURITY SERVICE CORPS.

''(a) FINDINGS AND PURPOSES.—

''(1) FINDINGS.—Congress finds that—

''(A) a proficient national security workforce requires certain skills and knowledge, and effective professional relationships; and

''(B) a national security workforce will benefit from the establishment of a National Security Service Corps.

''(2) PURPOSES.—The purposes of this section are to—

''(A) provide mid-level employees in national security positions within agencies the opportunity to broaden their knowledge through exposure to other agencies;

''(B) expand the knowledge base of national security agencies by providing for rotational assignments of their employees at other agencies;

''(C) build professional relationships and contacts among the employees and agencies of the national security community; and

''(D) invigorate the national security community with exciting and professionally rewarding opportunities.

''(b) DEFINITIONS.—In this section:

''(1) AGENCY.—The term 'agency' means the Department of Defense, the Department of Homeland Security, the Department of State, the Department of Energy, the Department of the Treasury, the Department of Justice, and the National Security Agency.

''(2) CORPS.—The term 'Corps' means the National Security Service Corps.

''(3) CORPS POSITION.—The term 'corps position' means a position that—

''(A) is a position—

''(i) at or above GS–12 of the General Schedule; or

''(ii) in the Senior Executive Service;

''(B) the duties of which do not relate to intelligence support for policy; and

''(C) is designated by the head of an agency as a Corps position.

''(c) GOALS AND ADMINISTRATION.—The Board shall—

''(1) formulate the goals of the Corps;

''(2) resolve any issues regarding the feasibility of implementing this section;

''(3) evaluate relevant civil service rules and regulations to determine the desirability of seeking legislative changes to facilitate application of the General Schedule and Senior Executive Service personnel systems to the Corps;

''(4) create specific provisions for agencies regarding rotational programs;

''(5) formulate interagency compacts and cooperative agreements between and among agencies relating to—

''(A) the establishment and function of the Corps;

''(B) incentives for individuals to participate in the Corps;

''(C) professional education and training;

''(D)(i) the process for competition for a Corps position;

''(ii) which individuals may compete for Corps positions; and

''(iii) any employment preferences an individual participating in the Corps may have when returning to the employing agency of that individual; and

''(E) any other issues relevant to the establishment and continued operation of the Corps; and

''(6) not later than 180 days after the date of enactment of this section, submit a report to the Office of Personnel Management on all findings and relevant information on the establishment of the Corps.

''(d) CORPS.—

''(1) PROPOSED REGULATIONS.—Not later than 180 days after the date on which the report is submitted under subsection (c)(6), the Board shall publish in the Federal Register, proposed regulations describing the purpose, and providing for the establishment and operation of the Corps.

''(2) COMMENT PERIOD.—The Board shall provide for—

''(A) a period of 60 days for comments from all stakeholders on the proposed regulations; and

''(B) a period of 180 days following the comment period for making modifications to the regulations.

''(3) FINAL REGULATIONS.—After the 180-day period described under paragraph (2)(B), the Board shall promulgate final regulations that—

''(A) establish the Corps;

''(B) provide guidance to agencies to designate Corps positions;

''(C) provide for individuals to perform periods of service of not more than 2 years at a Corps position within agencies on a rotational basis;

''(D) establish eligibility for individuals to participate in the Corps;

''(E) enhance career opportunities for individuals participating in the Corps;

''(F) provide for the Corps to develop a group of policy experts with broad-based experience throughout the executive branch; and

''(G) provide for greater interaction among agencies with traditional national security functions.

''(4) ACTIONS BY AGENCIES.—Not later than 180 days after the promulgation of final regulations under paragraph (3), each agency shall—

''(A) designate Corps positions;

''(B) establish procedures for implementing this section; and

''(C) begin active participation in the operation of the Corps.

''(e) CONSULTATION WITH CHIEF HUMAN CAPITAL OFFICERS.—The Board shall consult with the chief human capital officers of participating agencies in carrying out this section.

''(f) ALLOWANCES, PRIVILEGES, AND BENEFITS.—An employee serving on a rotational basis with another agency under this section is deemed to be detailed and, for the purpose of preserving allowances, privileges, rights, seniority, and other benefits with respect to the employee, is deemed to be an employee of the original employing agency and is entitled to the pay, allowances, and benefits from funds available to that agency.

''(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Board such sums as may be necessary to carry out this section.''.

SEC. 203. TECHNICAL AND CONFORMING AMENDMENTS.

The David L. Boren National Security Education Act of 1991 (50 U.S.C. 1901 et seq.) is amended—

(1) in section 803(b)—

(A) by redesignating paragraphs (5) through (7) as paragraphs (7) through (9), respectively; and

(B) by inserting after paragraph (4) the following:

''(5) The Secretary of Homeland Security.

''(6) The Attorney General of the United States.'';

(2) in section 803(c), by striking ''subsection (b)(6)'' and inserting ''subsection (b)(8)'';

(3) in section 804(b)(1), by inserting '', including section 802a'' before the semicolon;

(4) by inserting after section 807, the following:

''SEC. 807a. NONAPPLICATION OF PROVISIONS TO CERTAIN GRADUATE STUDENT FELLOWSHIPS AND THE NATIONAL SECURITY SERVICE CORPS.

''Sections 805, 806, and 807 shall not apply with respect to section 802a or 802b.''; and

(5) in section 808(4), by striking ''The term'' and inserting ''Except as provided under section 802a, the term''.

TITLE III—MISCELLANEOUS PROVISIONS

SEC. 301. STRATEGIC PLANS.

Section 306(a) of title 5, United States Code, is amended—

(1) by striking paragraph (3) and inserting the following:

''(3) a description of how the goals and objectives are to be achieved, including a description of the operational processes, training, skills and technology, and the human, capital, information, and other resources required to meet those goals and objectives.'';

(2) by redesignating paragraphs (4) through (6) as paragraphs (5) through (7), respectively; and

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

''(4) a discussion of the extent to which the specific skills in the agency's human capital are needed to achieve the mission, goals, and objectives of the agency;''.

NOTICES OF HEARINGS/MEETINGS

SUBCOMMITTEE ON WATER AND POWER

Ms. MURKOWSKI. Mr. President, I would like to announce, for the information of the Senate and the public, that a hearing has been scheduled before the Subcommittee on Water and Power of the Committee on Energy and Natural Resources.

The hearing will be held on Thursday, November 13, at 2:30 p.m., in Room SD–366 of the Dirksen Senate Office Building.

The purpose of the hearing is to receive testimony on S. 1085, a bill to provide for a Bureau of Reclamation program to assist States and local communities in evaluating and developing rural and small community water supply systems, and for other purposes; S. 1732, a bill to direct the Secretary of the Interior to establish a rural water supply program in the Reclamation States to provide a clean, safe, affordable, and reliable water supply to rural residents; S. 1211, a bill to further the purposes of title XVI of the Reclamation Projects Authorization and Adjustment Act of 1992, the ''Reclamation Wastewater and Groundwater Study and Facilities Act'', by directing the Secretary of the Interior to undertake a demonstration program for water reclamation in the Tularosa Basin of New Mexico, and for other purposes; S. 1727, a bill to authorize additional appropriations for the Reclamation Safety of Dams Act of 1978; and S. 1791, a bill to amend the Lease Lot Conveyance Act of 2002 to provide that the amounts received by the United States under that Act shall be deposited in the reclamation fund, and for other purposes. Contact: Shelly Randel 202–224–7933, Erik Webb 202–224–4756 or Meghan Beal at 202–224–7556.

Because of the limited time available for the hearings, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record should send two copies of their testimony to the Subcommittee on Water and Power, Committee on Energy and Natural Resources, United States Senate, Washington, D.C. 20510–6150.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. BENNETT. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet on Wednesday, November 5, 2003, at 9:30 a.m. on Aviation Security. The first part of the hearing will be closed.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. BENNETT. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet on Wednesday, November 5, 2003, at 9 a.m. to hold a hearing on Nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. BENNETT. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, November 5, 2003, at 2:30 p.m. to hold a hearing on Nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. BENNETT. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs be authorized to meet on Wednesday, November 5, 2003, at 2 p.m. for a hearing titled ''The Report of the Presidential Commission on the U.S. Postal Service: Preserving Access and Affordability.''

The PRESIDING OFFICER. Without objection, it is so ordered.

JOINT ECONOMIC COMMITTEE

Mr. BENNETT. Mr. President, I ask unanimous consent that the Joint Economic Committee be authorized to conduct a hearing in Room 628 of the Dirksen Senate Office Building, Wednesday, November 5, 2003, from 9:30 a.m. to 1 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

PRIVILEGES OF THE FLOOR

Mr. BENNETT. Mr. President, I ask unanimous consent that the following staff have the privilege of the floor during the consideration of H.R. 2673, the Agriculture appropriations bill: Patricia Raymond, Fitzhugh Elder, Hunter Moorhead, Dianne Preece, Galen Fountain, Jessica Arden, William Simpson, Meaghan McCarthy, Larissa Sommer, and Mike Neilson.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. AKAKA. Mr. President, I ask unanimous consent that Ms. Barbara Peicheo, a fellow in my office, be allowed floor privileges for the duration of the debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BINGAMAN. Mr. President, I ask unanimous consent that Daniela Ligiero, who is a fellow in my office, be granted the privilege of the floor during the pendency of consideration of this bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

AUTHORIZING LEGAL REPRESENTATION

Mr. BENNETT. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 259 which was introduced earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 259) to authorize legal representation in Bell Aviation, Inc., et al. v. Sino Swearingen Aircraft Co., L.P., et al.

There being no objection, the Senate proceeded to consider the resolution.

Mr. FRIST. Mr. President, this resolution concerns representation by the Senate legal counsel of Senator ROCKEFELLER and an employee in his office, who have been subpoenaed to provide testimony and office records at depositions in a civil business dispute in Dallas County, TX.

The subpoenas are seeking information about communications between the defendant business jet aircraft company, which has a manufacturing plant in Martinsburg, WV and the Senator's office, as well as Senator ROCKEFELLER's activities in connection with his service as Chairman, and now ranking minority Member, of the Subcommittee on Aviation of the Senate Committee on Commerce, Science, and Transportation.

This resolution would authorize the Senate legal counsel to represent Senator ROCKEFELLER and his staff in connection with these subpoenas in order to protect the privileges of the Senate.

Mr. BENNETT. I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table en bloc, and any statements thereon be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 259) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 259

Whereas, in the case of Bell Aviation, Inc., et al. v. Sino Swearingen Aircraft Co., L.P., et al., Cause No. 03–02532, pending in the District Court of Dallas County, Texas, the plaintiffs have obtained from the Superior Court of the District of Columbia subpoenas for deposition testimony and document production by Senator John D. Rockefeller IV and Terri Giles, a staff member in the office of Senator Rockefeller;

Whereas, pursuant to sections 703(a) and 704(a)(2) of the Ethics in Government Act of 1978, 2 U.S.C. §§ 288b(a) and 288c(a)(2), the Senate may direct its counsel to represent Members and employees of the Senate with respect to any subpoena, order, or request for testimony relating to their official responsibilities;

Whereas, by the privileges of the Senate of the United States and Rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate may, by the judicial or administrative process, be taken from such control or possession but by permission of the Senate; and

Whereas, by Rule VI of the Standing Rules of the Senate, no Senator shall absent himself from the service of the Senate without leave: Now, therefore, be it

Resolved, That the Senate Legal Counsel is authorized to represent Senator Rockefeller and Terri Giles in connection with the subpoenas issued in this action.

AUTHORIZING DESIGN AND CONSTRUCTION OF VISITOR CENTER FOR THE VIETNAM VETERANS MEMORIAL

Mr. BENNETT. I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 310, H.R. 1442.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 1442) to authorize the design and construction of the visitor center for the Vietnam Veterans Memorial.

There being no objection, the Senate proceeded to consider the bill.

Mr. BENNETT. I ask unanimous consent that the Thomas amendment, which is at the desk, be agreed to; that the bill, as amended, be read the third time and passed; the motion to reconsider be laid upon the table; and any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 2113) was agreed to.

(The amendment is printed in today's RECORD under ''Text of Amendments.'')

The bill (H.R. 1442), as amended, was read the third time and passed.

HOMELAND SECURITY FEDERAL WORKFORCE ACT

Mr. BENNETT. I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 240, S. 589.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 589) to strengthen and improve the management of national security, encourage Government service in areas of critical national security, and to assist Government agencies in addressing deficiencies in personnel possessing specialized skills important to national security and incorporating the goals and strategies for recruitment and retention for such skilled personnel into the strategic and performance management systems of Federal agencies.

There being no objection, the Senate proceeded to consider the bill.

Mr. LEAHY. Mr. President, I support passage of the Homeland Security Federal Workforce Act, S. 589, and urge favorable Senate action and swift House adoption, as well. Senators AKAKA and DURBIN deserve great credit for developing this legislation last Congress with Senator THOMPSON and pursuing it to passage this year.

I share their concern that we need to do more to recruit and retain outstanding personnel in our pursuit of national security. I believe that includes our law enforcement personnel. For the last two Congresses I have sponsored the Federal Prosecutors' Retirement Benefit Equity Act, which is now S. 640. That bill, which is cosponsored by Senators HATCH, MIKULSKI and DURBIN, would correct an inequity that exists under current law whereby Federal prosecutors receive substantially less favorable retirement benefits than nearly all others involved in the federal criminal justice system. We have proposed that Assistant United States Attorneys be included as law enforcement officers under the Federal Employees' Retirement System and Civil Service Retirement System. I urge the Republican chairs of the Government Affairs Committee and the Subcommittee on Oversight of Government Management, the Federal workforce, and the District of Columbia to make enactment of that measure a priority rather than allow it to continue to languish without action year after year.

Similarly, I am a cosponsor of the Law Enforcement Officers Retirement Equity Act, S. 819, which was introduced by Senator MIKULSKI and is cosponsored by Senators SARBANES and CAMPBELL. This measure would include Customs agents, Treasury agents, and Homeland Security agents whose duties include the investigation or apprehension of suspected or convicted individuals and who are authorized to carry a firearm within the definition of ''law enforcement officer'' for purposes of retirement benefits equity. This measure, likewise, is one that has been introduced and reintroduced but that has not received attention from the Government Affairs Committee or Subcommittee. In the interest of fairness and in recognition of the sacrifices that our officers make every day on our behalf, I urge attention to this measure.

I also note that last Congress the Senate Judiciary Committee favorably reported the Innocence Protection Act of 2002, which included provisions on student loan forgiveness. The bill would have established a program under which full-time prosecutors and public defenders could apply for repayment assistance of the Federal Stafford loans and would have extended the Perkins loan forgiveness program to include public defenders. I commend Senator DURBIN for his strong leadership in these matters. Unfortunately, those improvements and encouragements to young lawyers were blocked and are not yet enacted. They need to be. We must ensure that full-time public defenders have equivalent eligibility if the public defense function is to fulfill its constitutionally required role in our criminal justice system.

Specifically, with respect to the Homeland Security Federal Workforce Act that we consider today, I believe the program it establishes for student loan repayment can be an important incentive for our national security programs and understand those to include our law enforcement agents and officers. I regret that the substitute amendment lowers the maximum amount of loan repayment from $80,000 to $60,000 but believe it is an important start and should be used broadly as an incentive to both recruit and retain our national security employees. According to Dr. Paul Light of the Brookings Institution Center for Public Service, in 2002 the Department of Justice and the Department of Defense together awarded student loan repayment to only seven employees. To have its intended effect to recruit and retain outstanding talent to government service, especially national security positions that include law enforcement, we need to have a broad-based incentive through loan forgiveness. Student loans, include law school loans, that saddle talented and public-spirited graduates are a key reason so many opt for higher paying jobs in the private sector. An effective program of student loan forgiveness can help counterbalance that pressure.

I regret that the bill as written limits its application to executive departments like the Department of Justice and does not include Federal courts, which oversee our federal public defenders. Our prosecutors and our public defenders need this assistance and incentive to join and remain as critical components of the criminal justice system. To skew programs to help only one side of the criminal justice system is shortsighted and unfair. For more information on this important topic of loan forgiveness, I urge consideration of pages 37 through 40 of Senate report 107–315.

I am concerned that the Bush administration and its Office of Personnel Management will adopt an unreasonably restrictive view of those Federal employees who contribute to our national security. As I read the substitute amendment, the determination of national security positions is left to the Secretary of the Department of Homeland Security, the Secretary of the Treasury, the Attorney General and the other agency heads. That decision no longer is intended to reside with the Director of the Office of Personnel Management. That is an improvement. I hope that it will lead to a more broadly-based determination of the employment positions eligible for the student loan repayment program to include all who contribute to our national security.

I also look forward to enactment of the fellowship program provided by the bill and the strengthening of our national security workforce. I have been extremely disappointed by the efforts made at the Department of Justice to fulfil the mandates of the USA PATRIOT Act with respect to improving our workforce. As I detailed recently in connection with the confirmation hearing for the nominee to be the Deputy Attorney General, the Attorney General has yet to give us a straight answer with respect to hiring the necessary Arabic translators. That was a need I identified within days of the September 11, 2001 attacks and insisted be addressed in the PATRIOT Act. Over the last 2 years the Department has been both evasive and inconsistent in its answers regarding implementation of those provisions in that Act. Recently the FBI has, again, put out the call for assistance and additional translators. While Senator VOINOVICH may be correct that these provisions in the bill may be necessary, it is my hope that they will encourage the administration to do that which it could have done but has not under existing authority.

The administration has a long way to go to provide for our national security. I support this bill as another bipartisan effort by the Senate to help it along the way.

Mr. BENNETT. I ask unanimous consent that the Collins substitute amendment which is at the desk be agreed to; that the bill, as amended, be read the third time and passed; the motion to reconsider be laid upon the table; and any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 2114) was agreed to.

(The amendment is printed in today's RECORD under ''Text of Amendments.'')

The bill (S. 589), as amended, was read the third time and passed.

REMOVAL OF INJUNCTION OF SECRECY—TREATY DOCUMENT 108–10

Mr. BENNETT. Mr. President, as in executive session, I ask unanimous consent that the injunction of secrecy be removed from the following treaty transmitted to the Senate on November 5, 2003, by the President of the United States: Convention on International Interests in Mobile Equipment and Protocol to Convention on International Interests in Mobile Equipment (Treaty Document 108–10).

I further ask that the treaty be considered as having been read the first time; that it be referred, with accompanying papers, to the Committee on Foreign Relations and ordered to be printed; and that the President's message be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The message of the President is as follows:

To the Senate of the United States:

I transmit herewith, for Senate advice and consent to ratification, the Convention on International Interest in Mobile Equipment and the Protocol on Matters Specific to Aircraft Equipment, concluded at Cape Town, South Africa, on November 16, 2001. The report of the Department of State and a chapter-by-chapter analysis are enclosed for the information of the Senate in connection with its consideration.

The essential features of the Convention and Aircraft Protocol are the establishment of an international legal framework for the creation, priority, and enforcement of security and leasing interests in mobile equipment, specifically high-value aircraft equipment (airframes, engines, and helicopters), and the creation of a worldwide International Registry where interests covered by the Convention can be registered. The Convention adopts ''asset-based financing'' rules, already in place in the United States, enhancing the availability of capital market financing for air carriers at lower cost. The Convention's and Protocol's finance provisions are consistent with the Uniform Commercial Code with regard to secured financing in the United States.

This new international system can significantly reduce the risk of financing, thereby increasing the availability and reducing the costs of aviation credit. As a result, air commerce and air transportation can become safer and environmentally cleaner through the acquisition of modern equipment facilitated by these instruments. The new international system should increase aerospace sales and employment, and thereby stimulate the U.S. economy.

Negotiation of the Convention and Protocol has involved close coordination between the key Federal agencies concerned with air transportation and export, including the Departments of State, Commerce, and Transportation, as well as the Eximbank, and U.S. interests from manufacturing, finance, and export sectors.

Ratification is in the best interests of the United States. I therefore urge the Senate to give early and favorable consideration to the Cape Town Convention and Aircraft Protocol, and that the Senate promptly give its advice and consent to ratification, subject to the seven declarations set out in the

accompanying report of the Department of State.

ORDERS FOR THURSDAY, NOVEMBER 6, 2003

Mr. BENNETT. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 9:30 a.m., Thursday, November 6. I further ask consent that following the prayer and pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved for their use later in the day, and the Senate then begin a period of morning business for 60 minutes, with the first 30 minutes under the control of the minority leader or his designee, and the second 30 minutes under the control of Senator HUTCHISON or her designee; provided that following morning business, the Senate proceed to executive session and the consideration of Calendar No. 310, the nomination of William Pryor, to be U.S. circuit judge for the Eleventh Circuit, and that there then be 60 minutes equally divided for debate on the nomination prior to the vote on the motion to invoke cloture.

The PRESIDING OFFICER. Is there objection?

Mr. REID. Mr. President, reserving the right to object.

The PRESIDING OFFICER. The assistant Democratic leader.

Mr. REID. Thank you, Mr. President.

Let me just say, very briefly, we have been told that next Wednesday the majority leader is going to move to a period of time where the majority will come and talk for some 30 hours about how the judges that have been recommended by President Bush have been treated.

I would say, I cannot possibly imagine why in the world we would take the time of this body at such an important time in the history of this country. On this side of the aisle, we have bent over backwards to cooperate on appropriations bills. We have cajoled, begged members on our side not to offer controversial amendments. On any one of these appropriations bills, there can be all kinds of things offered. Maybe they would be deemed not appropriate procedurally, but certainly a debate could be had and they would have to be disposed of by a vote. But we wanted to work for what we thought was the betterment of this body and this country.

We agreed, without any reservation or hesitation, to be in next Monday and Tuesday, Tuesday being a legal holiday. And when we are told that the sacrifices made to move this matter along are going to, in effect, play second fiddle to two legislative days; that is, 30 hours talking about judges, keep in mind we have done a pretty remarkably good job on these judges.

We have approved 168 judges; we have turned down 4—168 to 4. We have the lowest vacancy rate of the Federal judiciary in some 15 years.

So I say—and not in any way as criticism other than constructive criticism—I cannot imagine how the majority would allow this to happen. We are aware of this. And as my friend, the distinguished Senator from Utah knows, we work very hard to try to make things as convenient for Members as possible. But, keep in mind, recognizing how we can work to make things easy on Members, we can also work to make things hard on Members.

If this is going to be done, there has to be some reasonable response to it. You cannot be slapped around forever. We believe in turning our cheeks, and we have done it. Our cheeks have been turned and both sides slapped and we still move forward. But I think this is the ultimate. I think we have taken about as much as we are going to take.

I say to everyone within the sound of my voice, this is not to threaten, but just to make people understand that there is going to have to be some appropriate action taken if this is going to happen. We have been told it is going to happen by the highest authorities on the majority side. We have asked that it not happen. We have been told it is going to happen. I think it is too bad for our Nation.

I have no objection to the unanimous consent request.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. BENNETT. For the information of all Senators, tomorrow, following morning business, there will be 60 minutes for debate prior to the cloture vote on the Pryor nomination. If cloture is not invoked on the nomination, the Senate is expected to resume consideration of H.R. 2673, the Agriculture appropriations bill. It is hoped that we can finish that bill at an early hour during tomorrow's session, and therefore Senators should expect a very busy day tomorrow with rollcall votes occurring throughout.

ORDER FOR ADJOURNMENT

Mr. BENNETT. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order, following the remarks of Senator SESSIONS.

The PRESIDING OFFICER (Mr. COLEMAN). Without objection, it is so ordered.

The Senator from Alabama.

JUDICIAL NOMINATIONS

Mr. SESSIONS. Mr. President, I thank Senator BENNETT for his leadership today and the work he does. He is such an able part of this body. I will just say to Senator REID, the assistant Democratic leader, that something has happened here in this body that has never happened before.

Even though there are a majority of Senators prepared to vote and confirm a series of highly qualified nominees for the Federal bench, for the first time in the history of this Nation, the Democratic leadership—Senator DASCHLE and his team—have deliberately and systematically filibustered. That has never been done before on Federal judges. It should not be done. It is a complete change in the history of this body.

I believe that Senator FRIST is correct that we need to talk about these nominees, and we need to spend some time talking about them. We need to state what their records are, what their accomplishments are, why they are fine and decent men and women, and why they ought to be confirmed.

I hope the American people will listen because everywhere I go people tell me they are concerned about the courts. They believe judges are stepping outside of their bounds. They are legislating when they ought to be adjudicating. They are taking over schools, prisons, hospitals, and whatever else, and running them for years and years. And people question that.

President Bush has said: I am going to nominate judges who believe in the rule of law and who believe in doing the right thing, who do not legislate but adjudicate, who decide cases based on what the law says, not what they think is good politics.

Now we have these filibusters for the first time in history. I cannot imagine why Senator DASCHLE and his team would object to utilizing the legitimate, historic rules of this body, to talk all night, if need be, about why filibustering is unfair. They are not going to be out here anyway doing business. We are not doing anything in the middle of the night anyway.

To take a day of this session to talk it all the way through that day about the incredible, historical change in procedure that has occurred here is eminently justified. Why they would think they should, therefore, be offended is really amazing to me. There is just no basis for it. It is mock anger that they are going to now block legislation, which apparently was the intention all along.

We passed the CARE Act 90 to 5. We can't move the bill to conference because that bill is being filibustered under the leadership of Senator DASCHLE and the Democrats. We passed the Healthy Forests Act 80 to 14, an overwhelmingly bipartisan vote. That is being blocked, so it cannot be sent to conference. This is obstructionism again and again. I believe it is not harmful for the American people to have a glimpse of what is going on in this body.

When we saw what went on in the Intelligence Committee with the disclosure of this internal memorandum for the first time in history that I know of—the Intelligence Committee, which has always been organized and always been led to be a nonpartisan—not bipartisan, a nonpartisan entity dealing

with the most sensitive secrets this Nation deals with, wrestling with the idea of whether or not we have enough intelligence, do we have enough interpreters, do we have enough agents, do we have enough high-tech equipment to defend our country and to give our men and women in uniform the best information they have; that is what this committee has been about. Now we know that the minority Democratic staff were plotting and making plans to drag out the committee hearings, then turn on the chairman who has tried his best to be fair and open with them, and then attack him and attack the President next year during the election year. This is what we are seeing here to an unprecedented degree.

Let me talk now about Bill Pryor, the attorney general of the State of Alabama, who is nominated by the President for the Eleventh Circuit Court of Appeals. He represents the highest and best and finest qualities in lawyering in America today. I know Bill Pryor. I hired him as an assistant attorney general. I put him in charge of the most complex and important cases in my office. He was a partner in two of Birmingham's finest law firms, two of Alabama's finest law firms. He gave that up for public service. No more idealistic public servant exists in America today, a man of unquestioned integrity, unquestioned ability, a man who is willing to give up the high salaries he could make in any law firm in America and give his service to the people of America because that is the way he was raised.

His daddy was band director at the McGill-Toolen High School in Mobile, AL, a Catholic school. He was raised to do right. He believes in doing right. His family believes in doing right. His mother has taught in African-American schools voluntarily for most of her career as a schoolteacher. They have done the right things. They are the good people, people who always wanted to make America better, to reach a higher level of morality and decency and faithfulness. That is the way he is.

Bill Pryor attended Tulane University. I know the Presiding Officer knows Tulane is an excellent school, in the league with the Ivy League institutions. They think so at least. It is certainly a superb institution. He graduated magna cum laude. He was editor in chief of the Tulane Law Review. For those who understand law school, they know that the editor of the law review is the most respected graduate of the law class. Somebody might have higher grades, although few had higher grades than Bill Pryor. But if you are selected by your compatriots on the law review to be editor in chief, that is an additional indication of respect that even high grades don't have.

That is what he came from. He then clerked for Judge John Minor Wisdom on the Fifth Circuit Court of Appeals, the very type of position he will be undertaking. He was a law clerk sitting at the right hand of Judge John Minor Wisdom on the old Fifth Circuit Court of Appeals. Judge Wisdom is known as a champion of civil rights. He was one of the giants on the Fifth Circuit who was faced with rendering the decrees that dismantled segregation throughout the South. That is Bill Pryor's background.

His father was a John F. Kennedy Democrat, Catholic Democrat, who believed in that and voted for President Kennedy years ago. So this is his background.

He was very successful in his clerkship with Judge Wisdom. Then he served as an attorney with two law firms in Birmingham, first rate firms. I called on him to join my office-the office of the State Attorney General—and he took over the most important cases in my office. And, lo and behold, 2 years later I find myself in the Senate. The Governor made a decision to appoint Bill Pryor as my successor. He was one of the youngest, if not the youngest, attorneys general in America at the time. He handled that office with courage, with brilliance, with commitment to the rule of law, and with enthusiasm and commitment to a degree matched by few.

In the course of it, he won tremendous respect throughout the State. He had case after case that were exceedingly difficult, tough cases, more than you would normally get, in which he was called on to make choices, make legal decisions in litigation that placed him at odds with his core supporters, friends of his, friends of mine.

For example, there was a redistricting in Alabama. In the State legislature, the Republicans hold not many offices, well below half. But five of the seven Congressmen are Republicans. The Governor is Republican. Both Senators are Republican. But the way they organized those districts—some would say gerrymandered the districts—it favored Democrats being elected. Republicans filed a lawsuit to attack it. Unfortunately, the lawsuit was legally improper and not sound.

Bill Pryor is attorney general of the State of Alabama. He has to speak for the State. This reapportionment plan, whether he liked it or not—I assume he didn't like it; I haven't liked it—he was empowered and required under the duty of an attorney general to defend the acts of the Alabama Legislature, the reapportionment plan they had, and defend it he did.

It made them mad. A lot of our Republican friends were mad at Bill Pryor. They said he ought to work with them, he ought to help them. This was several years ago. He said: My job is to defend the law. My job is to do what an attorney general should do. An attorney general should defend the duly enacted laws of the State of Alabama, including the laws they passed to redistrict the State, as long as they are defensible.

He lost in the court of appeals. The Eleventh Circuit Court of Appeals, which he would be joining, ruled against him. But he didn't stop there. He knew he was correct. He appealed to the U.S. Supreme Court. The U.S. Supreme Court heard the case, ruled against the Republicans, ruled with Attorney General Pryor, and kept in place the reapportionment plan in that State.

I hear people say: Attorney General Pryor is an activist. He has political views. He is a conservative. He won't follow the law.

I am telling you, this man, as much as any man I have ever known in my life—and I have spent 20 years in the full-time practice of law and I know a lot of lawyers—is committed to the rule of law. He is committed to doing what is right. That is the way he was raised. That is the way he always does.

He has had many other difficult positions. Right this very minute, this very week, he has been drawn into the case of the Ten Commandments at the Supreme Court. Justice Roy Moore, chief justice of the Alabama Supreme Court, had a Ten Commandments plaque in his office as county judge. It was carved out of wood. And when he got elected to the supreme court, he was sort of known as the Ten Commandments judge. After that, he decided to put in a block of stone, not much bigger than these desks, and it had the Ten Commandments on the top.

Frankly, I am not offended by it. At least three replicas of the Ten Commandments are in the Supreme Court Building right across that street. Right up on that wall in the Senate Chamber are the words ''In God We Trust.'' I don't see anything wrong with it, frankly. But Judge Moore had some very strong views about this. He had his own ideas about separation of church and state. He read all the papers of the Founding Fathers. He can quote from them at length. He thinks we are misinterpreting what the Founding Fathers thought about separation of church and state. He believes it deeply, and I respect him for it.

Attorney General Pryor says: I am sympathetic with you, Judge, and I support your opinion. But as attorney general, I write the briefs for the State and we will argue it my way.

Judge Moore said: No, I want you to argue it my way.

He is chief justice. But, basically, what happened was the attorney general said: You hire your lawyer, and you argue it the way you want to; I am the attorney general, and I represent the State, and I will make the best argument that I think is worthy of merit and that could protect the ability to preserve the Ten Commandments.

The story goes that the supreme court did not agree and the courts have not agreed. They have ordered the Ten Commandments block to be removed, and there has been quite a bit of stir about it. So what do you do?

Under Alabama law, the attorney general is required to, and has a duty to, argue cases brought by the Judicial Inquiry Commission. The Judicial Inquiry Commission met and returned

charges against the chief justice, saying he violated a court order to remove the Ten Commandments. The attorney general now is required to handle that case. There is no way he can get away from it. He is either going to violate his duty and obstruct the rule of law, or he is going to prosecute the case. So he is prosecuting the case. He is going forward.

I say this: Go back and look at the documents put out by People for the American Way in opposition to the confirmation of William Pryor, and some of these other trashy, sorry, dishonest documents that were put out there. They have accused Bill Pryor of being in cahoots with Judge Moore to upset the rule of law, to impose religious views on people because he has expressed his personal belief in God and his personal faith in public statements. So they have accused him of being a religious extremist and are trying to attack him on that basis.

Nothing could be further from the truth. It is just a false charge. As a matter of fact, when former Gov. Bob James—who was the Governor who appointed Bill Pryor—resisted the Federal court rulings that said teachers could not lead children in prayer, Governor James took the view that football coaches ought to be able to lead the boys in prayer. He didn't see anything wrong with that. He didn't think the Constitution prohibited that. Frankly, I don't think it does either. The Constitution says that Congress shall make no law respecting the establishment of a religion nor prohibiting the free exercise thereof. That is all it says.

Anyway, the courts say you cannot have a football coach lead the kids in prayer before the ball game. So it caused a big stir. Some schools thought they could and some didn't. Lawsuits were being filed. Attorney General Pryor researched the law of schools and prayer and wrote a letter to every school board in the State asserting leadership. He acted in a way that the Atlanta Journal Constitution even said helped to bring a cooling voice in a heated period. He told them what they could do and what they could not do. As it turns out, that opinion he wrote was very similar to the position the Clinton Department of Education took on these matters. He researched the law and decided what the law was, and he followed it. So it is a pretty high price that some people are trying to put on him, because it is not true.

Dr. Joe Reed is one of the most powerful political figures in the State of Alabama. Every Democratic Presidential candidate will know Dr. Reed. He is an important African-American leader in the State. When he speaks as chairman of the Alabama Democratic Conference, an arm of the Alabama Democratic Party, and endorses a candidate for President, or Governor, or Lieutenant Governor, he has tremendous weight. His opinions are followed closely. He is a member of the Democratic National Committee. Dr. Reed is a vice chairman of the teachers union in Alabama—another source of influence and power. He is a man who has always been interested in Federal courts. He has endorsed Attorney General Pryor, saying, ''He is a first-class public official'' who will ''be a credit to the judiciary and a guardian of justice.''

Some of the national civil rights groups have attacked Bill Pryor. They don't know him, don't know anything about him, and they have accused him of being a southerner who is conservative; they try to say he is anti civil rights. Joe Reed is a serious leader in this State, and has been for 30 years, and he endorses him.

Thurbert Baker, an African-American Democratic attorney general in Georgia, says that Attorney General Pryor ''has always done what he thought was best for the people of Alabama'' and ''know[s] that his work on the bench will continue to serve as an example of how the public trust should be upheld.''

Attorney General Baker strongly supports him.

Former Democratic Governor, Don Siegleman, stated:

> Bill Pryor is an incredibly talented, intellectually honest attorney general. He calls them like he sees them. He's got a lot of courage, and he will stand up and fight when he believes he's right.

That is absolutely true. They are not political allies, but that is true.

State Representative Alvin Holmes, who is one of the most outspoken African-American leaders in the State senate, is very supportive of Bill Pryor. He told me he would come up here and speak for him and that he believes this very strongly. One of the stories he tells is that, under Alabama's constitution—and a number of States had this—was a provision that prohibited interracial marriage. Mr. Holmes opposed that. Attorney General Pryor was sworn in as attorney general of Alabama, and he made reference to that as being wrong. Of course, it is unconstitutional. Clearly, it is in violation of the Federal Constitution, and the courts, if they have not already declared it invalid, would do that at any time. But it was still in the document. It ought not to have been there.

Bill Pryor led the charge around the State to remove this improper language in the Alabama Constitution that said people of different races could not marry. Alvin Holmes said no other state wide elected politician stood with Bill Pryor.

Artur Davis, an African-American Congressman from Alabama, is a big supporter of Bill Pryor and also supports his confirmation.

Mr. President, we will talk about this more tomorrow. I know the chairman of the Judiciary Committee, Senator ORRIN HATCH, is extremely impressed with Attorney General Bill Pryor. He has seen him as a witness. He has met him personally. He told me after Attorney General Pryor's confirmation hearing that Attorney General Pryor testified brilliantly. He was one of the best witnesses he had ever seen before the Judiciary Committee. They tried to give him a hard time and they never laid a glove on him.

He spoke carefully. He spoke pleasantly. He spoke with conviction and with great intelligence and legal acumen. It was a tremendous performance. They questioned him about his views on abortion because he doesn't believe in abortion. I know that is a big subject with some people. He believes abortion is taking of innocent human life, and when pressed on it, that is what he said. He said: Senator, I believe it is taking of innocent human life. The reason I criticize Roe v. Wade is because I believe it is unprincipled, and I also believe it has led to the death of millions of innocent unborn.

That is his view. That is the view of the Catholic Church, the largest Christian church in the world. It is the view of a lot of other churches and denominations, and a lot of people who don't go to church believe that is a life.

We have to get our heads straight in the confirmation process. We have to get our thinking clear in this process. It makes no difference what he may believe personally about abortion. The question is, if the United States passed a constitutional law that deals with abortion, will he follow it? If the Supreme Court of the United States makes a declaration of interpretation of the U.S. Constitution, will he follow it? Bill Pryor has proved he will.

With regard to abortion, which he feels deeply about, Bill Pryor wrote a number of years ago, before he was ever considered for a Federal judgeship, to the attorneys general in Alabama and told them the Supreme Court had rendered an opinion on partial-birth abortion and that a large part of it had been declared unconstitutional; that it could not be enforced by them and they should not bring legal actions under it.

Even though he deeply believes abortion is wrong and certainly even more strongly believes that partial-birth abortion is wrong, which is overwhelmingly the view of the American people, indeed overwhelmingly of this Senate because we passed a law declaring it unconstitutional, he told them they couldn't enforce it. They had to allow this procedure to go forward under certain terms. He was condemned by the pro-life movement of which he shares many friends and shares many beliefs.

What we have to do as a Senate throughout this confirmation process is not ask what a person's political beliefs are or their religious beliefs but whether or not they understand the law of America and whether or not they will enforce it. That is the key to it. If we get away from that, we are going to be in trouble.

Orthodox Jews have views I do not share and most Americans do not share. The Muslim faith has views I

may not share that is in the Koran. Other denominations and church groups throughout America have views I do not share and in which I do not believe. Are we going to get to the point of asking these questions and saying: I don't agree with you and your religion; I don't agree with how you interpret the Scripture; therefore, I am not going to vote for you. How ridiculous can that be? We will never get anybody confirmed.

We have to say to Mr. Pryor, as was asked of him: OK, Mr. Pryor, I respect how you believe this, but the Supreme Court has held otherwise, and I want to know whether or not you will follow that law. He has demonstrated time and again that he will follow the law. He believes in the rule of law. He will carry his duties on in a way that brings credit to the rule of law. The rule of law is the key cornerstone of American greatness, in my view.

Bill Pryor is a champion of the rule of law. We couldn't have a finer nominee. I am so distressed his record has been distorted. I am so distressed people have tried to make him out to be something he is not. It is not right to have a decent, kind, Christian gentleman who has done nothing throughout his life but try to serve his Lord and his country with distinction and integrity, to have these skunks come in here, as Senator HATCH calls them, the usual suspects, with their distorted interpretations of his career and try to paint him as something he is not is just wrong. We need to stop it.

It is wrong to have a filibuster, and it is wrong to distort a man's record—it is not correct—in a way that demeans him and undermines his true worth as a human being. He is first rate in every way.

I am confident he will make a great judge. I see my time has passed. I yield the floor.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. ALEXANDER. Mr. President, before the Senator from Alabama leaves, may I ask him a question, and if it is appropriate to make a comment about his remarks?

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ALEXANDER. Mr. President, I listened very carefully to the Senator from Alabama, and I have been listening to the debate about the judges. I understand what some of our colleagues on the other side are saying is somehow Mr. PRYOR is, for some reason, not sensitive to civil rights, is an activist, is a person who is unwilling to put his own personal beliefs, political beliefs aside and enforce the law; is that what the charge is?

Mr. SESSIONS. That is part of it; that he is insensitive to civil rights.

Mr. ALEXANDER. As I was listening to the Senator from Alabama, and maybe he will correct me if I have this wrong, but we are talking about Alabama, this is not Brooklyn, NY, we are talking about; right? And we are talking about the attorney general of the State of Alabama.

If I understand it right, after he was appointed, he went out of his way to point out that to have the words banning an interracial marriage in the Alabama State Constitution was wrong; did I understand the Senator to say that?

Mr. SESSIONS. Absolutely. He said it was bad law, but more than that, he said it was morally wrong and not to be accepted any longer in our Constitution.

Mr. ALEXANDER. Then, Mr. President, I believe the Senator from Alabama talked about the situation going on there today where the chief judge is embroiled in a great controversy over whether the Ten Commandments have to be taken out of the courtroom. I ask the Senator from Alabama, Mr. President, what percent of Alabamians probably believe the chief judge is right about the Ten Commandments?

Mr. SESSIONS. Mr. President, I don't have the numbers for Alabama particularly, but I saw a USA Today poll that said 77 percent of the people in the United States believe it is all right to have the Ten Commandments in the building.

Mr. ALEXANDER. I am going to just guess, having lived a long time in a State that borders Alabama, that it is higher than that in Alabama. If I understood the Senator from Alabama correctly, here is the attorney general of Alabama, who may also agree with Judge Moore about the Ten Commandments, but he is endorsing the judicial proceedings against Judge Moore; is that what I heard the Senator say?

Mr. SESSIONS. That is correct.

Mr. ALEXANDER. Against the judge who wants to keep the Ten Commandments there.

I think I also heard the Senator from Alabama say there was a reapportionment case in the State of Alabama, and the Republican Party wanted the attorney general to work with them, since he was appointed by a Republican Governor and is a Republican, and that he wouldn't do that, and that he even lost the case in the appellate court and kept going. He finally defeated a law that was adverse to his party; did I understand that right, too?

Mr. SESSIONS. That is correct. I think he could have not appealed to the Supreme Court. The Supreme Court doesn't take a lot of these cases. He could have probably justified that and rationalized that, but if he believed that the existing Alabama reapportionment system was duly enacted and defensible, an attorney general of integrity would appeal to the Supreme Court, and he did so, to the detriment of the interest of his political party.

Mr. ALEXANDER. Just a couple of other questions, because I think the Senator from Alabama is making an important statement. I believe I heard him say that the attorney general of Alabama wrote a letter to every school district in Alabama, every superintendent and every school, telling them that the football coach could not lead a prayer before the football game, not because that was what he believed but because he researched the law and came to the conclusion that is what the law requires, and then he went ahead and suggested to the schools what they could do as well as what they could not do, and that his advice turned out to be almost exactly the same advice that President Clinton and former Secretary of Education Dick Riley advised schools all over America. Do I have that about right?

Mr. SESSIONS. That is correct.

Mr. ALEXANDER. Again, thoroughly unpopular. Alabama is interested in football and Alabama is interested in prayer, and for a public official to write every school and tell them they cannot pray before a football game is not an easy thing to do, even if the law does require it.

Then, on the issue of abortion, he is a Roman Catholic and he has a religious belief about it, but did I understand the Senator from Alabama to say that he told the legislature that he could not enforce a law they passed limiting abortion because it was unconstitutional?

Mr. SESSIONS. Well, very similar. What he actually did, I say to the Senator from Tennessee, is that as attorney general he has the authority to superintend all of the State district attorneys who enforce the law.

Mr. ALEXANDER. I see.

Mr. SESSIONS. There was an already-passed partial birth abortion ban in Alabama. The Supreme Court ruled that big chunks of that were not constitutional and could not be enforced, and Attorney General Pryor, even though he strongly thinks that abortion is not good policy, wrote those district attorneys throughout the State and told them they could not enforce the law.

Mr. ALEXANDER. So the point I am trying to make is, if I were to come before my colleagues today and we had no other——

Mr. SESSIONS. May I say one thing on that?

Mr. ALEXANDER. Of course.

Mr. SESSIONS. The pro-life groups in Alabama that supported Mr. Pryor criticized him for that letter, and the ACLU thanked him for it.

Mr. ALEXANDER. If we had never heard of this individual and someone came today and said he is attorney general of the State of Alabama, and he voluntarily scolded the State for still having interracial marriage words in the State constitution at a time when he really did not have to, who is enforcing the proceedings against a judge who has taken an overwhelmingly popular position about the Ten Commandments, who took to the Supreme Court a case that was adverse to the Republican Party of which he was a member, who advised the district attorneys they could not enforce a law about abortion that he personally disagreed with but he felt that the law required it, who wrote all of the schools

that they could not pray before a football game, where is someone going to find anybody who has more clearly proven that he or she is able to take personal positions and subjugate them to a willingness to enforce the law?

As I said earlier, this is not northern California or the Bronx we are talking about, even though those might be difficult positions in those States. He was taking positions that were contrary to virtually all of the people that he represented and against his own beliefs.

I am not sure the Senator from Alabama is even aware of this, but I was also a law clerk for Judge John Minor Wisdom of the Fifth Circuit Court of Appeals, as was Mr. Pryor. Judge Wisdom was one of the great judges of America. He was a part of the panel that ordered Ole Miss to admit James Meredith in 1962. He, along with Judge Elbert Tuttle of Atlanta, Richard Rives of Florida, and John R. Brown of Texas, presided over the peaceful desegregation of the South.

I want to be careful how I say this. I was technically not a law clerk. I was a messenger to Judge Wisdom in 1965 and 1966 because he already had one of the top graduates of Harvard, but he had a little money left for a messenger and he said he would treat me like a law clerk. So I am saying that so people will not think I am talking about myself.

All through the 1960s and 1970s and 1980s and 1990s, law graduates in America fought each other to be a law clerk for Judge Wisdom. I was lucky to be his messenger who was treated as a law clerk. He hired the best and the brightest. He was also a graduate of Tulane Law School. He would consider the editor in chief of the Tulane Law School to be one of the finest persons in America eligible for a law clerkship.

I can also guarantee that he would never have hired anyone as a law clerk who he did not think of as someone of the highest character, good intelligence, capacity to be a good lawyer and committed to civil rights and to the rights of the individual.

So something is really amiss in our system of approving judges when someone of the academic character and personal integrity of Mr. Pryor, who clearly is one of the finest lawyers in the country, who has taken a position contrary to the position of most of the people of the State he represents because he believes in the law, how could he not be confirmed by the Senate? What is it that causes our friends on the other side to pick someone like that out and seek to destroy him or turn him down?

I congratulate the Senator from Alabama for his vigorous advocacy of such an outstanding person, and I hope very much when the vote comes he will be confirmed.

Mr. SESSIONS. I remain and have always been impressed with the Senator from Tennessee since the day he came to the Senate. I did not know he clerked for or worked for Judge Wisdom. He gave some real insight into the prestige of an appointment to clerk for a judge like Judge Wisdom on the court of appeals, a very competitive thing.

Bill Pryor is one of the best lawyers in America, and these charges from People for the American Way that he tried to undermine the separation of church and State, he had a majoritarian ideology—actually, he stood firm for minorities and against the majority in many cases, as we just mentioned. They call him an extreme ideologue, a crusader to push the law far to the right. Anybody who knows him and knows the circumstances under which he has operated knows the courage he has shown and knows that these charges are just bogus. It is not fair, and we are doing that too often here.

I thank the Senator from Tennessee for his fine comments. I believe Bill Pryor is the most principled, committed lawyer I have known in this country. I know he would be a magnificent Federal judge, and we will make a big mistake if this body does not see fit to confirm him. He needs an up-or-down vote, and we will have that vote tomorrow to see if he gets an up-or-down vote. If he gets an up-or-down vote, he will be confirmed.

I yield the floor.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

The PRESIDING OFFICER. The Senate stands adjourned until Thursday, November 6, at 9:30 a.m.

Thereupon, the Senate, at 7:14 p.m., adjourned until Thursday, November 6, 2003, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate November 5, 2003:

DEPARTMENT OF HOMELAND SECURITY

JAMES M. LOY, OF VIRGINIA, TO BE DEPUTY SECRETARY OF HOMELAND SECURITY, VICE GORDON ENGLAND, RESIGNED.

UNITED STATES INSTITUTE OF PEACE

LAURIE SUSAN FULTON, OF VIRGINIA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE UNITED STATES INSTITUTE OF PEACE FOR A TERM EXPIRING JANUARY 19, 2007, VICE HARRIET M. ZIMMERMAN, TERM EXPIRED.

THE JUDICIARY

PETER G. SHERIDAN, OF NEW JERSEY, TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF NEW JERSEY, VICE STEPHEN M. ORLOFSKY, RESIGNED.

WILLIAM S. DUFFEY, JR., OF GEORGIA, TO BE UNITED STATES DISTRICT JUDGE FOR THE NORTHERN DISTRICT OF GEORGIA, VICE J. OWEN FORRESTER, RETIRING.

CONFIRMATION

Executive nomination confirmed by the Senate November 5, 2003:

THE JUDICIARY

ROGER W. TITUS, OF MARYLAND, TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF MARYLAND.

EXTENSIONS OF REMARKS

JAMES CHARLES REITER

HON. BETTY McCOLLUM

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 5, 2003

Ms. McCOLLUM. Mr. Speaker, I rise today to honor the memory of James Charles Reiter.

The city of St. Paul, Minnesota lost a dear friend on October 7, 2003.

Jim Reiter was elected in 1998 to represent Ward 5 on St. Paul's City Council, but he always saw himself as just an ''Average Joe.'' In my eyes, he was much more than average.

Council Member Reiter's service to St. Paul's North End went well beyond his career as an elected official. He worked hard to help provide for his family. Throughout his life, he was committed to his city and to improving the quality of life for his neighbors, friends and family. He brought dignity, hard work and humor to everything he did.

Jim Reiter went to great lengths to protect and serve his community to the best of his ability. Perhaps the best example was his insistence on patrolling North End neighborhoods in a surplus St. Paul Police car. While some joked about his actions, Reiter truly believed in strong community partnerships with the police.

Above all else, Jim Reiter was a committed husband and father. He worked tirelessly, sometimes two jobs at a time, to send his children to school. His family will miss a wonderful, loving family man.

Council Member Reiter's friends and neighbors in St. Paul will miss his leadership and charisma.

Mr. Speaker, please join me in remembering James Charles Reiter, a devoted public servant.

My thoughts and prayers are with Darlene, his loving wife of 46 years; their five children: Deborah, Linda, Jean, James Jr., and Kristine; as well as four grandchildren: Michelle, Danielle, Michael and Kristine.

RECOGNIZING KANAWHA SCALES & SYSTEMS

HON. SHELLEY MOORE CAPITO

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 5, 2003

Mrs. CAPITO. Mr. Speaker, I rise today in honor of Kanawha Scales & Systems in Poca, West Virginia to recognize their receiving the 2003 Governor's Award for Excellence in Exporting, and for the tremendous impact they have had on West Virginia's economy.

Over the years Kanawha Scales & Systems has steadily evolved from a weighing equipment service company into a fully integrated corporation, providing engineering solutions for a wide variety of systems. Kanawha Scales and Systems has grown to over 200 employees with branch offices and subsidiary companies in twelve different cities throughout the United States.

As the company has grown and prospered, a focus on exporting has developed. The company's growth has extended to include custom solutions on an international basis with successful installations in Canada, South America, The People's Republic of China and Australia. Because of the emphasis on exporting and the benefits this brings to West Virginia, Kanawha Scales & Systems has been selected to receive the 2003 Governor's Award for Excellence in Exporting.

The awards were established in 1983 and are presented by the Governor and the Export Council of West Virginia to honor companies and business professionals for their leadership and success in the state's exporting efforts.

I commend Kanawha Scales & Systems for their commitment to economic growth for West Virginia.

Mr. Speaker, I urge my colleagues to join me in recognition of Kanawha Scales & Systems.

RECOGNIZING THE NATIONAL STONE, SAND, AND GRAVEL ASSOCIATION

SPEECH OF

HON. GARY G. MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 4, 2003

Mr. GARY G. MILLER of California. Mr. Speaker, I rise in strong support of H. Con. Res. 280, ''Recognizing the National Stone, Sand and Gravel Association for 100 years of service.'' I was pleased to cosponsor this resolution because over the past 100 years the National Stone, Sand and Gravel Association (NSSGA) has made valuable and lasting contributions to our nation's infrastructure and economy, and improved the quality of life for all of our citizens.

As a developer and member of the House Transportation and Infrastructure Committee, I know first-hand how important this industry is to the continued growth of our nation. Aggregates are an integral building material used in a variety of construction projects from roads, airport runways, railroad beds, and sidewalks to homes and skyscrapers. It is one of the oldest and most versatile building materials on earth and its numerous benefits include high energy efficiency and durability against natural disasters such as floods, earthquakes, and extreme winds.

In addition to its contributions to quality growth, the aggregates industry has helped to enhance our nation's economy through the creation of jobs and wealth. For every new dollar of output in the aggregates industry, an additional $1.58 is generated in the U.S. economy. The industry contributes $37.6 billion to America's Gross Domestic Product and supports 284,090 jobs in all sectors of the economy with personal earnings totaling $10.74 billion. In 2001 alone, over three billion tons of aggregates were produced at a value of over $14.5 billion—a significant contribution by all accounts.

Companies responsible for the production of aggregates also make important contributions to the communities in which they operate. Currently, there is a quarry or sand and gravel pit in almost every county in the United States. Their proximity near a community significantly reduces costs for residential, commercial and industrial buildings and street, road and highway construction projects. When the mines and quarries have utilized the resources available to them, the operation sites can easily be reclaimed by the local community and converted into residential, commercial or industrial properties, parks, recreation areas, storm water management facilities or farmland.

Aggregates could not have become the nation's construction material of choice without the significant contributions of NSSGA. NSSGA is depended upon by many organizations, including agencies of the federal government, for crucial work in standards development for aggregate design, construction, and repair. Without all NSSGA has achieved over the past century, our nation would surely be disadvantaged structurally and economically.

I appreciate the continued commitment and service NSSGA has contributed to our nation over the past 100 years and look forward to working with them further as we seek to build a better America in the 21st century.

HONORING BROTHER ANSELM ALLEN FOR A LIFETIME OF SERVICE

HON. MIKE ROSS

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 5, 2003

Mr. ROSS. Mr. Speaker, I rise today to congratulate Brother Anselm Allen, of Subiaco, AR, for his exceptional volunteer service and lifetime of dedication as a weather observer. The National Weather Service is presenting Brother Allen with the esteemed John Campanius Holm Award.

Since 1965, Brother Anselm has been collecting weather observations at the New Subiaco Abbey as the official Cooperative Weather Observer at Subiaco, AR. Established in 1897, the New Subiaco Abbey has provided weather data for well over 100 years, and received an award in 1997 for 100 years of service. Boasting the longest tenure of any observer at the New Subiaco Abbey, Brother Anselm was awarded the 40 Year Length of Service Award in August of 2001 by the National Weather Service.

No stranger to awards, Brother Anselm is being presented with the John Campanius Holm Award. This award aims to single out terrific volunteer service as a weather observer and honor extraordinary dedication to the National Weather Service. In total, there

● This ''bullet'' symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

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

are 11,000 weather observers in the United States, and only 25 people per year receive this high honor.

Brother Anselm's daily weather reports are known for their precision and timeliness and are very much appreciated. Data collected by Brother Anselm is sent on a monthly basis to the National Climatic Data Center in Ashville, NC. The information is then published in NOAA's Climatological Data, where it becomes a permanent record of the world's weather.

Additionally, Brother Anselm uses his amateur radio skills to deliver information to the National Weather Service when severe weather threatens the area.

I am so pleased to have the opportunity to properly recognize Brother Anselm Allen before the United States Congress for his outstanding example of dedication and volunteer efforts to the National Weather Service. Please join me in congratulating Brother Anselm on his receipt of the John Campanius Holm Award.

PERSONAL EXPLANATION

HON. HAROLD ROGERS

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 5, 2003

Mr. ROGERS of Kentucky. Mr. Speaker, on Tuesday, November 4, I was in Kentucky, tending to official business, and was not present for rollcall votes No. 602 and 603. The votes were on House Concurrent Resolutions 176 and 94, respectively. Had I been present, I would have voted ''yea'' on both measures.

PERSONAL EXPLANATION

HON. MICHAEL G. OXLEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 5, 2003

Mr. OXLEY. Mr. Speaker, I was absent from the House floor during today's rollcall votes on H. Con. Res. 176, supporting the goals and ideals of Financial Planning Week, and H. Con. Res. 94, the Direct Support Professional Recognition Resolution. Had I been present, I would have voted ''aye'' on both resolutions.

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

SPEECH OF

HON. EARL POMEROY

OF NORTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 30, 2003

Mr. POMEROY. Mr. Speaker, I rise today to say that I will be voting for H.R. 2691, the fiscal year 2003 Interior Appropriations Conference Report, but doing so with some reluctance. This report includes a provision that keeps the Department of Interior from performing its legal responsibility to conduct a complete accounting of the individual Indian trust. I voted to strike a similar provision in the FY 2003 Interior Appropriations bill, which was stripped from the House-passed bill, and I am disappointed that it has reemerged in the conference report.

I understand the Committee's concern for the Cobell v. Norton class action lawsuit, which has been stalled for years with no satisfactory end in sight. We should certainly take aggressive steps to ensure that this case moves forward. However, I do not believe that Congress should circumvent due process by attaching this rider to the Interior Appropriations bill.

Ultimately, Mr. Speaker, I am concerned that this provision sends a terrible message to Indian country that the Federal Government is not committed to working in close consultation with the tribes on issues such as trust reform, or for that matter, ensuring that they have their day in court.

PERSONAL EXPLANATION

HON. VITO FOSSELLA

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 5, 2003

Mr. FOSSELLA. Mr. Speaker, I am not recorded on rollcall numbers 602 and 603. I was unavoidably detained and was not present to vote. Had I been present, I would have voted ''yea'' on rollcall numbers 602 and 603.

TRIBUTE TO PFC JAMES AARON BOOZER

HON. RICHARD H. BAKER

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 5, 2003

Mr. BAKER. Mr. Speaker, I rise today to honor Private First Class James Aaron Boozer of Denham Springs, Louisiana. PFC Boozer serves in the 82nd Airborne, 173 Brigade. While serving in Iraq, PFC Boozer suffered grave injuries, and is under the care of the staff at Walter Reed Army Hospital in Washington, DC.

It is because of people such as PFC Boozer that we continue to live safe and secure. America's men and women who answer the call of service and wear our Nation's uniform deserve respect and recognition for the enormous burden that they willingly bear. Because of these folks, our Nation remains free and strong in the face of danger.

On behalf of the people of Louisiana, I would like to thank PFC Boozer for his service to our country and I wish him a full and speedy recovery.

PERSONAL EXPLANATION

HON. BETTY McCOLLUM

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 5, 2003

Ms. MCCOLLUM. Mr. Speaker, due to an unexpected illness, I was unable to vote on rollcall votes 590 to 599. Had I been present, I would have voted the following:

On rollcall vote 590, agreeing to the journal, I would have voted ''aye.''

On rollcall vote 591, the motion to recommit the conference report on H.R. 2115, the FAA Reauthorization Act, I would have voted ''aye.''

On rollcall vote 592, agreeing to the conference report on H.R. 2115, the FAA Reauthorization Act, I would have voted ''no.''

On rollcall vote 593, H. Res. 409, repudiating anti-Semitic remarks expressed by Dr. Mahathir Mohamad, I would have voted ''aye.''

On rollcall vote 594, the motion to recommit the conference report on H.R. 2691, the Interior Appropriations Act, I would have voted ''aye.''

On rollcall vote 595, agreeing to the conference report on H.R. 2691, the Interior Appropriations Act, I would have voted ''no.''

On rollcall vote 596, H. Con. Res. 302, expressing the sense of Congress in welcoming President Chen Shui-bian of Taiwan to the United States, I would have voted ''aye.''

On rollcall vote 597, H. Res. 421, the martial law rule for same day consideration of the conference report of H.R. 3289, the Supplemental Appropriations Act of FY2004, I would have voted ''no.''

On rollcall vote 598, the Johnson motion to instruct conferees on the conference report of H.R. 6, the Energy and Water Appropriations Act, I would have voted ''aye.''

On rollcall vote 599, the Davis motion to instruct conferees on the conference report of H.R. 1, the Medicare Prescription Drug Act, I would have voted ''aye.''

I ask for unanimous consent that this be inserted into the RECORD.

HONORING SPENCER VENEER LLC

HON. SHELLEY MOORE CAPITO

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 5, 2003

Mrs. CAPITO. Mr. Speaker, I rise today in honor of Spencer Veneer LLC of Spencer, West Virginia for being awarded a 2003 Export Achievement Certificate in recognition of an increased focus on exporting.

The Export Achievement Certificate was created to recognize small and medium-sized enterprises that have successfully entered the international marketplace for the first time or that have successfully entered a new market.

As our economy continues to become more global, it is important for industries of all types to develop relationships and ties in the international community. As the West Virginia economy diversifies, Spencer Veneer LLC has taken major steps forward to promote the Mountain State and all it has to offer to the world economy.

Mr. Speaker, I urge my colleagues to join me in recognition of Spencer Veneer LLC.

GOVERNOR SID McMATH, A MAN OF HONOR

HON. MIKE ROSS

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 5, 2003

Mr. ROSS. Mr. Speaker, today, I would like to acknowledge the life and legacy of former Arkansas Governor Sid McMath, a statesman, a leader, a veteran, and a true gentleman who

passed away recently in Arkansas at the age of 91. 1 was honored to have known Governor McMath—a man who, in deed and action, distinguished himself as someone who changed Arkansas for the better.

Governor McMath was a man dedicated to public service. Born in 1912, just outside of Magnolia, Arkansas, in Columbia County, Governor McMath knew he wanted to do great things from an early age. His life of service began in school with student council positions, which led him to be an organizer and the second president of Young Democrats of Arkansas from 1946 to 1947. In 1947, Governor McMath was elected as prosecuting attorney for Garland and Montgomery counties.

Elected as our State's 34th Governor, Governor McMath worked from 1949 to 1953 to improve Arkansas. His leadership left us with an enhanced public education system, a new teaching hospital, improved welfare-assistance programs for elderly Arkansans, dams, and new highways and roads. During a time when African Americans struggled for civil rights, Governor McMath ensured equal facilities and educational opportunities for African Americans in Arkansas. He provided Arkansas' only historically black college, AM & N, now the University of Arkansas at Pine Bluff, with sufficient resources to become accredited by the North Central Association of Colleges and Schools.

After serving two terms as Governor, Governor McMath built an impressive law practice as one of the State's leading attorneys. For more than five decades, Governor McMath became known as the ''people's lawyer,'' continuing to fight for the causes so important to him and to the people of our great state.

His service went far beyond civilian life, Governor McMath also served in the United States Marine Corps in World War II. He served our Nation eagerly and rose to the rank of Major General before he retired.

Arkansas will be forever grateful that such a visionary leader came along, at the time he did, to lead us into a new era. Those who had the honor to know Governor McMath would describe him as a great orator and one of the most intelligent and genuine people they had ever met; he was truly an asset to our State.

While Governor Sid McMath may no longer be with us, his spirit and his legacy live on by the way he improved the quality of life for all Arkansans. I extend my deepest sympathies to his wife, Betty Dorth Russell McMath, sons Phillip, Sandy and Bruce; and daughters Patricia and Melissa, and all of his family and friends.

RECOGNIZING THE AMERICAN CONCRETE INSTITUTE

SPEECH OF

HON. GARY G. MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 4, 2003

Mr. GARY G. MILLER of California. Mr. Speaker, I rise in strong support of H. Res. 394, ''Recognizing the American Concrete Institute for 100 years of service.'' I was pleased to author this resolution because over the past 100 years the American Concrete Institute (ACI) has made valuable and lasting contributions to our nation's infrastructure and economy, and improved the quality of life for all of our citizens.

As a former developer and a member of the House Transportation and Infrastructure Committee, I know first-hand the vital role concrete plays in the construction of our country. Everything from the roads we drive on to the very foundation of the homes we live in are dependent on this industry.

Concrete is an integral building material used in a variety of construction projects from roads, bridges, parking lots, and sidewalks to homes and skyscrapers. It is one of the oldest and most versatile building materials on earth and its numerous benefits include high energy efficiency and durability against natural disasters such as floods, earthquakes, and extreme winds. The entire family of concrete products, such as ready mixed concrete, concrete block and cast-in-place, are used in all of our nation's communities. Major concrete operations continually function in every congressional district, creating well-paying jobs and boosting local economies. Overall, the concrete industry has an impact on the Gross Domestic Product of more than $200 million annually—a significant contribution by all accounts.

Concrete could not have become the nation's construction material of choice without the significant contributions of ACI. ACI, a premiere technical society of the concrete industry, is depended upon by many organizations, including agencies of the federal government, for crucial work in standards development for concrete design, construction, and repair. ACI's resources include an 18,000-member network of public and private sector volunteers committed to advancing the technology of concrete for educational and scientific purposes, increasing the knowledge and understanding of concrete materials, and supporting programs that improve concrete design and construction. Without all ACI has achieved over the past century, our nation would surely be significantly disadvantaged structurally and economically.

I appreciate the commitment and service ACI has contributed to our nation over the past 100 years and look forward to working with them further as we seek to build a better America in the 21st century.

PERSONAL EXPLANATION

HON. JOSEPH M. HOEFFEL

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 5, 2003

Mr. HOEFFEL. Mr. Speaker, I was absent for votes on Tuesday, November 4, 2003. Had I been present, I would have cast my votes as follows:

Rollcall No. 602 (H. Con. Res. 176): ''aye.''
Rollcall No. 603 (H. Con. Res. 94): ''aye.''

PERSONAL EXPLANATION

HON. CHRISTOPHER SHAYS

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 5, 2003

Mr. SHAYS. Mr. Speaker, on November 4, 2003, I was in Connecticut participating in our local elections and, therefore, missed two recorded votes.

I take my voting responsibility very seriously and would like the CONGRESSIONAL RECORD to reflect that, had I been present, I would have voted yes on recorded vote 602 and yes on recorded vote 603.

CELEBRATING THE 30TH ANNIVERSARY OF THE KOREAN CENTRAL PRESBYTERIAN CHURCH

HON. TOM DAVIS

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 5, 2003

Mr. TOM DAVIS of Virginia. Mr. Speaker, I would like to honor the 30th Anniversary of the Korean Central Presbyterian Church.

On November 4, 2003, Rev. Yoon and several initiate members founded the Korean Central Presbyterian Church (KCPC). Since then, the congregation steadily has increased from a dedicated few to 4,666 registered households. To meet the needs of this growing congregation, the KCPC, having previously shared a facility with the Lewinsville United Presbyterian Church, moved into its own church in Vienna, Virginia.

Over the years, the KCPC has had many successes, including the establishment of the Central Missionary Foundation, a Children's Ministry, an Educational Building, a Senior Center, a D.C. Community Center, and the Culpepper Prayer House. The church has been well served by three pastors: founder Rev. Yoon, and senior pastors Rev. Won Sang Lee, and Rev. Chang Soo Ro.

Members of the KCPC congregation also have made significant accomplishments. Many have been ordained as deacons and elders. Twelve members of the KCPC have become missionaries, dedicating their lives to serving their community and God.

For the past thirty years, the founders, leaders, and congregation of the KCPC have demonstrated great commitment to their church and community. This dedication has enabled the church to emerge from humble beginnings to become the thriving religious, learning, and service center it is today.

Mr. Speaker, in closing, I extend my warmest congratulations to the Korean Central Presbyterian Church on this special occasion. I commend them on 30 years of success and wish them continued success in the future. I call upon my colleagues to applaud their achievement.

BURMA

HON. PETER T. KING

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 5, 2003

Mr. KING of New York. Mr Speaker, earlier this year, I cosponsored the Burmese Freedom and Democracy Act of 2003 with my good friend, Congressman TOM LANTOS, ranking member of the International Relations Committee. That legislation passed the House by a vote of 418–2, providing a strong mandate for the U.S. State Department to rally international support for Burma's struggle for freedom. I am proud of the support the House of Representatives has given to the 1991

Nobel Peace Prize recipient, Aung San Suu Kyi, and her struggle for freedom in Burma.

Over the past 2 weeks, Burma's military regime has again launched a brutal crackdown against dissent. When 900 Buddhist monks marched on the streets of Mandalay, the country's second largest city, the regime reacted violently, opening fire on the crowd and killing at least one monk and placing several more in intensive care.

At the same time, this regime instigated violence against the country's Muslim population, resulting in the torching of several homes and the murder of innocent civilians.

I am concerned that the international community has remained too silent. We need to take a serious look at the efforts of the United Nations Secretary General's special envoy to Burma, Razali Ismael. Are his efforts hampering or helping the struggle for freedom in Burma? Burma's exports of narcotics and refugees, ongoing human rights abuses present a serious threat to regional security yet this has never been addressed by the United Nations Security Council. Maybe it is time that a new envoy and a new approach by the United Nations will breathe new life into a failed process.

RECOGNIZING THOMAS J. SCHWARZ ON HIS INAUGURATION AS PRESIDENT OF PURCHASE COLLEGE

HON. NITA M. LOWEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 5, 2003

Mrs. LOWEY. Mr. Speaker, I rise today to recognize and congratulate Thomas J. Schwarz, who will be sworn in on November 12 as the fifth President of Purchase College State University of New York.

Founded in 1967, Purchase College combines professional conservatory programs in the performing and visual arts with rigorous studies in liberal arts and science. Its 4,100 students are drawn from 47 States and 67 countries.

Graduates of Purchase College have excelled in the arts. Alumni include winners of the Oscar, Emmy, and Tony Awards, as well as the Pulitzer Prize, just to name a few.

Purchase College graduates have also contributed a great deal to a variety of academic fields. According to a recent National Science Survey, Purchase College ranks second in the nation in the production of Ph.Ds as a percentage of all students.

From its founding, Purchase College has opened its campus to the community. The Performing Arts Center, one of the finest of its kind on the East Coast, presents more than 100 performances, and hundreds of other public events, annually.

Prior to coming to Purchase, Thomas Schwarz had a distinguished career as a partner at the law firm of Skadden, Arps, Slate, Meagher & Flom, where he was the founding partner of the firm's Committee on Diversity.

He also worked in public service, as mayor of Ocean Beach, NY, and as Special Counsel to the New York State Commission on Government Integrity, among other positions.

As a member of the American Bar Association, Mr. Schwarz served on the Election Law Committee and was a special advisor on election reform. In addition, the Legal Aid Society presented him with its Pro Bono Award in 1998.

Mr. Schwarz has also served on the Board of Trustees of his alma mater, Hamilton College. As chairman of the Hamilton Planning Committee, he oversaw the completion of the first long-term plan in the college's 200-year history. This record of accomplishment paved his way to becoming Acting President of Hamilton in 1999.

Since coming to Purchase College as interim President in January of 2002, Mr. Schwarz has worked tirelessly to increase the academic excellence and selectivity of the school, as well as to improve administrative leadership and attract new resources to the institution.

I am confident that Mr. Schwarz will continue to excel in his new role, adding to the proud tradition of higher learning and academic achievement at Purchase.

IN RECOGNITION OF RUDY VARGAS, TALENTED ARTIST

HON. DEVIN NUNES

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 5, 2003

Mr. NUNES. Mr. Speaker and fellow colleagues, I rise today to recognize the contributions of a local artist, Rudy Vargas, to the community of the great Central Valley of California.

Mr. Vargas was born in 1959 to Rudy and Mary Vargas and was raised on the south side of Hanford, California. His talent as an artist was recognized at a very early age by his second grade teacher, Mrs. Gump.

Through his school years, he was encouraged by many to enter various art competitions. Twice his artwork even made it to the state capitol to be displayed for a length of time.

Mr. Vargas graduated from high school at the age of 17. He then enlisted in the U.S. Marine Corps. In just 2 short years he was promoted to the rank of sergeant. While in the military, he continued to paint in his spare time.

When his tour with the Corps was over, he moved back home and began taking art and history classes at College of the Sequoias in Visalia, California. There, he met his wife, Diana.

In 1984, because of Mr. Vargas' training in the military, he decided to pursue a career with the police department. He promised his wife that at the age of 40, he'd turn in his badge and begin painting again, his real passion in life.

Staying true to his promise, in 1999 he quit working as a police officer for the Visalia Police Department. After 15½ years of being a cop, he went back to art.

His artwork is displayed all over the United States in many military, police, and fire department offices and buildings.

Today, I am paying tribute to Rudy Vargas for his many years of beautiful artwork. On this Veterans' Day in 2003, we are honoring Mr. Vargas for his beautiful mural that he painted in Visalia, California.

Please join me in extending congratulations to Mr. Vargas.

HONORING BAKER, MANOCK & JENSEN FOR 100TH ANNIVERSARY

HON. GEORGE RADANOVICH

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 5, 2003

Mr. RADANOVICH. Mr. Speaker, I rise today to congratulate Baker, Manock & Jensen for a century of practicing law. The celebration of this event took place on October 23, 2003, in Fresno, California.

In 1903, Henry E. Barbour and William A. Sutherland established two separate law practices in Fresno, starting a 100–year tradition. The two practices formed into a partnership in 1906 and split off seven years later into two branches: the Barbour branch and the Sutherland branch. Mr. Barbour served seven terms as Congressman for the 7th District of California while he maintained his practice. He passed away in 1945 from illness but the Barbour branch sustained with partners William C. Meux and John J. Gallagher. The Sutherland branch remained active until 1920 when Mr. Sutherland entered the banking business. His break from law didn't last long since he resumed his practice with a new partner, Milton M. Dearing, in 1926. Four years later, the firm added another name to its title when Gilbert H. Jertberg joined. Mr. Sutherland died in 1935, but the branch continued and eventually became Jertberg & Avery.

The firm's continuity, despite changes in partnership, was unshakable. In 1955, Mr. Jertberg started a 20–year career in the federal courts. He was nominated to the United States Court of Appeals for the Ninth District in 1958. After Mr. Dearing went into semiretirement, Mr. Avery, of the Sutherland branch, invited Meux & Gallagher—the Barbour branch—to partner with him on the sixth floor of the Security Bank Building. The Sutherland and Barbour lines were brought together again. In the mid 1970s, John H. Baker, Kendall L. Manock, and Douglas B. Jensen were partnered. The three names have comprised the firm's title since. The strength of the firm can be attributed to the many influential lawyers, as well as former and current shareholders that have been dedicated to the adherence to our laws.

Today, the firm is one of the largest law firms in Central California and utilizes 38 full-time lawyers and 10 paralegals to meet the needs of its clients. Until the 1960s, lawyers usually practiced general law, but now they have become much more specialized. Baker, Manock & Jensen has attorneys recognized for their expertise in areas such as reclamation law, environmental law, employment law, and medical malpractice defense.

Mr. Speaker, I rise today to congratulate Baker, Manock & Jensen for 100 years of law practice. Recognizing the importance and uniqueness of our constitution and court system, I invite my colleagues to join me in commending Baker, Manock & Jensen for its dedication to its clientele and the law.

TRAFFICKING VICTIMS PROTECTION REAUTHORIZATION ACT OF 2003

SPEECH OF

HON. DAN BURTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 4, 2003

Mr. BURTON of Indiana. Mr. Speaker, I rise to express my strong support for H.R. 2620, the Trafficking Victims Protection Reauthorization Act of 2003, which would authorize appropriations for fiscal years 2004 and 2005 for the Trafficking Victims Protection Act of 2000.

In these modern times, it is hard for Americans to believe that the problem of human slavery still exists. Not only do these crimes against humanity still occur, they are increasing in frequency all across the globe.

To further investigate the topic of human slavery and trafficking in persons, I held a hearing before the House Government Reform Subcommittee on Human Rights & Wellness on October 29, 2003, entitled, ''The Ongoing Tragedy of International Slavery and Human Trafficking: An Overview,'' to examine the worldwide effects of these illicit practices, and to discuss how United States policies and programs are beginning to have a positive effect in combating these crimes against humanity.

Our investigation found that over 27,000,000 people are currently enslaved in some form around the world, and it is estimated that up to 4,000,000 men, women, and children are forced or coerced into slavery every year, which represents the highest concentration of slaves alive at one time ever in world history.

Thankfully, the U.S. Government has been working tirelessly to eliminate the practices of slavery and trafficking in persons around the globe. This is mainly due to the passage of the Trafficking Victims Protection Act of 2000, authored by my dear friend and our esteemed colleague, Representative CHRIS SMITH. This law has assisted victims by authorizing grants to shelters and rehabilitation programs to help victims of trafficking, and by establishing programs to prevent trafficking through the enhancement of economic opportunities for potential victims. The Trafficking Victims Protection Act promotes public awareness of the dangers of human slavery, and provides stringent penalties for persons who facilitate these crimes.

H.R. 2620 not only reauthorizes, but builds upon the successes of the Trafficking Victims Protection Act of 2000 by (1) requiring that U.S. Government contracts relating to international affairs contain clauses authorizing termination by the United States if the contractor engages in human trafficking, or procures commercial sexual services while the contract is in force; (2) promoting innovative trafficking prevention initiatives, such as border interdiction programs; and (3) requiring airlines to inform passengers about U.S. laws against sex tourism, among other enhanced protections for current victims of trafficking.

Before the passage of the Trafficking Victims Protection Act of 2000, victims had no hope that they would be rescued from the horrid conditions into which they had been forced to live. The enactment of this law has not only put forth initiatives to prevent further human abuses, but has also given victims of slavery a real chance for liberty, and we as Members of Congress should do all that we can to promote their freedom.

Mr. Speaker, reauthorizing H.R. 2620 will continue to protect and liberate people who are currently enslaved against their will in these modern times, and I strongly urge my colleagues to continue to support this most important legislation.

HONORING WALKER MACHINERY

HON. SHELLEY MOORE CAPITO

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 5, 2003

Mrs. CAPITO. Mr. Speaker, I rise today in honor of Walker Machinery of Belle, West Virginia for being awarded a 2003 Export Achievement Certificate in recognition of an increased focus on exporting.

The Export Achievement Certificate was created to recognize small and medium-sized enterprises that have successfully entered the international marketplace for the first time or that have successfully entered a new market.

As our economy continues to become more global, it is important for industries of all types to develop relationships and ties in the international community. As the West Virginia economy diversifies, Walker Machinery has taken major steps forward to promote the Mountain State and all it has to offer to the world economy.

By making strides to expand opportunities, Walker Machinery has in turn brought benefits to the state that will be felt far beyond the business itself. I applaud Walker Machinery for its efforts and look forward to seeing continued success.

Mr. Speaker, I urge my colleagues to join me in recognition of Walker Machinery, and I offer them as an example to small and medium sized enterprises everywhere.

PERSONAL EXPLANATION

HON. RICHARD W. POMBO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 5, 2003

Mr. POMBO. Mr. Speaker, I rise today to state for the record how I would have voted on the Veterans Health Care Facilities Capital Improvement Act, H.R. 1720. Regretfully, I was unavoidably detained and absent from the House floor on October 29, 2003.

I take great pride in representing our military personnel and the veterans of our great nation. Theodore Roosevelt once said, ''A man who is good enough to shed his blood for his country is good enough to be given a square deal afterwards.'' The United States owes our veterans a debt which can never be fully repaid.

For these reasons, had I been present for rollcall No. 576, I would have voted ''aye'' for H.R. 1720.

THE KAY REPORT: RECOGNIZING AN EVER-PRESENT THREAT

HON. DOUG BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 5, 2003

Mr. BEREUTER. Mr. Speaker, in recent days, Dr. David Kay, head of the Iraq Survey Group, has visited Washington to provide an interim report detailing what he has thus far uncovered regarding Iraqi weapons of mass destruction. Dr. Kay's initial findings make it clear that Saddam Hussein maintained a large, undeclared WMD infrastructure, much of which has escaped the attention of UN arms inspectors. So far, Dr. Kay's teams have uncovered dozens of WMD-related activity programs, a series of clandestine chemical/biological weapons labs, huge amounts of laboratory equipment suitable for WMD research and productions, and secret UAV production lines tailored for WMD delivery. As a recent editorial in the Omaha World-Herald correctly noted, ''the larger picture of these findings shows that Saddam Hussein was a threat to his neighbors, to his own people (just ask the Kurds) and potentially to anyone else on the planet whom he viewed as his enemies.''

Mr. Speaker, this Member would ask to place into the RECORD an editorial entitled ''An ever-present threat'' from the October 11, 2003, edition of the Omaha World-Herald. This Member commends these insightful remarks to his colleagues.

[From the Omaha World-Herald, Oct. 11, 2003]

AN EVER-PRESENT THREAT

WITH OR WITHOUT WMD, IRAQ UNDER SADDAM WAS VIOLATING U.N. SANCTIONS LEFT AND RIGHT

Much attention in recent days has been given—appropriately—to the fact that arms inspector David Kay and his Iraq Survey Group thus far have uncovered no weapons of mass destruction in that country. But that finding shouldn't be allowed to obscure the fact that the team found abundant evidence of obfuscation, concealment and destruction of evidence.

The Kay report (which, it should be remembered, is an interim document) strongly suggests a scenario that transcends the question of present-day existence of the weapons. Perhaps the Saddam Hussein regime didn't have WMD by the time liberation forces fought their way into the country. But there's ample evidence that it was poised and eager to buy or make such weapons, as soon as it felt the international spotlight had turned away.

Finding WMD, if they existed, was by no means the Kay team's sole mission.

It was equally tasked with determining whether the Saddam regime was in violation of U.N. limitations imposed after the Persian Gulf War and more particularly in violation of U.N. Resolution 1441, passed last November. (That was Saddam's supposed last chance to comply with inspection demands.)

Here, the answer is an emphatic ''yes.''

The report unambiguously shows that Iraq was trying to extend the range of its ballistic missiles beyond limits set by the United Nations; was trying to hide evidence of past and potential weapons programs (burned files, destroyed computer disk drives, meticulously scrubbed lab equipment); had organisms hidden in a scientist's home. And more: Kay's congressional statement about the report may be found on the Internet at www.cia.gov/.

In short, Saddam Hussein was preserving his options. And it makes no sense to believe that his intentions were any less malevolent than they had been throughout his sordid history.

Perhaps inspection teams will not find weapons of mass destruction in Iraq. First, as we have noted before, it's a big and complex place. Second, perhaps there really was nothing there to find. If that's the case, clearly there was an intelligence debacle—so big that President Bush ought to get to the bottom of it and act to forestall a recurrence.

But even in that case, the larger picture of these findings shows that Saddam Hussein was a threat to his neighbors, to his own people (just ask the Kurds) and potentially to anyone on the planet whom he viewed as his enemies. He was a human time bomb, always poised to start ticking again when he believed the time was right.

Even if the effort to rebuild and stabilize Iraq is not proceeding as tidily as had been hoped, the United States and its allies removed a clear and terrible danger from the world scene. About that, the world should have no second thoughts.

MS. SHARON SCHUCHERT

HON. DENNIS A. CARDOZA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 5, 2003

Mr. CARDOZA. Mr. Speaker, I rise today to honor Ms. Sharon Schuchert of Stanislaus County who is being awarded the Department of Heath and Human Services Adoption Excellence Award. It is truly an honor to recognize all of her achievements as a dedicated social worker in our community.

Ms. Schuchert is the recipient of the 2003 award of Adoption Excellence Award, for her outstanding accomplishments in achieving permanency for America's children waiting in foster care.

In 1969, Ms. Schuchert began her public service career as a social worker for Stanislaus County Community Services Agency and in 2001, in collaboration with other community leaders, she founded Camp A Life With Adoption Yields Success (A.L.W.A.Y.S.). Camp A.L.W.A.Y.S. mission statement is to provide every member of an adoptive family with a supportive environment. At Camp A.L.W.A.Y.S. adoptive families spend time in Pine Crest, California learning about the unique challenges facing adoptive families in a positive family oriented setting. For many families who attend Camp A.L.W.A.Y.S. this is one of the few times they are surrounded by others with similar family structures.

Ms. Schuchert's award is especially relevant as November is National Adoption Month. There are roughly 130,000 children ranging toddlers to teenagers who are currently in foster care waiting to be placed in a safe, permanent home. Recognizing their plight on a national level is an important first step to permanency. By providing children in need with the opportunity to grow and succeed through adoption, we can help them on their journey to becoming confident and successful members of society.

Mr. Speaker, the county of Stanislaus, and the 18th Congressional District of California have been greatly strengthened by the efforts of Ms. Schuchert and Camp A.L.W.A.Y.S. America's children must not be forgotten and through the leadership of individuals like Ms. Schuchert we can continue to fight on their behalf.

I ask my colleagues to help honor Ms. Sharon Schuchert today for her service to this great nation.

COMMENDING JOHN WILLIAMS

HON. STEVE BUYER

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 5, 2003

Mr. BUYER. Mr. Speaker, I rise today to commend and thank John Williams, Mayor of Bedford, Indiana, for completing 24 years of service to the great people of Indiana. I wish John, Jean and their family well in his retirement.

Public service often brings great satisfaction in the ability to help people. During the last three decades, John has worked hard to better the lives of those in southern Indiana. At the same time, those who serve cannot do so alone. John's wife, Jean, too, has been a valuable member of the community in public service and, has given her support, even as she had her own personal health battles.

Mr. Speaker, Indiana has benefitted from the service of these two fine Hoosiers and I am proud to call both John and Jean Williams my friend.

Tonight, I rise to recognize a unique man who has left a positive mark. By my count, Mayor Williams will have served some 8,760 days in office spanning 24 years. During his unprecedented tenure, the city's landscape has undergone a remarkable change for the better as vacant stores acquired tenants and empty lots sprouted new homes and businesses. City pride has swelled and Bedford's reputation of sound government and livability has spread throughout the State of Indiana.

When Mayor Williams entered office he inherited a city with a decaying downtown business district and an outdated and malfunctioning infrastructure. To be successful, he realized that community action and involvement were needed. He established a citizens' committee to lead efforts to rejuvenate downtown and at the same time worked with state officials to improve transportation and utility services.

Mr. Speaker, today that same ''citizens'' committee'' still operates and has evolved into the present-day Bedford Revitalization, Inc. As with many smaller communities, the courthouse square, once a bastion of activity had slowed. In recent years, the community behind the leadership of Mayor Williams, focused upon the development of the Courthouse Square business district and they succeeded in redeveloping it into the center of the community as it once stood. Moreover, they have succeeded in having the district included in the National Register of Historic Places.

Bedford, Indiana, located approximately 76 miles south of Indianapolis, had many of the same challenges regarding transportation and infrastructure of other cities its size. In the early 1980s, Mayor Williams used his creativity to solve the transportation problem for local residents. He worked with state and federal agencies and created the Transit Authority of the Stone City (TASC). In the 1990s, he built upon that effort and initiated a point-to-point, or door-to-door, pickup service that streamlined the operation. This success prompted state transportation officials to cite TASC as a model program for other small to medium-sized Hoosier cities to emulate. Today, the buses record about 80,000 passenger trips a year, providing mobility and independence for many of our citizens.

Mayor Williams' transportation successes, and his efforts to expand and develop opportunities for local businesses and individuals to compete in the marketplace, resulted in a four-lane east-west street connecting Indiana State Road 37 and Lincoln Avenue that is now named after the Mayor. Doing so, opened hundreds of acres for industrial and business development. The process took ten years from inception to completion, but, today, John A. Williams Boulevard is a main artery in the city.

Mr. Speaker, furthering recreation has been a continuing program in Mayor Williams' administration. Today, Bedford has seven city parks and an 18-hole golf course, which has been called one of the best municipal courses in Indiana.

Mayor Williams may be retiring but he still has a lot to give to Indiana and Indiana owes a lot to him. I am pleased to join with the citizens of Bedford and salute my friend, Mayor John Williams, on a lifetime of public service and a job well done. God speed!

PATENT AMENDMENT

HON. DAVE WELDON

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 5, 2003

Mr. WELDON of Florida. Mr. Speaker, this summer I introduced an amendment that provides congressional support for the current federal policy against patenting humans. It was approved by the House of Representatives without objection on July 22, 2003 as Sec. 801 of the Commerce/Justice/State appropriations bill.

Since that time, the Biotechnology Industry Organization (BIO) has launched a lobbying campaign against the amendment, and has now enlisted the political aid of the broader ''Coalition for the Advancement of Medical Research'' (CAMR), an umbrella organization of groups supporting human cloning for research purposes.

BIO and CAMR claim to support the current policy of the U.S. Patent and Trademark Office (USPTO) against patenting human beings. However, they oppose this amendment, saying it would have a far broader scope—potentially prohibiting patents on stem cell lines, procedures for creating human embryos, prosthetic devices, and in short almost any drug or product that might be used in or for human beings.

The absurdity of these claims is apparent when one compares the language of the amendment with the language of the current USPTO policy that these groups claim to support.

The House-approved amendment reads:

''None of the funds appropriated or otherwise made available under this Act may be used to issue patents on claims directed to or encompassing a human organism.''

The current USPTO policy is set forth in two internal documents:

U.S. Patent and Trademark Office, ''Notice: Animals—Patentability,'' 1077 Official Gazette U.S. Pat. and Trademark Off. 8 (April 21, 1987):

''The Patent and Trademark Office now considers non-naturally occurring non-human multicellular living organisms, including animals, to be patentable subject matter within the scope of 35 U.S.C. 101. . . . A claim directed to or including within its scope a human being will not be considered patentable subject matter under 35 U.S.C 101. The grant of a limited, but exclusive property right in a human being is prohibited by the Constitution. Accordingly, it is suggested that any claim directed to a non-plant multicellular organism which would include a human being within its scope include the limitation 'non-human' to avoid this ground of rejection.''

(This notice responded to the Supreme Court's 1980 decision in Chakrabarty concluding that a modified ''microorganism,'' a bacterium, could be patented, and a subsequent decision by the USPTO's own Board of Appeals in Ex parte Allen that a multicellular organism such as a modified oyster is therefore patentable as well. The USPTO sought to ensure that these policy conclusions would not be misconstrued as allowing a patent on a human organism.)

U.S. Patent and Trademark Office, Manual of Patent Examining Procedure (Revised February 2003), Sec. 2105: ''Patentable Subject Matter—Living Subject Matter'':

''If the broadest reasonable interpretation of the claimed invention as a whole encompasses a human being, then a rejection under 35 U.S.C. 101 must be made indicating that the claimed invention is directed to nonstatutory subject matter.''

In other words, the USPTO clearly distinguishes between organisms that are nonhuman and therefore are patentable and those organisms that are human and therefore not patentable subject matter.

As a USPTO official testified recently to the President's Council on Bioethics:

''When a patent claim includes or covers a human being, the USPTO rejects the claim on the grounds that it is directed to non-statutory subject matter. When examining a patent application, a patent examiner must construe the claim presented as broadly as is reasonable in light of the application's specification. If the examiner determines that a claim is directed to a human being at any stage of development as a product, the examiner rejects the claims on the grounds that it includes non-statutory subject matter and provides the applicant with an explanation. The examiner will typically advise the applicant that a claim amendment adding the qualifier, non-human, is needed, pursuant to the instructions of MPEP 2105. The MPEP does not expressly address claims directed to a human embryo. In practice, examiners treat such claims as directed to a human being and reject the claims as directed to non-statutory subject matter.'' (Testimony of Karen Hauda on behalf of USPTO to the President's Council on Bioethics, June 20, 2002, http://bioethicsprint.bioethics.gov/transcripts/jun02/june2I session5.html)

Current USTPO policy, then, is that any claim that can reasonably be interpreted as ''directed to'' or ''encompassing'' a human being, and any claim reaching beyond ''nonhuman'' organisms to cover human organisms (including human embryos), must be rejected. My amendment simply restates this policy, providing congressional support so that federal courts will not invalidate the USPTO policy as going beyond the policy of Congress (as they invalidated the earlier USPTO policy against patenting living organisms in general).

Literally the only difference between my amendment and some of these USPTO documents is that the amendment uses the term ''human organism,'' while the USPTO usually speaks of the non-patentability of (anything that can be broadly construed as) a ''human being.'' But ''human organism'' is more politically neutral and more precise, having a long history of clear interpretation in federal law.

Since 1996, Congress has annually approved a rider to the Labor/HHS appropriations bill that prohibits federal funding of research in which human embryos are created or destroyed—and this rider defines a human embryo as a ''human organism'' not already protected by older federal regulations on fetal research. In December 1998 testimony before the Senate Appropriations Subcommittee on Labor/HHS/Education, a wide array of expert witnesses—including NIH Director Harold Varmus and the head of a leading company in BIO—testified that this rider does not forbid funding research on embryonic stem cells, because a human embryo is an ''organism'' but a stem cell clearly is not (see S. Hrg. 105–939, December 2, 1998). That same conclusion was later reached by HHS general counsel Harriet Rabb, in arguing that the Clinton administration's guidelines on stem cell research were in accord with statutory law; this same legal opinion was accepted by the Bush administration when it issued its more limited guidelines for funding stem cell research (Legal memorandum of HHS general counsel Harriet S. Rabb, ''Federal Funding for Research Involving Human Pluripotent Stem Cells,'' January 15, 1999). To argue now that a ban on patenting ''human organisms'' somehow bans patenting of stem cells or stem cell lines would run counter to five years of legal history, and would undermine the legal validity of any federal funding for embryonic stem cell research.

BIO also claims that the amendment raises new and difficult questions about ''mixing'' animal and human species. What about an animal that is modified to include a few human genes so it can produce a human protein or antibody? What about a human/animal ''chimera'' (an embryo that is half human, half animal)? The fact is, these questions are not new. The USPTO has already granted patents on the former (see U.S. patent nos. 5,625,126 and 5,602,306). It has also thus far rejected patents on the latter, the half-human embryo (see Biotechnology Law Report, July-August 1998, p. 256), because the latter can broadly but reasonably be construed as a human organism. The Weldon amendment does nothing to change this, but leaves the USPTO free to address new or borderline issues on the same case-by-case basis as it already does.

In short, my amendment has exactly the same scope as the current USPTO policy, and cannot be charged with the radical expansions of policy that BIO and its allies claim. In reality, BIO opposes this amendment because it opposes the current USPTO policy as well, and has a better chance of nullifying this policy in court (or having courts reinterpret it into uselessness) if it lacks explicit support in statutory law.

This goal is apparent from BIO's own ''fact sheet'' opposing the amendment (see www.bio.org/ip/cloningfactsheet.asp). There BIO argues that human beings should be patentable, if they arise from anything other than ''conventional reproduction'' or have any ''physical characteristics resulting from human intervention.'' In other words, humans should be seen as ''inventions'' and thus be patentable on exactly the same grounds as animals are now.

The logic of this argument reaches beyond the human embryo, because an embryo who resulted from reproductive technology or received any physical or genetic modification presumably remains just as invented throughout his or her existence, no matter what stage of development he or she reaches.

BIO's stated support for reducing members of the human species to patentable commodities makes the passage of my amendment more urgently necessary than ever.

CONGRATULATIONS TO CHARLES E. KRUSE, DISTINGUISHED EAGLE SCOUT

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 5, 2003

Mr. SKELTON. Mr. Speaker, it has come to my attention that my good friend, Charles E. (Charlie) Kruse, President of the Missouri Farm Bureau Federation, has been named as the next recipient of the Distinguished Eagle Scout Award. As an Eagle Scout myself, let me take this means to pay tribute to Charlie for reaching this important milestone.

The Distinguished Eagle Scout Award (DESA) was established in 1969. It is granted to Eagle Scouts who received the Eagle Scout rank 25 or more years ago and who have distinguished themselves in their professional life and in their communities on a voluntary basis. The award is granted by the National Eagle Scout Association upon nomination by a local council and selection by a committee of nationally prominent DESA recipients.

In his personal and professional life, Charlie Kruse has established himself as a true role model for patriotic Americans. His life work has far exceeded the guidelines established for receiving this respected award. He has served the American people and the residents of Missouri in the military, as a member of the Governor's cabinet, on the Missouri University Board of Curators, and on many national commissions and boards. He has also worked to enhance the prosperity of his community through church and volunteer activities.

Charlie currently serves as President of the Missouri Farm Bureau Federation. In his role, he represents over 100,000 Missourians and provides Members of Congress from the Show-Me State with useful information about what farmers and ranchers are saying about U.S. agricultural policy. Farm Bureau's advice is critical to shaping a national agricultural agenda in a way that benefits Missourians, and I appreciate hearing from Charlie and all Farm Bureau members.

Mr. Speaker, I know that all my House colleagues will join me in paying tribute to Charlie Kruse as he receives the Distinguished Eagle Scout Award. He truly deserves this recognition.

COMMENDING CAPTAIN FRANCIS EDWARD SABLAN, JR., ON THE OCCASION OF HIS RETIREMENT FROM THE UNITED STATES NAVY

HON. MADELEINE Z. BORDALLO

OF GUAM

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 5, 2003

Ms. BORDALLO. Mr. Speaker, I rise today to commend Captain Francis Edward Sablan, Jr., for nearly 25 years of service to his country in the United States Navy. Our Nation appreciates his courage and commitment to ensuring our security, and I want to express my personal gratitude to Captain Sablan as family and friends gather to honor his achievements on the occasion of his retirement.

Born in Hagåtña, Captain Sablan has proudly followed in the footsteps of his father in serving in the United States Navy. His father, Francis Edward Sablan of Yigo served as a Chief Warrant Officer in the U.S. Navy. Captain Sablan credits his father with encouraging him to pursue a career in the military. His mother, Maria San Nicolas Sablan, of Sinajana also provided many years of valuable support services to our Nation's men and women in uniform while working for the Department of the Navy, Naval Air Station Agana.

Captain Sablan was commissioned as an Ensign on May 30, 1979, at the U.S. Naval Academy in Annapolis, Maryland. He, along with fellow classmates and graduates Benny Fergurgur, Pedro Leon Guerrero, Frank Leon Guerrero and Francis Cruz, proudly represented Guam together at the U.S. Naval Academy. Their hard work and dedication has exemplified the patriotism and leadership qualities of the citizens of Guam and helped pave the way for future generations of talented young Chamorros to study at Annapolis.

Congratulations Captain Sablan on reaching this tremendous milestone. You have served your Nation and the people of Guam with dignity and courage. As you make the transition from active duty to civilian life, know that your contributions and legacy in the U.S. Navy will not be forgotten.

THE ''DEBT TAX'' THREATENS AMERICA'S ECONOMIC FUTURE

HON. DENNIS MOORE

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 5, 2003

Mr. MOORE. Mr. Speaker, as a member of the House Budget Committee and as a member of the Blue Dog Coalition, I have grown increasingly concerned over the impact that rapidly increasing federal government payments on our national debt have had upon our country's economy and upon the economic condition of individual citizens. A recent column in the Boston Globe discusses these concerns in a thoughtful and focused way; I commend to you and to my colleagues the analysis of Byron Auguste, a partner at a global management consulting firm, and Mark Strama, a technology executive and the former director of programs at Rock the Vote. They are directors of the Hope Street Group, a nonprofit organization of young business professionals.

[From the Boston Globe, Nov. 3, 2003]

THE BIGGEST ''TAX'' IS DEBT

(By Byron Auguste and Mark Strama)

In recent years, much has been made over the repeal of the estate tax—or ''death tax.'' Much less attention has been paid to a far more pernicious tax—the ''debt tax''—which is bigger than the estate tax, capital gains tax, and so-called ''marriage tax'' combined.

When the Democratic presidential candidates convene here on Tuesday to engage a skeptical generation of younger voters at the Rock the Vote debate, we ask them to address the debt tax as the most important issue affecting young Americans today. American taxpayers paid $332.5 billion in interest last year on the national debt. This huge payment, equal to 11 percent of the total federal budget, does not improve education, enhance homeland security, or rebuild Iraq. It merely services the $6.6 trillion (and growing) national debt. These interest payments are a ''debt tax''—a tax that drains income without producing any material benefits for taxpayers.

Today's average American household pays an astounding $3,153 in taxes annually just to service the debt—about enough to lease a car for a year. These debt tax payments are required because of the fiscal irresponsibility of previous federal budgets.

A government running a large national debt is like an individual running a big balance on a credit card. Most American households use credit cards, and more than half of cardholders carry over credit card debt from one month to the next. But few would go as far as the federal government currently does; today's national debt is the equivalent of a whopping $62,000 on each family's credit card. And each month, the debt is rolled over, with no plans to pay down the principal.

The debt tax is likely to grow in the coming years, placing an enormous burden on tomorrow's taxpayers. Even if the national debt does not increase, projected increases in interest rates will increase the cost of borrowing money—increasing the debt tax.

But the national debt is increasing, because the government is spending beyond its means. In the past three years, federal spending has increased by 13.5 percent. Only half of this increase is attributable to the war on terrorism. And this figure does not even include the $87 billion recently requested for our efforts in Iraq and Afghanistan.

Meanwhile, the tax cuts of 2001 and 2003 are projected to reduce revenues by $1.35 trillion. Even if interest rates remain constant, this year's budget alone will add approximately $22 billion to annual interest payments—$22 billion in debt taxes. ''Tax relief'' for today's taxpayers is, plain and simple, a tax increase for tomorrow's taxpayers.

As a result these factors—rising interest rates, growing spending, and massive tax cuts—the debt tax burden will continue to mushroom. The administration's own projections show the debt growing by half through 2008. This means that in five years, the average family could be paying between $4,500 and $6,000 or more each year in debt tax alone.

The problem is compounded by the impending retirement of the baby boomers, whose tax contributions will decline at precisely the same time entitlement spending to support them will explode. For younger voters, this is like watching a train wreck in slow motion. We see the impact that is about to occur, and we are the ones who are going to get crushed.

It's not too late to avoid disaster, but doing so will require sustained, rigorous focus by our leaders. While many Democrats and Republicans have criticized current fiscal policies, none has introduced a plan that will solve the debt tax. The time has come for our leaders to step up to the plate.

Americans understand this problem and are willing to help solve it. A recent Gallup poll revealed that by a 53 to 41 percent margin, Americans say they would rather hold down the federal deficit than lower their taxes.

Each generation of Americans has had the opportunity to determine our nation's priorities. In the middle of the 20th century, our grandparents expanded higher education and homeownership. Over the past 35 years, our parents invested in fighting communism abroad and poverty at home. Will our generation have similar opportunities, or will our only choice be to service the debts of our predecessors?

The debt tax is a problem with grave consequences for our future. It is a problem that won't be solved until we start talking about it. For the sake of our generation of voters, we hope the presidential candidates will start the discussion this week.

STOP TREATING VETERANS LIKE A LINE IN THE BUDGET

HON. RODNEY ALEXANDER

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 5, 2003

Mr. ALEXANDER. Mr. Speaker, I rise tonight to remind my colleagues that our nation made a solemn pledge to our veterans that needs to be fulfilled.

Since the birth of our nation, patriots—citizen soldiers—have risked their lives to defend our freedom. They committed their lives to our defense and in exchange for that service we, the United States of America, committed to care for them and their families.

Our veterans have kept their promise. For over two centuries the men and women in our military have served us well. They've carried a heavy burden and sacrificed selflessly to ensure that our country remains a stronghold for liberty and freedom for all.

Unfortunately, we haven't done so well by them. While we have praised our troops in times of danger, we all too quickly turn our backs when we are safe. Using justifications like a tight economy or higher priorities, veterans programs have repeatedly been shortchanged and neglected. For over a century disabled veterans have been subjected to unfair taxation and worst of all, America has come to regard our veterans as just another number in the federal budget.

In these days of bottom lines and more-bang-for-the-buck we seem to have forgotten the truth behind those numbers. Every single veteran is a man or woman who has served our country and earned their benefits. I represent over fifty thousand veterans; that's not a number; that's fifty thousand individual patriots who have sacrificed for us and who are now due what we promised them.

Mr. Speaker, it's time for the United States to stop treating our veterans like a line in the budget. We must pay what we owe those brave men and women for the service they've given. It's a small price to pay for the freedom we enjoy.

CPL CHARLES W. LINDBERG

HON. MARK R. KENNEDY

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 5, 2003

Mr. KENNEDY of Minnesota. Mr. Speaker, I rise today to pay tribute to a true American hero, Cpl Charles W. Lindberg. Like so many of our veterans, he put his life on the line so that we might live in peace, free from tyranny and oppression. On the morning of February 23, 1945, six brave young Marines—Jim Michels, Hank Hansen, Louis Charlo, Boots Thomas, Harold Schrier, and Charles Lindberg—trudged up the steep slopes of Mt. Suribachi on Iwo Jima, dodging grenades and machine gun fire, to destroy an enemy outpost. There they planted the first American flag on Iwo Jima, marking the first plot of native Japanese soil captured by Americans in World War II. This historic event paved the way for the raising of the second American flag, immortalized in Joe Rosenthal's Pulitzer Prize winning photograph as one of our greatest symbols of freedom, triumph and courage. Sadly, Cpl Charles W. Lindberg is the sole remaining survivor of this fearless group. However, Cpl Lindberg's selfless devotion to his country did not end on the battlefield. Cpl Lindberg worked hard to improve our country and the lives of our soldiers. Today, he continues to devote himself to veterans, veterans organizations, and his community. I salute Cpl Charles W. Lindberg for his ever-lasting spirit of patriotism, bravery, dedication, and service to his community and country.

LT COL ROBERT HAGEN

HON. C.A. DUTCH RUPPERSBERGER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 5, 2003

Mr. RUPPERSBERGER. Mr. Speaker, I rise today to pay tribute to a great American, Lt. Col. Robert Hagen.

Col. Hagen is a career Army officer with 24 years of service. He has served in the Guard, Reserves and Active Duty—and he is currently a Reservist on his 16th tour in 7 years.

Col. Hagen was in Saudi Arabia for a temporary tour of duty during the September 11 attacks on the base just outside of Riyadh and he was responsible for keeping the soldiers on the base informed. I'm sure all Americans abroad at that time—particularly those in uniform—would have preferred being closer to home and protecting those on the home front in harm's way. This was especially true for soldiers like Col. Hagen who knew many working at the Pentagon and lost six friends that fateful day. But through that terrible time in our Nation's history, so many like Col. Hagen remained abroad, steadfast in protecting American democratic principles throughout the world.

Col. Hagen returned to Washington in December 2001 on assignment to the Pentagon as deputy chief of Army Communications in the office of the chief of Public Affairs. In this position, Col. Hagen oversaw the public affairs duties at Baltimore-Washington International Airport for troops returning from Iraq and Afghanistan on the Rest & Recuperation program. It was in this capacity that I had the great fortune to first meet the Colonel.

Always calm and assured speaking simultaneously into a cell phone, making decisions, answering questions and enthusiastically welcoming troops home as they disembark from planes, Col. Hagen has been an incredible force at BWI during this historic R&R program that brought troops stateside for the first time in DoD history. Always committed to doing what is best for the soldiers, I am grateful to Col. Hagen for his work and his efforts each day.

I am also grateful for his support for Operation Hero Miles, a program coordinated through my office to correct a great injustice. For soldiers coming home on R&R and facing the incredibly unfair financial burden of paying for last minute flights home from BWI, Operation Hero Miles collects frequent flier miles to give soldiers in need free tickets home. Col. Hagen was on board with this program from the start and helped us to understand what was needed to make it work. Again, this is just another example of his commitment to do what is best for the soldiers.

Col. Hagen's last day on this Washington assignment is November 14, 2003 and then he will begin home for his 29th cross-country drive back to the west coast. As he does so, I wish to thank him for his dedication to this Nation and to the service men and women who so bravely protect it. I thank his wife Sharon Hagen for her support when Col. Hagen's work took him so far away from home so often.

Mr. Speaker, I ask my colleagues to join me in thanking Col. Hagen for his service and for his work on behalf of America's service men and women and our Nation.

PERSONAL EXPLANATION

HON. ED CASE

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 5, 2003

Mr. CASE. Mr. Speaker, I rise today to address the 26 votes I missed during the period October 29th through October 31st due to my participation in an official Congressional delegation to Iraq approved by you. Although I regret these missed votes, there is no question that that trip was indispensable to a more complete understanding of our intervention in Iraq.

I wish to state for the RECORD how I would have voted on these 26 votes.

On rollcall votes 580, 584, 585, 588, 589, and 590, motions to adjourn, I would have voted ''no.''

On rollcall vote 581, approval of the journal, I would have voted ''aye.''

On rollcall vote 576, passage of H.R. 1720, the Veterans Health Care Facilities Capital Improvement Act, I would have voted ''aye.''

On rollcall vote 577, passage of H.R. 1516, the National Cemetery Expansion Act of 2003, I would have voted ''aye.''

On rollcall vote 578, passage of H.R. 3365, the Fallen Patriots Tax Relief Act, I would have voted ''aye.''

On rollcall vote 579, passage of H. Res. 414, to encourage the People's Republic of China to fulfill its commitments under international trade agreements, support the United States manufacturing sector, and establish monetary and financial market reforms, I would have voted ''aye.''

On rollcall vote 582, passage of 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, I would have voted ''aye.''

On rollcall vote 583, passage of H.J. Res. 75, making further continuing appropriations for the fiscal year 2004, I would have voted ''aye.''

On rollcall 584, on ordering the previous question on H. Res. 422, providing for consideration of the conference report to accompany H.R. 2115, FAA Reauthorization Act, I would have voted ''no.''

On rollcall vote 587, on passage of H. Res. 422, providing for consideration of the conference report to accompany H.R. 2115, FAA Reauthorization Act, I would have voted ''no.''

On rollcall vote 591, motion to recommit the conference report to accompany H.R. 2115, FAA Reauthorization Act, I would have voted ''aye.''

On rollcall vote 592, passage of H.R. 2115, FAA Reauthorization Act, I would have voted ''no.''

On rollcall 593, passage of H. Res. 409, repudiating anti-Semitic remarks expressed by Dr. Mahathir Mohamad, I would have voted ''aye.''

On rollcall vote 594, motion to recommit the conference report to accompany H.R. 2691, the FY2004 Department of Interior Appropriations Act, I would have voted ''aye.''

On rollcall vote 595, passage of the conference report to accompany H.R. 2691, the FY2004 Department of Interior Appropriations Act, I would have voted ''no.''

On rollcall 596, passage of H. Con. Res 302, expressing a sense of Congress welcoming President Chen Shui-bian of Taiwan to the United States on October 31, 2003, I would have voted ''aye.''

On rollcall vote 597, on agreeing to H. Res. 421, waiving a requirement of clause 6(a) of rule XIII with respect to consideration of certain resolutions reported from the Committee on Rules (martial law for consideration of H.R. 3289, Emergency Supplemental Appropriations), I would have voted ''no.''

On rollcall vote 598, the Johnson motion to instruct conferees on H.R. 6, the Energy Policy Act of 2003, I would have voted ''aye.''

On rollcall vote 599, the Davis motion to instruct conferees on H.R. 1, the Medicare Prescription Drug and Modernization Act, I would have voted ''aye.''

On rollcall vote 600, motion to recommit with instructions H.R. 3289, the Emergency Supplemental Appropriations for Defense and for the Reconstruction of Iraq and Afghanistan for FY2004, I would have voted ''no.''

On rollcall vote 601, agreeing to the conference report to accompany H.R. 3289, the Emergency Supplemental Appropriations for Defense and Reconstruction of Iraq and Afghanistan, I would have voted ''aye.''

Mr. Speaker, thank you for the opportunity to confirm my position on these important votes during my necessary absence.

RECOGNIZING CHRISTOPHER DODSON FOR ACHIEVING THE RANK OF EAGLE SCOUT

HON. SAM GRAVES

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 5, 2003

Mr. GRAVES. Mr. Speaker, I proudly pause to recognize Christopher Dodson, a very special young man who has exemplified the finest qualities of citizenship and leadership by taking an active part in the Boy Scouts of America, Troop 376, and in earning the most prestigious award of Eagle Scout.

Chris has been very active with his troop, participating in many scout activities. Over the years Chris has been involved with scouting, he has held numerous leadership positions, serving as Chaplain's Aide, Librarian, Patrol Leader, and Senior Patrol Leader. Chris is also a Brotherhood Member in the Order of the Arrow and a Tom-tom Beater in the Tribe of Mic-O-Say. Chris served on staff at H. Roe Bartle Scout Reservation during the summer of 2003, and has earned a total of 33 merit badges.

For his Eagle Scout project, Chris lead a group of Boy Scouts on a work project at the New Hope Retreat Center in Holt, Missouri. For the project, they built two fences around dumpsters, cleared land around the entrance to the camp, leveled out the area, and replanted flowers and shrubs.

Mr. Speaker, I proudly ask you to join me in commending Christopher Dodson for his accomplishments with the Boy Scouts of America and for his efforts put forth in achieving the highest distinction of Eagle Scout.

UNWELCOME TRUTHS

HON. FRANK R. WOLF

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 5, 2003

Mr. WOLF. Mr. Speaker, I am very concerned about the current human rights situation in North Korea and that nation's pursuit of a nuclear weapons program. The leadership of the North Korean government has proven to be volatile and unpredictable with a tight rein on a very closed, repressed society.

Thousands of American soldiers are stationed in South Korea to ease the tensions between North and South Korea.

The North Korean government is one of the worst abusers of human rights in the world, and 1.5 million North Koreans have already died of starvation. The international community must pressure North Korea to reach an agreement to end its quest for nuclear weapons. A country that suppresses its people and poses a threat to its neighbors cannot be allowed to possess nuclear weapons.

I submit for the RECORD a recent Wall Street Journal article detailing a proposal from Hwang Jang Yop, North Korea's highest-ranking defector. Hwang's proposal for peace and security focuses on regime change and a larger international focus on the human rights situation.

[From the Wall Street Journal, Oct. 28, 2003]

UNWELCOME TRUTHS

(By Melanie Kirkpatrick)

SEOUL—North Korea's highest-ranking defector arrived safely in Washington yesterday despite North Korea's threat to ''shoot his plane out of the sky'' if he dared to visit the U.S.

This is the first trip to the U.S. for Hwang Jang Yop, the former head of North Korea's Workers Party and president of Kim Il Sung University who defected to the South in 1997. He brings with him a two-prong proposal for what he calls the peaceful reunification of the Korean Peninsula: regime change and greater international focus on the human-rights abuses of the North. In an interview here on the eve of his departure, Mr. Hwang said: ''I want to emphasize the importance of eliminating the Kim Jong Il regime.'' How to do that? ''The U.S. should put the issue of human rights at the top of its agenda in its dialogue'' with North Korea.

Mr. Hwang is an unlikely champion of human rights in North Korea. Now 80 years old, he spent his career in the service of the brutal regime he now denounces. He was the North's ideologue-in-chief—founder and leading proponent of the ''juche'' ideology of self-reliance that Kim Il Sung, father of current leader Kim Jong Il, used to justify his totalitarian rule. The old Stalinist now says both Kims distorted his philosophy, which is really about ''democracy.''

One would think that the one place in the world where the campaign to free the North Korean people would be taken most seriously would be South Korea, where Mr. Hwang lived under virtual house arrest until recently. Think again.

Most Koreans are well informed about the brutal realities of life in the North but prefer to look the other way. It's much pleasanter to contemplate reunification fantasies such as the one portrayed in a recent hit movie about a cross-border romance between a South Korean woman and a North Korean soldier. Last week's chilling report on the North Korean gulags made it into some South Korean papers but wasn't front-page news. Students demonstrated against Mr. Hwang's U.S. visit last week, protesting his anti-North Korea message.

If the South Korean people seem indifferent to the plight of their brothers and sisters in the North, it's in large part because their political leaders remain silent. President Roh Moo Hyun was a human-rights lawyer before taking office earlier this year but human rights north of the DMZ is way down on his priority list. To his credit, Mr. Roh is allowing Mr. Hwang to visit the U.S.—something his predecessor, Kim Dae Jung (another human-rights activist who lost his voice when it came to the human-rights horrors in the North) refused to permit for fear of angering Kim Jong Il.

The official refusal to speak out about the human-rights abuses of Kim Jong Il's regime was on full display last week during an interview with the South's minister of unification, whom I met on the day the gulag report was released. For North Koreans, Minister Jeong Se Hyun said, ''political freedom is a luxury, like pearls for a pig. The improvement of economic conditions for the North Korean people is the most important issue right now.''

''Once the economic situation is improved,'' he said, then North Korea can focus on human rights. As for linking any deal with the North to progress on human rights: ''I don't think it would be wise or effective if we try to negotiate the human rights condition or to pursue our policies with human rights as a condition,'' Mr. Jeong said. In other words: Whatever you do, don't annoy Kim Jong Il.

South Korea's constitution requires it to welcome any North Korean who wants to come to the South. Yet in the 50 years since the end of the Korean War, the South has accepted fewer than 3,000 refugees. Most have come in the past two years, thanks in large part to the efforts of several private groups dedicated to helping North Koreans find refuge in the South.

The rescuers, many of whom are Christian, differ among themselves over how best to help. One faction prefers to work out of the public eye. Another faction pursues high-profile tactics such as helping asylum-seekers flood embassies in China. Its aim is to draw international attention to the plight of the quarter-million or more North Korean refugees hiding in China.

There's another aspect too—money. ''I don't mean to sound mercenary,'' says Tim Peters, an American missionary here. ''But in some respects running into a consulate in China is cost effective.'' Smuggling a refugee out through Mongolia or Vietnam costs $1,000 to $3,000 per person, he says. Mr. Peters adds that money also talks in North Korea's gulags. ''It's easier to spring someone from a North Korean prison than from a Chinese prison,'' he says.

The high-profile tactics are taking their toll on rescuers' ability to help the North Korean refugees in China. Police security around embassies and consulates is tighter than ever. In the past five or six months, the highly effective Chinese intelligence service appears to have replaced provincial police in tracking down refugees. This is one reason, rescuers believe, for the failure of a plan earlier this year to smuggle out two boatloads of refugees from a northern Chinese port.

It is also becoming more treacherous along China's border with North Korea, where two million ethnic Koreans have long helped feed, house and hide those fleeing North Korea. Last month China sent 150,000 soldiers to replace the border guards, a measure viewed in the rescuer community as a crackdown on border crossings.

The four or five South Koreans in jail in China for helping refugees have received little help from their government. In contrast, Japan aggressively sought—and got—the release of two of its citizens arrested in China for helping refugees. It's a powerful deterrent for South Koreans who want to help to realize that their government won't come to their aid if they are arrested.

In Seoul, a few opposition politicians are finally beginning to turn their attention to human rights in the North. Park Jin, spokesman of the Grand National Party, which holds a majority in the National Assembly, faults the Roh government for ''avoiding the issue.'' His party urges the government to do two things: press China to let the United Nations have access to the refugees and prepare South Korea for a possible flood of refugees. ''We have an obligation to help,'' he says.

Another eloquent voice is Kim Suk Woo, former vice minister of unification and now in the powerful post of chief of staff to the speaker of the National Assembly. ''As Koreans, we have a duty to support the refugees. As human beings we have a duty to support them,'' says Mr. Kim. ''This kind of exodus could be a catalyst for the collapse of Kim Jong Il's regime.''

The Roh administration ''is careful not to provoke North Korea,'' he says. He is particularly scornful of Seoul's refusal last April to support a U.N. resolution condemning the North's human-rights abuses. And he criticizes the decision by the government of Kim Dae Jung—continued by the Roh government—to halt the South's air drops of radios into the North. All radios in North Korea must be registered with the authorities and permanently tuned to government stations. A South Korean radio is a listening post on freedom.

There's a debate in Seoul over Mr. Hwang's motives in calling attention to the North's

human-rights abuses. Some believe him to be sincere; others say he is looking for publicity. But still others suggest the defector could be driven by guilt over what happened after he left Pyongyang. Information doesn't readily make its way out of North Korea. But when it's useful to his purposes, Kim Jong Il makes sure certain news is delivered.

And so the word has filtered back to Mr. Hwang in Seoul about the fate of the family he had left behind. His wife committed suicide. So too, the reports say, did one of his daughters. She is said to have jumped off a bridge to her death while being taken to a prison camp. Two other daughters and a son are lost in the gulag.

This is the reality of life in North Korea—and the truth that Mr. Hwang will be telling in Washington this week.

BURMA

HON. MARK E. SOUDER

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 5, 2003

Mr. SOUDER. Mr. Speaker, I rise today to highlight the continuing and deeply troubling situation in Burma. Last week over 900 Buddhist monks marched through the streets of Mandalay. The military thugs ruling Burma responded by shooting, beating, and smoke bombing the demonstrators.

Unfortunately, news of this latest affront to peace and democracy has not reached a wide audience. With limited exception, the plight of the people of Burma and its duly elected leader Aung San Suu Kyi are never reported in the press.

There is no doubt as to the ruthlessness and brutality of the State Peace and Development Council (SPDC). The evil dictators continue to rape, enslave, imprison, and murder innocent civilians from every ethnic group. Despite talk about democracy and road maps toward peace and civilian rule, we have seen no tangible and positive steps in that direction. Their actions betray their real motives and goals.

For the past few years, the United Nations has undertaken a process of trying to convince Burma's military regime to engage in a dialogue with the legitimate leaders of Burma. We must recognize that the United Nations process, as it has played out, has failed. The efforts at gently persuading the Burmese regime to move in a positive direction while simultaneously warding off international pressure have been fruitless.

The United Nations must re-evaluate its policies and Burmese strategy. U.N. pronouncements on Burma have not told the world of the full situation in Burma. They have not condemned the military for its actions. We need to find a new U.N. envoy to Burma and give this person the authority to rally international pressure against Burma's military regime.

Although the United States and a number of other nations have increased the pressure on the SPDC, we must encourage other nations, particularly Burma's neighbors, to end their support of the current regime.

India must be made aware that $57 million lines of credit to the regime and doubling Indo-Burmese trade do not help promote democracy and human rights in Burma.

Thailand must be told that increasing cross border contacts with the Burmese government will not bring democracy to Burma, stem the flow of refugees across the border, nor end the trade in illegal narcotics currently being supported by the Burmese military.

Freedom will come to Burma. The United States must assist the Burmese forces for freedom and democracy. We must do so sooner, not later.

FINANCIAL PLANNING WEEK RESOLUTION

HON. TODD RUSSELL PLATTS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 5, 2003

Mr. PLATTS. Mr. Speaker, I introduced House Concurrent Resolution 176 to reaffirm the value of sound financial planning in achieving life's goals and to recognize the dedication of American families and financial planning professionals for their adherence to the financial planning process.

Across our Nation, financial planning helps American families manage higher education costs, purchase homes for the first time, and achieve short and long-term financial objectives. Sound financial planning empowers American workers and their families to successfully overcome unexpected financial challenges, preserve personal wealth, and to improve their overall quality of life. As my colleagues and I debate national economic policy in the United States Congress, it is equally important to emphasize the benefits of sound financial planning to the American family.

I would like to commend the Financial Planning Association and its members in South Central Pennsylvania and across our Nation for their work in increasing public awareness about the importance of sound financial planning.

Mr. Speaker, I urge all Members to join me in supporting the financial planning profession and all American families striving to realize the American dream by passing this important resolution and promoting the week of October 6, 2003 as Financial Planning Week.

PERSONAL EXPLANATION

HON. JO BONNER

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 5, 2003

Mr. BONNER. Mr. Speaker, on November 4, I was not able to vote on rollcall votes Nos. 602 and 603. I was unavoidably detained in my district. Had I been present, I would have voted ''aye'' on rollcall 602 and ''aye'' on rollcall 603.

PAYING TRIBUTE TO ETHEL RICE

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 5, 2003

Mr. McINNIS. Mr. Speaker, I rise before this body of Congress and this nation today to pay tribute to an outstanding citizen from my district. Ethel Rice of Gunnison, Colorado has provided years of selfless and committed service to Western State College. For her dedication and tremendous generosity, I am honored to pay tribute to Ethel's accomplishments here today.

Ethel served as Western State's librarian for thirty-six years, and helped to ensure that the library ran smoothly. She aided the students, faculty, and guests of Western State in getting the information they needed. In addition to being a librarian, Ethel is a self-made millionaire and philanthropist who has invested her money for years to accumulate a sizable savings. Several years ago, an anonymous donor gave $1 million to the college. Ethel only recently, and reluctantly, announced that she was the one responsible for this extremely charitable donation. Ethel's tremendous generosity has created two scholarships and helped many Western State students with their education. Her altruistic spirit has even inspired others to make similar donations to the college.

Mr. Speaker, Ethel Rice's generosity and commitment to her community are an inspiration to us all. She has given more than money; she has given hope for generations to come. While Ethel has retired from her position at Western State College, she remains active in the community, and her influence is sure to be felt for many years to come. I am honored to join with my colleagues in recognizing the generosity of Ethel Rice here today.

RECOGNIZING NATIONAL PARKS AMERICA TOUR VOLUNTEER DAY

HON. JON C. PORTER

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 5, 2003

Mr. PORTER. Mr. Speaker, I rise today to salute the volunteers and organizers of the National Park America Tour. This outstanding event is bringing together community leaders and volunteers to clean and improve our Nation's parks and natural treasures. In my own community, the National Parks America Tour will work to improve Lake Mead on November 8, 2003. Lake Mead is one of the foremost recreational sites in our country, as well as the primary source of water and power for Southern Nevada and much of the Southwestern United States. I am proud to represent Lake Mead and bring attention to its unique value and needs. I salute all of the participants in the National Parks America Tour and its sponsors, Wal-Mart and Unilever. Working together, we can preserve and enhance Lake Mead for the community, tourists, and for future generations.

PERSONAL EXPLANATION

HON. PHIL ENGLISH

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 5, 2003

Mr. ENGLISH. Mr. Speaker, I was unable to be present for rollcall votes 602 and 603 on November 4, 2003. Had I been present, I would have voted in the following manner:

''Yea'' on H. Con. Res. 176—Supporting Financial Planning Week.

''Yea'' on H. Con. Res. 94—Direct Support Professional Recognition.

PAYING TRIBUTE TO REGIONAL TRANSPORTATION DISTRICT

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 5, 2003

Mr. MCINNIS. Mr. Speaker, I rise before this body of Congress and this nation today to pay tribute to a fine organization, the Regional Transportation District (RTD) which provides public transportation in the Denver metropolitan area. RTD provides a reliable and efficient service to the citizens of Colorado, and was recently recognized with the American Public Transportation Association's Outstanding Public Transportation System Award. For its years of excellence and reliability, and its ongoing efforts to improve its service, I am honored to pay tribute to RTD and its employees here today.

Over the years, RTD has worked hard to serve the citizens of Denver, and continues to expand throughout the metropolitan area, serving more and more people each day. Even more impressive than its growth is RTD's commitment to safety and dependability. The administration has pursued an aggressive campaign to improve the safety of the public transportation system with stellar success: the accident rate has been cut in half and is at an all-time low. RTD is also dedicated to making public transportation available to all citizens, installing wheelchair lifts on their whole fleet and providing curb-to-curb service to people unable to use lift-equipped buses.

Mr. Speaker, the Regional Transportation District is committed to providing the people of Denver with safe and reliable public transportation. The employees of RTD continue to work hard to improve the system and to meet the needs of the Denver community. I am honored to join my colleagues here today in recognizing these worthy accomplishments.

BURMA

HON. JOSEPH CROWLEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 5, 2003

Mr. CROWLEY. Mr. Speaker, I stand today to express my frustration with the ongoing situation in Burma. For the past three years, the United Nations, with the full support of the United States, has attempted to spur talks between 1991 Nobel Peace Prize recipient Aung San Suu Kyi's political party the National League for Democracy, Burma's ruling military regime, and the country's ethnic groups.

Let me be blunt—that effort and the effort of the U.N. envoy designated to carry it out has failed. It has failed mainly because the regime refuses to participate in the talks. While the regime promises, as it has for the past fifteen years, to make a transition to democracy, there is absolutely zero evidence to suggest that this is true.

To make matters worse, the regime has been attacking and killing the very people they are supposed to be talking to. In May of this year, the regime attacked and killed scores of Aung San Suu Kyi's supporters. Just last month, the regime attacked and killed members of the Karen ethnic group. And, just a few days ago, the regime opened fire on a demonstration of Buddhist monks, killing one and injuring many more.

We need to breathe new life into this United Nations process, and that will require a serious diplomatic effort. To start with, we need a new United Nations special envoy for Burma—the present envoy's efforts have failed and he as of late has done nothing more than provide political cover for the regime. Second, we need the United Nations Security Council to pass a resolution condemning Burma. Third, the State Department must unequivocally reject ''roadmaps'' that have been promised by the Burmese regime and their Thai counterparts.

I believe that democracy is possible in Burma, and we agree with Secretary Powell when he said that we need to rally international support to stand up to Burma's ''thugs''. We need to move quickly to ensure that these words are acted upon.

PERSONAL EXPLANATION

HON. FRANK W. BALLANCE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 5, 2003

Mr. BALLANCE. Mr. Speaker, due to a district commitment, I was not present for rollcall votes Nos. 597 through 601. Had I been present, I would have voted ''no''; on rollcall vote no. 598, I would have voted ''yes''; on rollcall vote no. 599, I would have voted ''yes''; on rollcall vote no. 600, I would have voted ''yes''; on rollcall vote no. 601, I would have voted ''yes.''

PAYING TRIBUTE TO SHINICHI KOBAYASHI

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 5, 2003

Mr. MCINNIS. Mr. Speaker, I rise before this body of Congress to pay tribute to an extraordinary man. Earlier this year Shinichi Kobayashi traveled from his native Japan to Montrose, Colorado. He did this for one reason: to promote friendship and understanding between the children of our two nations.

A veteran educator, Shinichi has taught junior high school in Tokyo for fifteen years. He comes to the United States as part of the International Internship Program, which attempts to organize cultural exchanges in order to promote international understanding. Currently, Mr. Kobayashi is sharing the Japanese culture with students from Cottonwood Elementary School. In addition to teaching, Mr. Kobayashi has become involved in afterschool activities in his local community as well. In exchange, the children have taught Shinichi about American culture and the English language, lessons Shinichi will take back with him to Tokyo.

Mr. Speaker, Shinichi Kobayashi has dedicated his time and effort to promoting mutual understanding and goodwill between Japan and the United States. As the result of this dedication, many of Colorado's young people have had the opportunity to experience Japanese culture firsthand. For his efforts to advance understanding and promote international cooperation, I am honored to join with my colleagues in recognizing Shinichi Kobayashi here today.

HONORING THE EFFORTS OF MR. JOSEPH SHEPP

HON. JON C. PORTER

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 5, 2003

Mr. PORTER. Mr. Speaker, I rise today to pay tribute to Mr. Joseph Shepp, who has been awarded the AARP Andrus Award for Community Service in the State of Nevada for 2003. The Andrus Award honors the outstanding volunteering efforts of AARP volunteers and members in every state.

Mr. Shepp provides yet another example of service and volunteerism to the Southern Nevada community. He has demonstrated his service to the community through his service and commitment to organizations like Seniors and Law Enforcement Together and the Senior Assisted Living Project. We in Southern Nevada are fortunate to find yet another role model in Mr. Shepp. I wish him all the best in his future endeavors and congratulate him on this well-deserved award.

PERSONAL EXPLANATION

HON. NITA M. LOWEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 5, 2003

Mrs. LOWEY. Mr. Speaker, during an absence yesterday, I regrettably missed rollcall votes 602 and 603. Had I been present, I would have voted in the following manner: Rollcall No. 602: ''yea'' and rollcall No. 603: ''yea.''

TRIBUTE TO FRANKLIN AUBREY ''FRANK'' SPOONER, JR.

HON. SANFORD D. BISHOP, JR.

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 5, 2003

Mr. BISHOP of Georgia. Mr. Speaker, on Tuesday, September 27, the Second Congressional District of Georgia and the entire U.S. House suffered an irreparable loss with the passing of Franklin Aubrey ''Frank'' Spooner, Jr., who served as a case worker in our Albany, Georgia office for the past six years.

Many people have served in this institution longer but no one could have possibly served with greater courage, commitment, or concern and compassion for the people we strive to help. Although he suffered from a life-threatening health condition when he joined our staff, and was eventually given a terminal diagnosis, Frank worked as often and as hard as he could to the end. Even when death was

near, he focused more on the needs of others than on his own, remaining the same soft spoken, good humored, down-to-earth, hard-working, bright and decent guy we had always known.

Frank was born in Macon, Georgia and raised in Fort Gaines, Georgia. He attended Mercer University in Macon. He was a newspaper reporter; managed retail businesses; operated his own small business when he turned his baseball card hobby into a profession; and served as a social worker and finally a Congressional case worker. He often said he was doing exactly what he wanted to do. For him, there was no higher calling than helping others, and he did it extraordinarily well.

At an early age, he was diagnosed with a congenital kidney problem that eventually led to a transplant at the age of 23. When the transplant failed some years later, he was sustained with regular kidney dialysis. Several years ago, he was found to have cancer. Eventually, his condition proved to be untreatable. He died at the age of 49 at the Phoebe Putney Memorial Hospital in Albany.

He is survived by his mother, Mrs. Della Spooner Bell of Albany; a brother, Robert A. McKay (Juline) of Bushnell, Florida; an uncle, R.S. Spooner of Donalsonville, Georgia, and a number of nieces, nephews and cousins. Our prayers go out to his family.

The Frank Spooner I have known would likely be embarrassed by all of the praise that has come his way in recent days from the many people who loved him, worked with him, and were helped by him. He would say he was not doing anything special—just doing his job as best he could.

Frank did his best—and left the world a better place because of it.

PAYING TRIBUTE TO FRANCES GRAY ''PEGGY'' RICHARDS

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 5, 2003

Mr. MCINNIS. Mr. Speaker, it is with a heavy heart that I rise before this body of Congress and this nation today to pay tribute to the life and memory of an outstanding citizen from my district. Frances Gray ''Peggy'' Richards of Durango, Colorado recently passed away at the age of eighty-three. Peggy was very active in her community and cared deeply for her fellow Coloradans. As her family and friends mourn her passing, I am honored to pay tribute to Peggy here today.

Peggy was a powerhouse of community service, beginning in the mid-1950s when she served as the Pagosa Springs Town Clerk and Justice of the Peace. During the 1960s, she served simultaneously as an Archuleta County Judge and the Chief Judge of the Jicarilla Apache Tribal Council, while remaining active in numerous community groups. Over the years, Peggy worked as Executive Director of the Southern Ute Community Action Programs and Director of Program Operations for Upland, Inc., promoting rural development in eleven Colorado counties and three American Indian reservations. In addition, Peggy was the Director of Economic Development for the Southern Ute Tribe, where she wrote the Tribal Comprehensive Plan and generated $15 million in much needed funds through grants and loans.

Mr. Speaker, Peggy Richards dedicated her life to her community, and many of the successful development projects in southern Colorado can be traced back to Peggy's hard work. She was truly one in a million, and while Peggy has passed, her legacy is sure to live on. I am honored to join with my colleagues in paying tribute to the life and memory of Frances Gray ''Peggy'' Richards. My thoughts are with her family during this difficult time.

PIONEER OF THE YEAR

HON. MARY BONO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 5, 2003

Mrs. BONO. Mr. Speaker, I and Ms. ROYBAL-ALLARD, Mr. BECERRA, Mr. MCKEON, Mr. BERMAN, Mr. WAXMAN, Mr. MATSUI, Mr. GALLEGLY, Mr. SCHIFF, Ms. WATSON, and Mr. SHERMAN, all from California, rise today to pay tribute to a good friend and an outstanding citizen, Michael Eisner, who will be receiving the prestigious ''Pioneer of the Year'' award from the Will Rogers Motion Picture Pioneers Foundation on December 4. As Chairman and Chief Executive Officer of The Walt Disney Company, Michael is exceptionally deserving of this recognition. His wise stewardship of this multi-national company has led to a prodigious enhancement of its influence, reputation and scope.

Born in Mt. Kisco, New York to Lester and Margaret E. Eisner, Michael was raised in a caring environment with two successful parents as role models. His father was a famous litigator and public servant who at one time administered the Department of Housing and Urban Development. His mother was co-founder of the American Safety Razor Company and president of a medical research institute. His parents required two hours of reading for every hour of television and strictly rationed their children's consumption of sitcoms and movies.

Michael enrolled in Denison University, initially as a pre-med student. He soon changed his major, however, to reflect his interest in English literature and the theater. A summer job as a page at NBC studios in New York gave him his first taste of the entertainment industry.

Michael's meteoric rise to prominence in the entertainment industry began at ABC, where he made his mark, initially as Director of Program Development for the East Coast, then as Vice President for Daytime Programming and by 1976, as Senior Vice President for Prime Time Production and Development. Under his guidance, the network rose from third to first place among the networks.

In 1977, he took the post of President and Chief Operating Officer of Paramount Pictures, where his leadership brought the studio to become number one in box office and profitability.

Michael cemented his status as a leader in the entertainment industry in September, 1984, when he left Paramount to become Chairman and Chief Executive Officer of The Walt Disney Company, the position he holds to this day. His business acumen and strong work ethic helped him lead Disney through diversification and aggressive, but intelligent management. Under Michael's guidance, Disney grew from $1.7 billion in assets in 1984 to over $10 billion just ten years later.

Eisner has strongly encouraged Disney and its employees to support local communities and in 1997, he committed to one million hours of community service, helping rebuild the burned First AME Zion church in South-Central Los Angeles, and establishing GOALS—a free youth hockey program for underprivileged youngsters in Orange County, Calif. Under his leadership, Disney has developed two major television events recognizing educators and students: Disney's American Teacher Awards brings together and recognizes 35 of the nation's finest teachers annually and Disney's Young Musicians Symphony Orchestra each year assembles young musicians from North America and Europe for a two-week music camp and an opportunity to perform at a major venue.

Not content to be a master of diversification in the corporate entertainment world, Michael also serves on a number of boards of charitable and civic organizations. He is a trustee of the California Institute of the Arts (CalArts), the American Film Institute and Denison University, his alma mater. He is a Founding Member of the Points of Light Foundation. His success in the entertainment industry has earned him high acclaim and his work has been recognized with many awards and honors, including the International Radio and Television Society Gold Medal Award (1992) and his induction into the Academy of Achievement's Hall of Business (1994).

Michael and his wife Jane are the extremely proud parents of three sons, Breck, Eric and Anders. The family resides in Los Angeles where they are well known for their generous philanthropy. The Eisner Foundation, which they founded in 1996 with an initial $89 million grant, funds children's organizations, public schools, medical and dental-care programs with a special emphasis on helping Southern Californians. The Eisner Foundation is headed by Jane Eisner.

We feel extremely fortunate to have a person like Michael Eisner in our community. Southern California is a better place because of his willingness to give back to his community.

Mr. Speaker, we invite our colleagues to join us in saluting Michael for his myriad accomplishments, and in congratulating him on being named the ''Pioneer of the Year'' by the Will Rogers Motion Picture Pioneers Foundation. We wish him continued success in all his future endeavors.

PAYING TRIBUTE TO HELENE MONBERG

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 5, 2003

Mr. MCINNIS. Mr. Speaker, it is with a solemn heart that I rise before this body of Congress to honor the memory of a great citizen. Helene Monberg recently passed away at the age of eighty-four. Helene was the respected and well-liked former Washington Correspondent for The Pueblo Chieftain and Star-Journal. As Colorado and the larger community mourn her passing, I would like to pay tribute to her memory here today.

Helene began her career as a reporter for the Leadville Record and, in 1942, took the pioneering step of being the first full-time female employee of the Washington Bureau of United Press International. Helene began reporting for the Chieftain in 1947, and extensively covered water and land issues in the West, as well as the education issues she cared for deeply in her heart. In 1965, she started Western Resources Wrap-Up, a newsletter designed to update people on issues related to natural resources. Helene also founded the Achievement Scholarship Program in 1973, and has donated to other scholarships to ensure underprivileged children can attend college.

Mr. Speaker, Helene Monberg was a woman of honesty and compassion. Through the years, she proved herself a dedicated journalist and a committed philanthropist. Helene was a great American, a great journalist, and most importantly, a great person. I join with my colleagues today in honoring her memory and her life here today. My thoughts and prayers go out to her family during this difficult time.

PERSONAL EXPLANATION

HON. PHIL ENGLISH

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 5, 2003

Mr. ENGLISH. Mr. Speaker, I was unable to vote for rollcall vote No. 591 on October 30. Had I been able, I would have voted ''nay.''

PAYING TRIBUTE TO RUSSELL TAYLOR

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 5, 2003

Mr. MCINNIS. Mr. Speaker, I rise before this body of Congress and this nation today to pay tribute to an inventor and entrepreneur from my district. Russell Taylor of Grand Junction, Colorado saw a need in the community for cellular phones that everyone could afford, and created a phone to fit that need. For his innovation and ingenuity, I am honored to pay tribute to Russell here today.

Russell recently invented a disposable cellular phone, a phone that does not cost a fortune or require the user to sign a lengthy contract. He believes that many people shy away from cell phones because of the high costs, and intimidating contracts. Russell also feels that people who deny themselves a cell phone, may be denying themselves an essential tool in an emergency situation. His concern for his fellow citizens prompted him to create this disposable phone. Russell's invention provides security and peace-of-mind to many Coloradans, allowing them to stay in contact while driving through Colorado's mountains, and call for help if necessary. Russell's phone is becoming a popular commodity in the Grand Junction region, and many of his fellow Coloradans thank him for the convenience his creation has afforded them.

Mr. Speaker, Russell Taylor is an example of American ingenuity. He saw a need and turned his attention to solving it. Because of Russell's hard work and determination, countless people will now have access to cell phones, a necessity in today's society. For his creativity and inventiveness, I am honored to join with my colleagues in paying tribute to Russell Taylor here today.

HONORING WAYNE TANAKA ON HIS APPOINTMENT AS HONORARY CONSUL GENERAL OF JAPAN

HON. JON C. PORTER

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 5, 2003

Mr. PORTER. Mr. Speaker, I rise today to honor my good friend Wayne Tanaka on his appointment as the Honorary Consul General of Japan in Las Vegas, Nevada. Wayne has been a dedicated public servant throughout his career. I am proud that Wayne has been given this high honor by the Japanese government.

Wayne Tanaka started his career as an educator in the Clark County School District in 1972. He spent 28 years teaching in the fastest growing school district in the country, never losing his commitment to excellence or his desire to give every child an education that would give them the knowledge and character they need in later life. Wayne completed his career as principal of Clark High School in 2001.

Wayne is now serving as principal of the Andre Agassi Preparatory Academy, a charter school dedicated to giving inner-city children the resources and education they need to succeed in life. Wayne's own personal commitment to these goals have made the Academy a success, and an example to schools throughout the country.

As the new Honorary Consul for Japan, Wayne will be able to give his students, not only firsthand knowledge of Japan and the strong friendship and economic relationship between it and the United States, but also a visible sign of the rewards of leadership, dignity, and community commitment. I am proud to call Wayne Tanaka my friend and urge the House to join me in honoring him today.

PAYING TRIBUTE TO JACQUELYN SCHICK

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 5, 2003

Mr. MCINNIS. Mr. Speaker, it is my honor to rise and pay tribute to a remarkable woman from my district. Jacquelyn Schick spent the last forty years acting for the betterment of the people of Pagosa Springs, Colorado. Recently, Jackie announced her retirement from her position as the Pagosa Springs Town Clerk. When news of the retirement reached the citizens of Pagosa Springs, there was an outpouring of gratitude for Jackie's years of service. Because of her selfless and caring nature, Jackie is truly a beloved member of her community, and it is my honor to call her contributions to the attention of this body of Congress and this nation.

Jackie and her husband Gene moved to Pagosa Springs in 1955. After she volunteered in the Town Clerk's Office for two years, the Town Board asked Jackie to hold the Clerk position permanently. As Town Clerk, Jackie was compassionate, caring and dedicated. She always approached her job with the best interests of the citizens of Pagosa Springs in mind, and did a fine job in serving them.

Mr. Speaker, it is truly a privilege today to pay tribute to a woman who has spent her life serving her fellow Coloradans. Although the citizens of Pagosa Springs will miss having Jackie as their Town Clerk, she remains a tremendous asset to the Pagosa Springs community. Today I join the people of Pagosa Springs in thanking Jackie for her service.

REVEREND DR. AVERY ALDRIDGE

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 5, 2003

Mr. KILDEE. Mr. Speaker, I rise before you today to pay homage to a very dear friend of mine, Reverend Dr. Avery Aldridge. Reverend Aldridge passed away in his sleep at his residence in Flint, Michigan on Saturday, November 1, 2003 at the age of 78. I am deeply saddened by this great loss, for Reverend Aldridge was an inspiring and positive force for Genesee County, the State and Nation. He was a true friend and advisor. I will miss him greatly.

Dr. Avery Aldridge was born on February 9, 1925 in Widener, Arkansas. He organized The Foss Avenue Baptist Church, located at 1159 E. Foss Avenue, Flint, Michigan on December 2, 1956. Under his leadership Foss Avenue Baptist Church has organized 50 auxiliaries and committees to carry out the work of the Lord. Dr. Aldridge also founded several enterprises to serve the membership and community. Those enterprises are the Foss Avenue Dairy Queen, Foss Avenue Free Clothing Center, Foss Avenue Federal Credit Union, Avery Aldridge Family Life Center, which was the first of its kind to be opened in Flint, and the Foss Avenue Christian School of Elementary and Secondary Education. The Church's current facilities and enterprises are valued at over $3 million. Through Dr. Aldridge's leadership, Foss Avenue Baptist Church has grown to be a tremendously influential Church in Genesee County. One of the greatest blessings of being a father is to know that your children turn out well. Dr. Aldridge has that blessing. On February 10, 2002, Dr. Aldridge installed his son, Reverend Derek Aldridge, as the new Pastor of Foss Avenue Baptist Church.

Dr. Aldridge made his mark in history when he became involved in the civil rights movement of the 1960's. His no nonsense and nonviolent approach helped to calm the tension in the City of Flint, after the 1967 rioting in Detroit. Dr. Aldridge was the voice of the community. He fought for better education and work opportunities, not only for the African Americans, but also for all people. Dr. Aldridge from that moment forward was revered as the Civil Rights Leader for Genesee County. In 1969, he founded the Concerned Pastors for Social Action (CPSA) to rid the community of local institutional racism, and to improve the relationship between the community and the police.

The CPSA has worked hard to ensure that the voice of the people is heard loud and clear among those wanting to hold public office. Because of the work of the CPSA, political candidates and elected officials have become more sensitive to the needs of the people. During the early 1980's, Dr. Aldridge led the petition to have Detroit Street, located in the inner city of Flint, renamed to Reverend Martin Luther King Jr. Blvd. Dr. Aldridge stated that the renamed Street would serve as ''a role model for youngsters in the inner city.'' The change was approved by City Council in 1987. Dr. Aldridge remained President of the CPSA until 1999, when he had to resign due to illness.

Dr. Aldridge during his life held several leadership roles within the Church community. He served as President of the Wolverine State Congress of Christian Education and Convention Coordinator for the National Baptist Convention for 25 years. He was Vice President and Director General of the National Baptist Congress for 4 years, and he also served on the Board of Directors for the National Baptist Convention, USA, Inc., and the Sunday School Publishing Board, Nashville, Tennessee. He was also a member of the Todd Philips Children's Home Board of Directors—Detroit, Mott Children's Health Center, Michigan National Bank, Flint Housing Commission Board of Directors, Advisory Board of the Flint Goodwill Industries, Professional Advisory Board Metropolitan Chamber of Commerce, Board of Directors Girl Scout Council and of the Boy Scouts of America, and as a Commissioner on the National Holiday for Dr. Martin Luther King, Jr. Board. Dr. Aldridge also held the position of Instructor and Member of the Baptist Ministers Alliance.

Mr. Speaker, Dr. Aldridge leaves to cherish and carry on his legacy his beautiful and devoted wife of 54 years, Dr. Mildred Aldridge, his son, Reverend Derek Aldridge, his daughter, Karen Aldridge-Eason, and nine grandchildren.

Mr. Speaker, I ask the House of Representatives to join me in offering condolences to the family of Dr. Avery Aldridge, and in thanking them for sharing Dr. Aldridge with our community.

Mr. Speaker, my message to his congregation and all of our community is as follows.

''Take my yoke upon you and learn from me, for I am meek and humble in heart.'' [Matthew 11:291

It takes a strong person to be meek, a strong person to be in charge of his passions and emotions.

Reverend Avery Aldridge was such a person.

He was strong in his love of God.

He was strong in his love of the Church.

He was strong in his love of family.

He was strong in his pursuit of justice.

He was strong in his effort to eliminate injustice.

And all this deep strength, he exercised humbly, as an instrument of God's Holy Will.

Because of Dr. Aldridge's strength, anchored in humility and meekness, this community is a better community.

This Church is a stronger representation of the Mystical Body of Christ.

All of us here in this Church are better people because of that strength of faith and action of Doctor Avery Aldridge.

The greatest tribute we can render to Dr. Avery Aldridge is to emulate

his love,

his dedication,

his humility, and

his Christ centered strength.

Dr. Aldridge, as a triumphant member of the Communion of Saints, please ask Almighty God to shower His Blessings upon us that we might use our strength to carry out God's Holy Will.

WARREN HEYER: PROFESSOR, COMMUNITY ACTIVIST, AND PUBLIC ADVOCATE

HON. BOB FILNER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 5, 2003

Mr. FILNER. Mr. Speaker, I rise today to honor Warren Heyer, one of my district's most persistent and effective community advocates.

As a young man, Heyer served in World War II, where he saw combat in General George S. Patton's 3rd Army and took part in the liberation of a Nazi concentration camp. After witnessing the horror of war and genocide, he became an ardent anti-war activist. And in the mid-1960s, his activism focused on his community.

After Heyer graduated from San Diego State College in 1950, he taught in a local elementary school—where he met his first wife, Roberta Calvert, who passed away in 1996. He continued his education, receiving a Master's degree in librarianship, and worked as a librarian at both San Diego High School and San Diego City College. In 1964, he was a founding faculty member of Mesa College, where he was instrumental in developing numerous important school policies. He was the elected chairman of the Library Department, a position he held until 1979, when he retired. Retirement did not stop his service to the college: he continued to serve as an adjunct librarian, training and assisting new employees and students.

He was also a central figure in the efforts to re-zone his community of Encanto. If it were not for Warren Heyer, the quiet and inviting character of Encanto would have been lost. He served as vice-chairman of the Southeast San Diego Development Committee and went door-to-door to gain support for his efforts, without which, I am convinced, the planning measure would not have passed.

Heyer suffered a stroke in Chichicastenango, Guatemala, where he was building a church on behalf of a humanitarian organization. He died as he lived: putting others before himself and working for the betterment of society.

My deepest condolences go to Heyer's family; his wife Patricia and his three children: Kathryn, Robin, and Andrew.

William Heyer was a model constituent and his legacy will continue to benefit my district for years and years to come.

PAYING TRIBUTE TO TRAVIS THOMPSON

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 5, 2003

Mr. MCINNIS. Mr. Speaker, I would like to take a moment to recognize the extraordinary talents of a dedicated young mandolin player from Pueblo, Colorado. Travis Thompson is the national champion of the prestigious Walnut Valley Festival. He provides enjoyment and inspiration to all who are fortunate enough to hear him play.

Travis is only the fifth Coloradan to receive this prestigious title since the addition of the mandolin competition to the festival in 1976. He began playing the instrument at age 11 after meeting his idol, Chris Thile of Nickel Creek, at a music festival. Several years later, Travis made his first of three attempts to reach the finals of the contest. His diligence and persistence have placed Travis on the path to eventually joining the ranks of bluegrass icons such as Alison Krause.

Travis hails from a family of musicians. His father, sister, and mother play the guitar, fiddle, and bass respectively in the performance group Second Wind. Not only does this young man pursue excellence in the entertainment field, but he also runs track and maintains a 3.6 grade-point average at Rye High School.

Mr. Speaker, Travis Thompson's gift motivates other citizens to follow their dreams. His devotion and enthusiasm certainly deserve the recognition of this body of Congress. It is my privilege to pay tribute to Travis for his contributions to the Colorado community.

THINNING ALONE IS NOT ENOUGH TO PROTECT HOMES FROM FOREST FIRES

HON. MARK UDALL

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 5, 2003

Mr. UDALL of Colorado. Mr. Speaker, the Senate recently passed a revised version of H.R. 1904, the ''Healthy Forests'' bill and the administration has made plain its desire that action on this legislation be completed soon.

The bill deals with several other matters, but most attention has been focused on Title I, which deals with forest-thinning projects on federal lands.

I support well-designed thinning projects that are focused where they will do the most good—but I do not think such projects, alone, will be enough.

To illustrate what I have in mind, I want to bring to the attention of our colleagues a story from the Boulder, Colorado Daily Camera.

The story focuses on the efforts of homeowners in Boulder County to protect their homes and the way that their efforts paid off during wildfires. Such ''defensible space'' measures, based on common sense can be readily adopted by homeowners, and there are many available sources of assistance. For example, in our state the Colorado State Forest Service has a program to help private property owners assess their property for fire and develop a plan to help reduce risks. These and other programs—such as actions by local government to require the use of fire-resistant materials and other steps to reduce fire risks—can go a long way to help prevent and reduce the losses from wildfires. It would also be desirable for the nation's insurance industry to lend its assistance to encourage people whose insured property is in forested areas to take some responsible steps to make their homes more defensible from fire.

We cannot stop all fires—nor should we, because fire is a natural part of many forested ecosystems. But we can work together to reduce the risks to lives and property. We need to look beyond jurisdictional boundaries and help encourage all techniques—such as defensible space—that will make homes, communities and watersheds more resistant to the more catastrophic and damaging effects from fire when it inevitably does come.

[From the Daily Camera, Nov. 4, 2003]

FIRE PRECAUTIONS SAVE HOMES

FIRE-RESISTANT MATERIALS, THINNED TREES CREDITED

(By Mary Butler)

All his neighbors told David Mitchell that they thought his house had burned in last week's Overland Fire outside of Jamestown.

''But when I drove up to the place the next morning,'' he said, ''about a 2-foot ring around the house wasn't burnt.''

The 2,800-square-foot home on County Road 87, where several other homes burned to the ground, was unscathed.

Mitchell credits efforts made to create ''defensible space,'' such as thinning trees, how his home was positioned and his driveway's alignment, for helping to spare the house from the fast-moving fire's path Wednesday.

Even if flames came close enough to lick the home's exterior, he said, fire-resistant materials such as Rastra concrete, Styrofoam blocks and steel roofing used to build the house would have delayed its ignition.

''The fire was so hot, if we had made the building from wood, it would have caught fire anyway,'' he said.

Since the early 1990s, Boulder County has required new homes and large additions to homes in unincorporated mountain communities to be built with wildfires in mind.

''When you build a new house, you're required to have a fire mitigation plan,'' said Eric Philips, county wildfire mitigation coordinator.

For instance, cedar shake shingles are banned from use on mountain homes. In some areas, ''noncombustible'' materials such as stucco, stone and cement siding are required. Tree thinning is also a must.

A site-by-site evaluation is made to determine what mitigation efforts ought to be made, Philips said.

Taking such precautions is thought to have saved at least one neighborhood in Southern California, where wildfires ravaged thousands of homes in recent weeks.

The New York Times on Sunday dedicated a front-page story to the Stevenson Ranch neighborhood. The story described the neighborhood's streets as wide, the homes' roofs as fire retardant, the landscaping as moist and the surrounding hillsides as irrigated and cleared of brush.

Some of the homes' features include double-glazed window panes that resist heat and breakage, stucco-sealed eaves to keep sparks from getting into attics and oversized address numbers for easy identification. Even some of the swimming pools are equipped with valves that allow firefighters to draw the water, the article said.

Whether homeowners' fire-prevention measures made a difference in the Overland Fire, Philips said, has yet to be assessed.

But many Lefthand Canyon-area homeowners, including Mitchell, say they did.

''Thinning trees gives us a fighting chance,'' said Nolan Farmer, whose Overland Road home was within 40 yards of the 3,500–acre blaze.

He credits tree thinning a team of Boulder County inmates did on his property seven years ago for saving his property. The work was well worth the $50 he paid then, Farmer said.

Farmer also built his house with a metal roof, sealed redwood siding and without decks in the event that flames might come up against his home of 12 years.

John and Susan Bernart's Overland Road home, which overlooks the hillside blackened in the blaze, wasn't directly threatened by the fire.

But John Bernart says he had peace of mind knowing that its straw-bale and stucco construction could hold its own against wildfire. Besides being energy efficient, the insulating materials are also extremely fire resistant.

''There are straw-bale houses that are 500 years old in Europe,'' Bernart said. Still, he said, ''We're hopeful we won't have to face this kind of threat again. Our strike of lightning has come and gone.''

PAYING TRIBUTE TO BILL PORTER

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 5, 2003

Mr. MCINNIS. Mr. Speaker, it is my honor to rise and pay tribute to a remarkable man from my district. Recently, the Colorado Trappers Association recognized Bill Porter as ''Trapper of the Year.'' Not only is Bill a talented and dedicated trapper, he is also an outstanding steward of wildlife, and I believe that it is important to pay tribute to his contributions here today.

Bill began trapping at the age of eleven in order to supplement his family's income. Over the last 25 years, he has refined his skills to become one of the best trappers in Colorado. Bill approaches trapping with the importance of preserving wildlife in mind. He focuses exclusively on capturing destructive and threatening animals.

Bill is good-natured and has a great sense of humor. He often uses these positive character traits when teaching students and young trappers the importance of legal and ethical trapping. Aside from technical knowledge and ethics, Bill also stresses the importance of working closely with the Division of Wildlife in a combined effort to assure the conservation of animals and their habitats

Mr. Speaker, I am proud to call to the attention of this body of Congress and this nation the accomplishments of Bill Porter. Bill is a man who has spent his life in harmony with nature. His dedication to his trade, and willingness to pass along his knowledge and morals to the next generation, is truly admirable. Congratulations, Bill.

CURRENT STATE OF AFFAIRS IN BURMA

HON. LANE EVANS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 5, 2003

Mr. EVANS. Mr. Speaker, today I would like to address the current state of affairs in Burma. For years, Burma's military rulers have retained control through the use of rape, murder, torture, and imprisonment. Many of my colleagues and I co-sponsored the Burmese Freedom and Democracy Act of 2003, H.R. 2330, in an effort to sanction this regime for its egregious human rights violations and to shed light on the atrocities being committed.

Another action taken to help bring about change in Burma was the assignment of a United Nations envoy to this chaotic region. Unfortunately, many of my colleagues and I now feel that the United Nations process put in place to help bring about change in Burma is seriously flawed. The UN envoy to Burma has done more to diffuse international pressure on the junta than he has to improve human rights conditions there.

Conditions are not improving, they are worsening. Aung San Suu Kyi, 1991 Nobel Peace Prize winner and leader of the country's true government, remains under house arrest while the people of Burma are being slaughtered. Just a few days ago, members of Burma's military regime shot at a crowd of demonstrating monks, killing at least one and injuring many more.

In addition, Thailand, Burma's neighbor, has become increasingly friendly with the SPDC, the regime responsible for this bloodshed. Thai authorities deport Burmese migrant workers and other refugees with little concern for their welfare, turning a blind eye to the oppression that awaits them and in violation of international law. The UN has done little to change the relationship between these two nations.

As we approach the next meeting of the United Nations General Assembly, we must be cognizant that the process has failed. We need to strengthen the authority of the UN envoy and replace him with someone capable of rallying international support for change. The present system is not working—let's fix it.

IN RECOGNITION OF ROBERT EUGENE RUARK'S RETIREMENT FROM SOLANO COUNTY HEALTH AND SOCIAL SERVICES DEPARTMENT, SPECIAL INVESTIGATIONS BUREAU

HON. ELLEN O. TAUSCHER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 5, 2003

Mrs. TAUSCHER. Mr. Speaker, I rise to pay tribute to Robert Ruark, whose retirement from his position as Chief Criminal Investigator of the Solano County Health and Social Services, Special Investigations Bureau will commence on Thursday, November 6, 2003. During his fourteen year career with the county, Chief Ruark has established himself as an extraordinary leader in law enforcement. At his retirement, his many accomplishments and hard work will be recognized within the community of his colleagues and friends.

Robert Eugene Ruark was born in Turlock, California on November 4, 1946. After graduating from Turlock High School in 1964, Robert went on to attend Modesto Community College where he earned an Associate of Arts degree in Criminal Justice. He then attended Chapman University in 1968 where he obtained a Bachelor of Arts Degree in Social Sciences. Desiring to put his education to work, Mr. Ruark entered the U.S. Army as a Military Policeman and then served in the Republic of Vietnam as a Military Police Investigator. In 1969, Mr. Ruark graduated from the

U.S. Army Criminal Investigation Course which allowed him to serve as a CID Special Agent until his retirement as a Chief Warrant Officer Four (CW4) in 1989.

In April that same year, he received his appointment as the Criminal Investigator II for the Special Investigations Bureau, Solano Health and Social Services Department and became a member of the California Welfare Fraud Investigators Association. In four short years he was promoted to the position of Supervising Criminal Investigator. His current rank as Chief Criminal Investigator was received in August of 2000.

Robert's dedication to the community is not limited to his work in law enforcement. His desire to serve the community as a positive influence motivated his ordainment to the priesthood of the Orthodox Christian Church in 1996. Upon his retirement from law enforcement, he will continue to serve the community as the pastor of St. Timothy Antiochian Orthodox Christian Church, as he has done since January of 1997. Through his work as pastor he cooperates with a local area food bank to distribute food to many of the areas homeless and those living at or below the poverty level.

However, of all his accomplishments he is probably most proud of his successful 32 year relationship with his wife, Alida, and his two wonderful children: William and Stephanie. Stephanie's daughters, Mikayla and Brianna, have further enriched his personal life.

His fellow employees of the Solano County Health and Social Services, Special Investigation Bureau will forever remember Chief Ruark's extraordinary leadership and contributions to the community.

PAYING TRIBUTE TO JOHN CENTA

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 5, 2003

Mr. MCINNIS. Mr. Speaker, it is my honor to rise and pay tribute to a man from my district with a genuine zest for life. John Centa of Pueblo, Colorado recently turned one hundred years old. Throughout his century of life, John has spread joy to countless people whom he has met along the way. I am proud to call the attention of this body of Congress and this nation to the contributions that John has made to the Pueblo community.

As a child, John helped his father on his family's farm in Kansas. He then moved to Pueblo, where he was employed with Nuckolls Packing Company for twenty years. Next, John went to work with CF&I in Pueblo. Prior to retirement, John and his friend Don English went into business together as the co-owners of Pueblo's Hurricane Car Wash, which they successfully operated for more than two decades.

Each morning, John shares his boundless energy and ceaseless positive attitude in daily interactions with his many friends throughout Pueblo. One of John's favorite places to share his love of life is on the dance floor. A long time member of the Southern Colorado Family Polka Club, John is an immensely popular dance partner. Those who know him well attribute John's health to his great sense of humor, positive attitude, and ability to find joy in the simple things in life.

Mr. Speaker, John Centa has an uncanny ability to draw others into his daily celebration of life. All of those lucky enough to cross his path are better off for having met him. I am honored to pay tribute to him here today. Thanks John, and happy birthday.

RECOGNIZING THE NATIONAL STONE, SAND & GRAVEL ASSOCIATION

SPEECH OF

HON. MICHAEL H. MICHAUD

OF MAINE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 4, 2003

Mr. MICHAUD. Mr. Speaker, I rise today as a proud cosponsor of H. Con. Res. 280, which recognizes the 100th anniversary of the National Stone, Sand & Gravel Association.

As a member of the House Committee on Transportation and Infrastructure, and the Subcommittee on Highways, Transit, and Pipelines, I believe it is important that we understand and appreciate the efforts of the Association to improve our Nation's quality of life, and the impact that their products make on our nation's infrastructure and economy.

The National Stone, Sand & Gravel Association is the largest mining trade association in the world.

Its members work tirelessly to provide our Nation with a strong and durable infrastructure. The association encourages and helps aggregate producers to meet and improve upon environmental, health, and safety standards.

We should not forget the importance of aggregates in our daily life: approximately 400 tons of aggregate is used on one home; it makes up 80% of concrete and 94% of asphalt.

We should not forget the importance of aggregates to our economy: every $1 billion in additional investment in highways creates 47,500 additional jobs.

As we build new homes for American families, new roads and bridges to carry us across this great land, and new schools and hospitals to provide our towns with the best services available, we should remember that the National Stone, Sand & Gravel association and its members provide the foundation for our Nation's infrastructure.

For this, I am honored to join with my colleagues to show my appreciation for this great organization.

PROVIDING RELIABLE OFFICERS, TECHNOLOGY, EDUCATION, COMMUNITY PROSECUTORS, AND TRAINING IN OUR NEIGHBORHOODS ACT OF 2003

HON. ELEANOR HOLMES NORTON

OF THE DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 5, 2003

Ms. NORTON. Mr. Speaker, I am pleased to introduce a public safety bill for the second week in a row. My current bill would reauthorize the successful Community Oriented Policing Services (COPS) program that has used federal funds to help put more cops on the streets and to fund community policing. Like a similar Senate bill sponsored by Sen. JOSEPH BIDEN, Jr. (D–DE) and almost 50 other Senators, my bill seeks to head off the shut down of the COPS program, as forecast by the President's 2004 fiscal year budget, which severely cut COPS and critical community policing projects. Last week, I introduced the Crime Victims Assistance Act of 2003 to provide enhanced rights and protections for victims of federal crimes. This bill also has been introduced in the Senate.

As a member of the Select Committee on Homeland Security, I have watched police departments here and across the country pressed increasingly into protecting the homeland from potential terrorism. Our police need funding and support from the federal government now more than ever if they also are to continue to focus on the indispensable everyday duties of protecting their communities from street violence and other crime. My bill would provide funding to help police departments put more officers on the beat, purchase high-tech crime fighting tools and technology such as patrol car cameras, pay overtime devoted to community policing and homeland security, and reimburse officers for college or graduate school. Also, my bill would help the U.S. Attorney's office hire more community prosecutors who interact closely with the people they serve. The District of Columbia has been a pioneer in community prosecution, which links prosecutors to specific police districts and neighborhoods.

Recent studies show that COPS grants played a critical role in the crime drop of the nineties. Now with cities like the District experiencing alarming criminal activity, police departments need all the help they can get to find real solutions for handling the heavy double burden of balancing the securing of citizens from terrorism along with protecting them from violence and other crime in their neighborhoods.

Since it was created in the 1994 Crime bill, COPS has awarded more than $8 billion to police departments to hire or re-deploy almost 120,000 community police officers across the country. In FY 2003, the COPS office awarded $635 million in grants nationwide, and almost $7.5 million to the District, $3 million for Metropolitan Police Department homeland security overtime. In September, I announced a $750,000 grant for the Washington Metropolitan Area Transit Authority (WMATA) to hire 10 new Metro officers who will perform community policing and homeland security functions. Many other jurisdictions received similar grants.

My bill will fund the COPS program through 2009. A key change would authorize a new, permanent COPS Overtime Program.

I urge my colleagues to continue to reauthorize the COPS program.

HONORING RICHARD RODRIGUEZ

HON. HILDA L. SOLIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 5, 2003

Ms. SOLIS. Mr. Speaker, I rise to pay tribute to a long time member of the United Farm Workers, Richard Rodriguez. Richard passed away this past Sunday, November 2, 2003.

Born on February 3, 1930, Richard was a life long resident of Los Angeles, California. He married his sweetheart, Esther Aguilar, on June 30, 1950. Together, they raised five children, nine grandchildren, and twelve great grandchildren.

A loyal supporter of the labor movement, Richard retired from Teamsters Local 357 in 1996. However, his commitment to improving the lives of working families did not cease. With his wife Esther at his side, Richard continued to actively participate as a proud member of the United Farm Workers (UFW), participating in rallies in Watsonville, Sacramento, and Yuma, California. During pilgrimages, he took it upon himself to provide meals, motivation and leadership. Richard also displayed great talent in creating many banners and flags to spread Cesar Chavez's message of workers' rights. His public service went beyond the labor movement. He was a long time community activist who provided gift baskets each Christmas to the less fortunate of Monterey Park and other surrounding communities.

Throughout his life, Richard wore his Teamsters jacket and carried his red UFW banner with enormous pride. He represented the very best that the labor movement and our community has to offer. We will forever remember his dedication to others. His death is a great loss, but we were so fortunate to have known this great citizen.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Thursday, November 6, 2003 may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

NOVEMBER 7

9:30 a.m.
Joint Economic Committee
To hold joint hearings to examine the current employment situation.
SD–628

NOVEMBER 12

9:30 a.m.
Commerce, Science, and Transportation
To hold hearings to examine state use of tobacco settlement funds.
SR–253

Environment and Public Works
Business meeting to consider S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs.
SD–406

Governmental Affairs
To hold hearings to examine the threat of agroterrorism.
SD–342

10 a.m.
Energy and Natural Resources
To hold oversight hearings to examine the implementation of the Energy Employees Occupational Illness Compensation Program.
SD–366

2 p.m.
Governmental Affairs
To hold hearings to examine the nomination of Scott J. Bloch, of Kansas, to be Special Counsel, Office of Special Counsel; to be immediately followed by a hearing on S. 1358, to amend chapter 23 of title 5, United States Code, to clarify the disclosure of information protected from prohibited personnel practices, require a statement in nondisclosure policies, forms, and agreements that such policies, forms, and agreements conform with certain disclosure protections, provide certain authority for the Special Counsel.
SD–342

Judiciary
Administrative Oversight and the Courts Subcommittee
To hold oversight hearings to examine activities of the United States Sentencing Commission.
SD–226

Banking, Housing, and Urban Affairs
Securities and Investment Subcommittee
To hold hearings to examine the Financial Accounting Standards Board and small business growth.
SD–538

NOVEMBER 13

9:30 a.m.
Armed Services
To hold hearings to examine current Army issues.
SH–216

Commerce, Science, and Transportation
To hold hearings to examine GAO's report on cable rate increases.
SR–253

2 p.m.
Judiciary
Immigration, Border Security and Citizenship Subcommittee
To hold hearings to examine state and local authority to enforce immigration law relating to terrorism.
SD–226

2:30 p.m.
Energy and Natural Resources
Water and Power Subcommittee
To hold hearings to examine S. 1085, to provide for a Bureau of Reclamation program to assist states and local communities in evaluating and developing rural and small community water supply systems, S. 1732, to direct the Secretary of the Interior to establish a rural water supply program in the Reclamation States to provide a clean, safe, affordable, and reliable water supply to rural residents, S. 1211, to further the purposes of title XVI of the Reclamation Projects Authorization and Adjustment Act of 1992, the ''Reclamation Wastewater and Groundwater Study and Facilities Act'', by directing the Secretary of the Interior to undertake a demonstration program for water reclamation in the Tularosa Basin of New Mexico, S. 1727, to authorize additional appropriations for the Reclamation Safety of Dams Act of 1978, and S. 1791, to amend the Lease Lot Conveyance Act of 2002 to provide that the amounts received by the United States under that Act shall be deposited in the reclamation fund.
SD–366

Daily Digest

HIGHLIGHTS

Senate passed H.R. 2622, Fair and Accurate Credit Transactions Act.

The House passed H.R. 2443, Coast Guard and Maritime Transportation Act of 2003.

The House passed H.J. Res. 76, making further continuing appropriations for fiscal year 2004.

The House agreed to the conference report on H.R. 2559, Military Construction Appropriations for fiscal year 2004.

Senate

Chamber Action

Routine Proceedings, pages S13947–S14081

Measures Introduced: Nine bills and two resolutions were introduced, as follows: S. 1820–1828, S.J. Res. 23 and S. Res. 259. **Pages S14031–32**

Measures Reported:

S. 1669, to reauthorize the Dingell-Johnson Sport Fish Restoration Act. (S. Rept. No. 108–186)

S. 1627, to reauthorize the Workforce Investment Act of 1998, with an amendment in the nature of a substitute. (S. Rept. No. 108–187) **Page S14031**

Measures Passed:

Fair and Accurate Credit Transactions Act: Committee on Banking, Housing, and Urban Affairs was discharged from further consideration of H.R. 2622, to amend the Fair Credit Reporting Act, to prevent identity theft, improve resolution of consumer disputes, improve the accuracy of consumer records, make improvements in the use of, and consumer access to, credit information, and by 95 yeas to 2 nays (Vote No. 437), Senate passed the bill, after striking all after the enacting clause and inserting in lieu thereof the text of S. 1753, Senate companion measure, as amended. **Pages S13980–94**

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 Shelby, Bennett, Allard, Enzi, Sarbanes, Dodd, and Johnson. **Page S13994**

Subsequently, S. 1753 was returned to the Senate Calendar. **Page S13994**

Legal Representation: Senate agreed to S. Res. 259, to authorize legal representation in Bell Aviation, Inc., et al. v. Sino Swearingen Aircraft Co., L.P., et. al. **Pages S14032**

Vietnam Veterans Memorial Visitor Center Act: Senate passed H.R. 1442, to authorize the design and construction of a visitor center for the Vietnam Veterans Memorial, after agreeing to the following amendment proposed thereto: **Page S14075**

Bennett (for Thomas) Amendment No. 2113, in the nature of a substitute. **Page S14075**

Homeland Security Federal Workforce Act: Senate passed S. 589, to strengthen and improve the management of national security, encourage Government service in areas of critical national security, and to assist government agencies in addressing deficiencies in personnel possessing specialized skills important to national security and incorporating the goals and strategies for recruitment and retention for such skilled personnel into the strategic and performance management systems of Federal agencies, after agreeing to the following amendment proposed thereto: **Pages S14075–76**

Bennett (for Collins) Amendment No. 2114, in the nature of a substitute. **Page S14076**

Agriculture Appropriations Act: Senate began consideration of H.R. 2673, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for the fiscal year ending September 30, 2004, taking action on the following amendments proposed thereto:

Pages S13954–80

Adopted:

Bennett/Kohl Amendment No. 2072, in the nature of a substitute. (Amendment, as agreed to, will be considered original text for the purpose of further amendment.) Page S13954

Bennett/Kohl Amendment No. 2084, to provide that statements made by the Chairman and/or Ranking Member of the Agriculture Appropriations Subcommittee, and colloquies engaging the Chairman and/or Ranking Member of the Agriculture Appropriations Subcommittee, given on the Senate Floor or submitted for the Record during Senate consideration of this Act shall be deemed part of Senate Committee Report 108–107 for purposes of conference with the House of Representatives.

Pages S13971–72

Akaka Amendment No. 2088, to restrict funding for the approval for human consumption of meat produced from downed animals.

Pages S13997–98, S14000

By 57 yeas to 40 nays (Vote No. 439), Cantwell Amendment No. 2087, to prohibit energy market manipulation. Pages S13998–S14001

Bennett/Kohl Amendment No. 2091, to provide for an increase in the Food Stamp Program.

Page S14005

Bennett (for Durbin) Amendment No. 2092, to prohibit funds to be made available to promote the sale or export of tobacco or tobacco products.

Pages S14005–06

Bennett/Kohl Amendment No. 2093, relative to nuclear affected islands. Page S14006

Bennett (for Murkowski) Amendment No. 2094, to provide a freeze in the Alaska/Hawaii Food Stamp Program. Page S14006

Bennett (for Snowe/Dorgan) Amendment No. 2095, to modify the boundaries of certain empowerment zone designations. Page S14006

Bennett (for Levin/Stabenow) Amendment No. 2096, to prohibit the use of funds to issue or to implement the proposed rule on cost-sharing for animal and plant health emergency programs. Page S14007

Bennett (for Inhofe) Amendment No. 2097, relative to rural community advancement program eligibility. Page S14007

Bennett/Kohl Amendment No. 2098, to define the term ''eligible rural community.'' Page S14007

Bennett (for Inouye) Amendment No. 2099, to designate any portion of the County of Honolulu as a rural area or eligible rural community. Page S14007

Bennett/Kohl Amendment No. 2100, relative to the Ginnie Mae mortgage-backed securities pools.

Page S14007

Bennett (for Kohl) Amendment No. 2101, to allow all Community Facility Program facility borrowers and grantees to enter into contracts with not-for-profit third parties for services consistent with the requirements of the Program. Page S14007

Bennett (for Brownback) Amendment No. 2102, to provide for four flood control structures in Marmaton, Kansas. Pages S14007–08

Bennett Amendment No. 2103, relative to the processing worker demo pilot project. Page S14008

Bennett/Kohl Amendment No. 2104, to make a technical correction to the rural economic development loans and grants program. Page S14008

Bennett (for Grassley/Dorgan) Amendment No. 2105, to limit payments under the environmental quality incentives program. Page S14008

Bennett (for Craig) Amendment No. 2106, to facilitate cooperative agreements for wildlife services programs of the Animal and Plant Health Inspection Service of the Department of Agriculture.

Pages S14008–09

Bennett (for Graham (FL)/Nelson (FL)) Amendment No. 2107, to make a technical amendment to ensure that assistance is provided for tree replacement for losses due to citrus canker. Page S14009

Bennett (for Burns/Clinton) Amendment No. 2108, to permit the use of certain unobligated carryover funds to carry out the 911 access loan program.

Page S14009

Bennett (for Durbin) Amendment No. 2109, to insert a provision relating to funding the processing of comments in response to a Federal Register item concerning ephedra. Page S14009

Bennett (for Schumer) Amendment No. 2110, to ensure that amounts are made available for the generic drugs program. Page S14009

Bennett (for Miller) Amendment No. 2111, to restrict the expenditure of funds for the salary of the Under Secretary of Agriculture for Farm and Foreign Agricultural Services. Pages S14009

Bennett (for Frist/Daschle) Amendment No. 2112, to require the Secretary of Agriculture to establish university-based research, extension, and educational programs to implement biobased energy technologies, products, and economic diversification in rural areas of the United States. Pages S14009–11

Bennett (for Hatch) Amendment No. 2090, to specify a minimum level of funding for regulation of dietary supplements. Pages S14011–12

Rejected:

By 41 yeas to 56 nays (Vote No. 436), Feinstein Amendment No. 2083, to improve the operation of energy markets. Pages S13961–71, S13972–80

Pending:

Bennett/Kohl Amendment No. 2073, of a technical nature. Pages S13955–57

Specter Amendment No. 2080, to limit the use of funds to allocate the rate of price support between the purchase prices for nonfat dry milk and butter

in a manner that does not support the price of milk at the rate prescribed by law. **Page S13997**

During consideration of this measure today, Senate also took the following action:

By 40 yeas to 55 nays (Vote No. 440), three-fifths of those Senators duly chosen and sworn, not having voted in the affirmative, Senate rejected the motion to waive section 502(c)(5) of H. Con. Res. 95, Congressional Budget Resolution, with respect to the emergency designation provision in Dayton Amendment No. 2089, to provide emergency disaster assistance to agricultural producers. Subsequently, a point of order that the emergency designation provision would violate section 502(c)(5) of H. Con. Res. 95 was sustained and the provision was stricken. Also, the Chair sustained a point order that the amendment would exceed the subcommittee's 302(b) allocation and the amendment thus falls.

Pages S14001–05

Senate expects to continue consideration of the bill on Thursday, November 6, 2003.

Removal of Injunction of Secrecy: The injunction of secrecy was removed from the following treaty:

Convention on International Interests in Mobile Equipment and Protocol to Convention on International Interests in Mobile Equipment (Treaty Doc. No. 108–10).

The treaty was transmitted to the Senate today, considered as having been read for the first time, and referred, with accompanying papers, to the Committee on Foreign Relations and ordered to be printed. **Pages S14076–77**

Nomination—Agreement: A unanimous-consent agreement was reached providing for further consideration of the nomination of William H. Pryor, Jr., of Alabama, to be United States Circuit Judge for the Eleventh Circuit at 10:30 a.m., on Thursday, November 6, 2003, with 60 minutes of debate followed by a vote on the second motion to close further debate on the nomination. **Page S14077**

Nominations Confirmed: Senate confirmed the following nomination:

By unanimous vote of 97 yeas (Vote No. 438), Roger W. Titus, of Maryland, to be United States District Judge for the District of Maryland.

Pages S13997, S14081

Nominations Received: Senate received the following nominations:

James M. Loy, of Virginia, to be Deputy Secretary of Homeland Security.

Laurie Susan Fulton, of Virginia, to be a Member of the Board of Directors of the United States Institute of Peace for a term expiring January 19, 2007.

Peter G. Sheridan, of New Jersey, to be United States District Judge for the District of New Jersey.

William S. Duffey, Jr., of Georgia, to be United States District Judge for the Northern District of Georgia. **Page S14081**

Messages From the House: **Page S14027**

Measures Referred: **Page S14028**

Measures Placed on Calendar: **Page S14028**

Executive Communications: **Pages S14028–31**

Additional Cosponsors: **Page S14032**

Statements on Introduced Bills/Resolutions: **Pages S14032–51**

Additional Statements: **Pages S14026–27**

Amendments Submitted: **Pages S14051–74**

Notices of Hearings/Meetings: **Page S14074**

Authority for Committees to Meet: **Page S14074**

Privilege of the Floor: **Page S14075**

Record Votes: Five record votes were taken today. (Total—440)

Page S13980, S13982, S13997, S14001, S14005

Adjournment: Senate met at 9:30 a.m., and adjourned at 7:14 p.m., until 9:30 a.m., on Thursday, November 6, 2003. (For Senate's program, see the remarks of the Acting Majority Leader in today's Record on page S14077.)

Committee Meetings

(Committees not listed did not meet)

AVIATION SECURITY

Committee on Commerce, Science, and Transportation: Committee held open and closed hearings to examine aviation security, focusing on efforts to measure effectiveness and address challenges, after receiving testimony from Stephen McHale, Deputy Administrator, Transportation Security Administration, Penrose A. Albright, Assistant Secretary, Plans Programs, Budgets, Science and Technology Directorate, William Parrish, Acting Assistant Secretary, Information Analysis, Information Analysis and Infrastructure Protection, all of the Department of Homeland Security; and Cathleen A. Berrick, Director, Homeland Security and Justice Issues, General Accounting Office.

Hearing recessed subject to the call.

NOMINATIONS

Committee on Foreign Relations: Committee concluded a hearing to examine the nominations of Marguerita Dianne Ragsdale, of Virginia, to be Ambassador to the Republic of Djibouti, Edward B. O'Donnell, Jr., of Tennessee, for the rank of Ambassador during his tenure of service as Special Envoy for Holocaust

Issues, Jon R. Purnell, of Massachusetts, to be Ambassador to the Republic of Uzbekistan, and Stuart W. Holliday, of Texas, to be Alternate Representative of the United States of America for Special Political Affairs in the United Nations, with the rank of Ambassador, after the nominees, who were introduced by Senator Lugar, testified and answered questions in their own behalf.

NOMINATIONS

Committee on Foreign Relations: Committee concluded a hearing to examine the nominations of Mary Kramer, of Iowa, to be Ambassador to Barbados and to serve concurrently and without additional compensation as Ambassador to St. Kitts and Nevis, Saint Lucia, Antigua and Barbuda, the Commonwealth of Dominica, Grenada, and Saint Vincent and the Grenadines, Timothy John Dunn, of Illinois, for the rank of Ambassador during his tenure of service as Deputy Permanent Representative to the Organization of American States, James Curtis Struble, of California, to be Ambassador to Peru, and Hector E. Morales, of Texas, to be United States Alternate Executive Director of the Inter-American Development Bank, who was introduced by Senator Hutchison, after the nominees testified and answered questions in their own behalf.

U.S. POSTAL SERVICE

Committee on Governmental Affairs: Committee concluded a hearing to examine the report of the Presidential Commission on the U.S. Postal Service, focusing on legislative reform relating to the long-term ability of the U.S. Postal Service to provide affordable, universal mail service, after receiving testimony from John E. Potter, Postmaster General, United States Postal Service; and David M. Walker Comptroller General of the United States, General Accounting Office.

House of Representatives

Chamber Action

Measures Introduced: 12 public bills, H.R. 3440–3451; and 1 resolution, H. Res. 433, were introduced. **Pages H10456–57**

Additional Cosponsors: **Pages H10457–58**

Reports Filed: No reports were filed today.

Speaker: Read a letter from the Speaker wherein he appointed Representative Bass to act as Speaker Pro Tempore for today. **Page H10345**

Chaplain: The prayer was offered today by Rev. James Thomas, Pastor, Jefferson Street Missionary Baptist Church in Nashville, Tennessee. **Page H10345**

Suspensions: The House agreed to suspend the rules and pass the following measures:

Trafficking Victims Protection Reauthorization Act of 2003: Debated on Tuesday, November 4, H.R. 2620, amended, to authorize appropriations for fiscal years 2004 and 2005 for the Trafficking Victims Protection Act of 2000, by a 2/3 yea-and-nay vote of 422 yeas to 1 nay, Roll No. 607. **Page H10426**

Authorizing salary adjustments for Justices and judges of the United States: H.R. 3349, to authorize salary adjustments for Justices and judges of the United States for fiscal year 2004; **Pages H10348–49**

Advancing Justice Through DNA Technology Act of 2003: H.R. 3214, amended, to eliminate the substantial backlog of DNA samples collected from crime scenes and convicted offenders, to improve and expand the DNA testing capacity of Federal, State, and local crime laboratories, to increase research and development of new DNA testing technologies, to develop new training programs regarding the collection and use of DNA evidence, to provide post-conviction testing of DNA evidence to exonerate the innocent, to improve the performance of counsel in State capital cases, by a 2/3 yea-and-nay vote of 357 yeas to 67 nays, Roll No. 608; **Pages H10349–63, H10426–27**

Reauthorizing the ban on undetectable firearms: H.R. 3348, amended, to reauthorize the ban on undetectable firearms; **Pages H10363–64**

Fallen Patriots Tax Relief Act: Agreed to the Senate amendments to H.R. 3365, to amend title 10, United States Code, and the Internal Revenue Code of 1986 to increase the death gratuity payable with respect to deceased members of the Armed Forces and to exclude such gratuity from gross income, to provide additional tax relief for members of the Armed Forces and their families, by a 2/3 yea-and-nay vote of 420 yeas with none voting "nay", Roll No. 609; **Pages H10367–73, H10427–28**

Honoring the firefighters and other public servants who responded to the wildfires in Southern California: H. Res. 425, recognizing and honoring

the firefighters and other public servants who responded to the October, 2003, historically devastating, outbreak of wildfires in Southern California; and **Pages H10377–84**

Francis X. McCloskey Post Office Building Designation Act: H.R. 3379, to designate the facility of the United States Postal Service located at 3210 East 10th Street in Bloomington, Indiana, as the Francis X. McCloskey Post Office Building. **Pages H10385–89**

Foreign Operations Appropriations Act: The House disagreed to the Senate amendments on H.R. 2800, making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 2004, and agreed to a conference. **Pages H10364–67**

The House agreed to the Lowey motion to instruct conferees on the bill by a voice vote. **Pages H10364–67**

Appointed as conferees: Representatives Kolbe, Knollenberg, Lewis (CA), Wicker, Bonilla, Vitter, Kirk, Crenshaw, Young (FL), Lowey, Jackson, Kilpatrick, Rothman, Kaptur, and Obey. **Page H10367**

Military Construction Appropriations Act: The House agreed to the conference report on H.R. 2559, making appropriations for military construction, family housing, and base realignment and closure for the Department of Defense for the fiscal year ending September 30, 2004 by a yea-and-nay vote of 417 yeas to 5 nays, Roll No. 606. **Pages H10389–93, H10425–26**

The House agreed to H. Res. 429, the rule providing for consideration of the conference report by a voice vote. **Pages H10373–74**

Federal Prison Industries Competition in Contracting Act of 2003: The House agreed to H. Res. 428, the rule providing for consideration of H.R. 1829, to amend title 18, United States Code, to require Federal Prison Industries to compete for its contracts minimizing its unfair competition with private sector firms and their non-inmate workers and empowering Federal agencies to get the best value for taxpayers' dollars, to provide a five-year period during which Federal Prison Industries adjusts to obtaining inmate work opportunities through other than its mandatory source status, to enhance inmate access to remedial and vocational opportunities and other rehabilitative opportunities to better prepare inmates for a successful return to society, to authorize alternative inmate work opportunities in support of non-profit organizations, by a voice vote. **Pages H10374–76**

Continuing Appropriations for FY 2004: The House passed H.J. Res. 76, making further continuing appropriations for fiscal year 2004 by a yea-and-nay vote of 418 yeas to 5 nays, Roll No. 605. **Pages H10393–96, H10424–25**

The House agreed to H. Res. 430, the rule providing for considerations of the bill by a voice vote. **Pages H10376–77**

Coast Guard and Maritime Transportation Act of 2003: The House passed H.R. 2443, to authorize appropriations for the Coast Guard for fiscal year 2004, to amend various laws administered by the Coast Guard, by a voice vote. **Pages H10396–S10424**

An amendment in the nature of a substitute offered by the Committee on Transportation and Infrastructure, printed in the bill and considered as an original bill for the purpose of amendment was agreed to by voice vote. **Page H10424**

Agreed to:

LoBiondo amendment that replaces language in multiple sections of the bill. **Pages H10409–16**

Manzullo amendment (No. 2 printed in the Congressional Record of October 28) that specifies that the Coast Guard use steel, iron, and manufactured products made in the U.S. on bridge alteration projects. **Pages H10420–21**

Rejected:

Baldwin amendment (No. 13 printed in the Congressional Record of November 4) that would have prohibited funds for the purchase of diesel engines for the Coast Guard's Integrated Deep Water System unless the engines are made in the United States. **Pages H10421–23**

DeFazio amendment that would have restricted the location of the National Coast Guard Museum, by a recorded vote of 199 ayes to 221 noes, Roll No. 604. **Pages H10417–20, H10423–24**

Withdrawn:

Bell amendment that was offered and subsequently withdrawn, that would have included petrochemical plants in the Houston area within 5 miles of navigable waters in the Port of Houston or the Houston Ship Channel security plans. **Page H10423**

Agreed that the Clerk be authorized to make technical and conforming changes to the bill. **Page H10424**

The House agreed to H. Res. 416, the rule providing for consideration of the bill on Wednesday, October 29.

Recognizing the importance of the U.S. relationship with Europe: Agreed to H. Res. 390, recognizing the continued importance of the transatlantic relationship and promoting stronger relations with Europe by reaffirming the need for a continued and meaningful dialogue between the United States and Europe. **Pages H10428–29**

Agreed to discharge the resolution from the Committee on International Relations. **Pages H10428–29**

Labor/HHS Appropriations—Motion to Instruct Conferees: The House debated the DeLauro motion to instruct conferees on H.R. 2660, making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies for the fiscal year ending September 30, 2004. Further proceedings on the motion were postponed until a later date. **Pages H10429–34**

Representative Bell announced his intention to offer a motion to instruct conferees on the bill. **Page H10428**

Energy Policy Act of 2003: Representative Filner announced his intention to offer a 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. **Page H10428**

Tax Relief, Simplification, and Equity Act of 2003: The House debated the Becerra motion to instruct conferees on H.R. 1308, to amend the Internal Revenue Code of 1986 to accelerate the increase in the refundability of the child tax credit. Further proceedings on the motion were postponed. **Pages H10434–38**

Medicare Prescription Drug and Modernization Act of 2003: The House debated the Capps motion to instruct conferees on H.R. 1, to amend title XVIII of the Social Security Act to provide for a voluntary prescription drug benefit under the Medicare program and to strengthen and improve the Medicare program. Further proceedings on the motion were postponed. **Pages H10438–43**

Representative Cardoza announced his intention to offer a motion to instruct conferees on the bill. **Page H10428**

Senate Message: Messages received from the Senate today appear on pages H10345, H10384, and H10428.

Senate Referrals: S. 1132 was referred to the Committees on Veterans' Affairs and Armed Services; S. 1720 was referred to the Committee on the Judiciary. **Page H10455**

Amendments: Amendments ordered printed pursuant to the rule appear on page H10458.

Adjournment: The House met at 10 a.m. and adjourned at 10:35 p.m.

Committee Meetings

SPECIALTY CROP INDUSTRY—REVIEW DOMESTIC POLICIES AFFECTING

Committee on Agriculture: Subcommittee on Livestock and Horticulture held a hearing to review domestic policies affecting the specialty crop industry. Testimony was heard from public witnesses.

SUSTAINING GLOBAL COMMITMENTS: IMPLICATIONS FOR U.S. FORCES

Committee on Armed Services: Held a hearing on Sustaining Global Commitments: Implications for U.S. Forces. Testimony was heard from the following officials of the Department of Defense: David Chu, Under Secretary, Personnel and Readiness; and Gen. Peter Pace, USMC, Vice Chairman, Joint Chiefs of Staff; Douglas Holtz-Eakin, Director, CBO; and a public witness.

HEALTHSOUTH FINANCIAL COLLAPSE

Committee on Energy and Commerce: Subcommittee on Oversight and Investigations concluded hearings entitled "The Financial Collapse of HealthSouth." Testimony was heard from Gregory Wallance, Member, Ad Hoc Advisory Group on the Organizational Sentencing Guidelines, U.S. Sentencing Commission; the following officials of HealthSouth Corporation: Joel Gordon, Acting Chairman, Board of Directors; Robert May, Acting Chief Executive Officer; Sage Givens, Board of Director and Audit Committee Member; and Larry Striplin, Board of Director and former Chairman, Compensation Committee; and public witnesses.

REFORMING INSURANCE REGULATION

Committee on Financial Services: Subcommittee on Capital Markets, Insurance, and Government Sponsored Enterprises held a hearing entitled "Reforming Insurance Regulation—Making the Marketplace More Competitive for Consumers." Testimony was heard from Gregory Serio, Superintendent of Insurance, State of New York; and public witnesses.

PROTECTING HOMEOWNERS

Committee on Financial Services: Subcommittee on Financial Institutions and Consumer Credit and the Subcommittee on Housing and Community Opportunity held a joint hearing entitled "Protecting Homeowners: Preventing Abusive Lending While Preserving Access to Credit." Testimony was heard from Thomas J. Miller, Attorney General, State of Iowa; and public witnesses.

SOCIAL INVESTMENT FUND FOR THE AMERICAS

Committee on International Relations: Subcommittee on Western Hemisphere held a hearing on the Case for a Social Investment Fund for the Americas. Testimony was heard from public witnesses.

MISCELLANEOUS MEASURES

Committee on Resources: Ordered reported, as amended, the following bills: H.R. 521, Steel Industry National Historic Site Act; H.R. 1798, Upper Housatonic Valley National Heritage Area Act; and H.R. 2693, Marine Mammal Protection Act Amendments of 2003.

MERCURY EMISSIONS

Committee on Science: Subcommittee on Environment, Technology, and Standards held a hearing on Mercury Emissions: State of the Science and Technology. Testimony was heard from. David Krabbenhoft, Research Scientist, U.S. Geological Survey, Department of the Interior; and public witnesses.

COMMERCIAL SPACE ACT

Committee on Science: Subcommittee on Space and Aeronautics held a hearing on H.R. 3245, Commercial Space Act of 2003. Testimony was heard from public witnesses.

BUILDING CAPABILITIES: INTELLIGENCE COMMUNITY'S NATIONAL SECURITY REQUIREMENTS FOR DIVERSITY

Permanent Select Committee on Intelligence: Held a hearing on Building Capabilities: The Intelligence Community's National Security Requirements for Diversity of Languages, Skills, and Ethnic and Cultural Understanding. Testimony was heard from the following officials of the Department of Defense: Lt. Gen. James R. Clapper, Jr., USAF (Ret.), Director, Imagery and Mapping Agency; William Black, Deputy Director, NSA; and Armando Rodriguez, Chief, Office of Diversity Management and Equal Employment Opportunity, Defense Intelligence Agency; Don Cryer, Director, Plans and Programs, Community Management Staff, CIA; Peter Teets, Director, National Reconnaissance Office; and public witnesses.

Joint Meetings

TAX REFORM

Joint Economic Committee: Committee concluded a hearing to examine the current tax code system, focusing on academic principles that should guide fundamental tax reform, after receiving testimony from Senator Specter and Representatives Linder and McDermott; Michael J. Boskin, Stanford University Hoover Institution, Palo Alto, California; Edward J. McCaffery, University of Southern California Law School, Los Angeles; and Cliff Massa III, Patton Boggs LLP, and Robert S. McIntyre, Citizens for Tax Justice, both of Washington, D.C.

MILITARY CONSTRUCTION APPROPRIATIONS ACT

Conferees agreed to file a conference report on the differences between the Senate and House passed versions of H.R. 2559, making appropriations for military construction, family housing, and base realignment and closure for the Department of Defense for the fiscal year ending September 30, 2004.

NEW PUBLIC LAWS

(For last listing of Public Laws, see DAILY DIGEST, *p. D 1209)*

H.J. Res. 75, making further continuing appropriations for the fiscal year 2004. Signed on October 31, 2003. (Public Law 108–104).

COMMITTEE MEETINGS FOR THURSDAY, NOVEMBER 6, 2003

(Committee meetings are open unless otherwise indicated)

Senate

Committee on Commerce, Science, and Transportation: to hold hearings to examine the Nominations: of Floyd Hall, of New Jersey, Louis S. Thompson, of Maryland, and Robert L. Crandall, of Texas, each to be a Member of the Reform Board (Amtrak), 9:30 a.m., SR–253.

Subcommittee on Science, Technology, and Space, to hold hearings to examine lunar exploration, 2:30 p.m., SR–253.

Committee on Foreign Relations: business meeting to consider S. Res. 237, welcoming the public apologies issued by the President of Serbia and Montenegro and the President of the Republic of Croatia and urging other leaders in the region to perform similar concrete acts of reconciliation, S. Res. 256, observing the 50th anniversary of the Mutual Defense Treaty between the United States and the Republic of Korea, affirming the deep cooperation and friendship between the people of the United States and the people of the Republic of Korea, and thanking the Republic of Korea for it's contributions to the global war on terrorism and to the stabilization and reconstruction of Afghanistan and Iraq, S. 950, to allow travel between the United States and Cuba, S. 1317, to amend the American Servicemember's Protection Act of 2002 to provide clarification with respect to the eligibility of certain countries for United States military assistance, and the nominations of Zalmay Khalilzad, of Maryland, to be Ambassador to the Transitional Islamic State of Afghanistan, Louise V. Oliver, of the District of Columbia, for the rank of Ambassador during her tenure of service as the United States Permanent Representative to the

United Nations Educational, Scientific, and Cultural Organization, William J. Hudson, of Virginia, to be Ambassador to the Republic of Tunisia, Margaret Scobey, of Tennessee, to be Ambassador to Syria, Thomas Thomas Riley, of California, to be Ambassador to the Kingdom of Morocco, Jackie Wolcott Sanders, for the rank of Ambassador during her tenure of service as United States Representative to the Conference on Disarmament and the Special Representative of the President of the United States for Non-Proliferation of Nuclear Weapons, Mary Kramer, of Iowa, to be Ambassador to Barbados and to serve concurrently and without additional compensation as Ambassador to St. Kitts and Nevis, Saint Lucia, Antigua and Barbuda, the Commonwealth of Dominica, Grenada, and Saint Vincent and the Grenadines, Timothy John Dunn, of Illinois, for the rank of Ambassador during his tenure of service as Deputy Permanent Representative to the Organization of American States, James Curtis Struble, of California, to be Ambassador to Peru, Hector E. Morales, of Texas, to be United States Alternate Executive Director of the Inter-American Development Bank, Marguerita Dianne Ragsdale, of Virginia, to be Ambassador to the Republic of Djibouti, Edward B. O'Donnell, Jr., of Tennessee, for the rank of Ambassador during his tenure of service as Special Envoy for Holocaust Issues, Jon R. Purnell, of Massachusetts, to be Ambassador to the Republic of Uzbekistan, Stuart W. Holliday, of Texas, to be Alternate Representative of the United States of America for Special Political Affairs in the United Nations, with the rank of Ambassador, 10 a.m., S–116, Capitol.

Committee on Governmental Affairs: Permanent Subcommittee on Investigations, to hold hearings to examine Department of Defense's improper use of first and business class airline travel, 2 p.m., SD–342.

Committee on the Judiciary: business meeting to consider S. 710, to amend the Immigration and Nationality Act to provide that aliens who commit acts of torture, extrajudicial killings, or other specified atrocities abroad are inadmissible and removable and to establish within the Criminal Division of the Department of Justice an Office of Special Investigations having responsibilities under that Act with respect to all alien participants in war crimes, genocide, and the commission of acts of torture and extrajudicial killings abroad, H.R. 1086, to encourage the development and promulgation of voluntary consensus standards by providing relief under the antitrust laws to standards development organizations with respect to conduct engaged in for the purpose of developing voluntary consensus standards, S. 1685, to extend and expand the basic pilot program for employment eligibility verification, S. Con. Res. 77, expressing the sense of Congress supporting vigorous enforcement of the Federal obscenity laws, H.R. 1437, to improve the United States Code, and the nominations of Henry W. Saad, of Michigan, to be United States Circuit Judge for the Sixth Circuit, Janice R. Brown, of California, to be United States Circuit Judge for the District of Columbia Circuit, D. Michael Fisher, of Pennsylvania, to be United States Circuit Judge for the Third Circuit, James B. Comey, of New York, to be Deputy Attorney General, Department of Justice, Michael J. Garcia, of New York, to be an Assistant Secretary of Homeland Security for U.S. Immigration and Customs Enforcement, and Mark R. Filip, to be United States District Judge for the Northern District of Illinois, 9:30 a.m., SD–226.

Select Committee on Intelligence: to hold closed hearings to examine certain intelligence matters, 2:30 p.m., SH–219.

House

Committee on Agriculture, to review the application for contract market designation of the United States Futures Exchange LLC before the Commodity Futures Trading Commission, 10 a.m., 1300 Longworth.

Committee on Energy and Commerce, Subcommittee on Telecommunications and the Internet, hearing entitled "Computer Viruses: The Disease, the Detection, and the Prescription for Protection," 9:30 a.m., 2123 Rayburn.

Committee on Financial Services, Subcommittee on Capital Markets, Insurance, and Government Sponsored Enterprises, to continue hearings entitled "Mutual Funds: Who's Looking Out for Investors?" 10 a.m., 2128 Rayburn.

Committee on Government Reform, to consider the following measures: H.R. 2751, GAO Human Capital Reform Act of 2003; H.R. 2886, Department of Homeland Security Financial Accountability Act; H. Res. 274, honoring John Stockton for an outstanding career, congratulating him on his retirement, and thanking him for his contributions to basketball, to the State of Utah, and to the Nation; H. Res. 373, expressing the sense of Congress with respect to the Women's United Soccer Association; H. Res. 408, recognizing the 50th anniversary of The Conservative Mind; H. Con. Res. 69, expressing the sense of Congress that Althea Gibson should be recognized for her groundbreaking achievements in athletics and her commitment to ending racial discrimination and prejudice within the world of sports; H. Con. Res. 299, honoring Mr. Sargent Shriver for his dedication and service to the United States of America, for his service in the United States Navy, and for his lifetime of work as an ambassador for the poor and powerless citizens of the United States of America; H. Con. Res. 313, to urge the President, on behalf of the United States, to present the Presidential Medal of Freedom to His Holiness, Pope John Paul II, in recognition of his significant, enduring, and historic contributions to the causes of freedom, human dignity, and peace and to commemorate the Silver Jubilee of His Holiness' inauguration of his ministry as Bishop of Rome and Supreme Pastor of the Catholic Church; H.R. 2130, to redesignate the facility of the United States Postal Service located at 650 Kinderkamack Road in River Edge, New Jersey, as the "New Bridge Landing Post Office;" H.R. 3300, to designate the facility of the United States Postal Service located at 15500 Pearl Road in Strongsville, Ohio, as the "Walter F. Ehrfelt, Jr. Post Office Building;" H.R. 3353, to designate the facility of the United States Postal Service located at 525 Main Street in Tarboro, North Carolina, as the "George Henry White Post Office Building;" S. 1590, to redesignate the facility of the United States Postal Service, located at 315 Empire Boulevard in Crown

Heights, Brooklyn, New York, as the "James E. Davis Post Office Building;" and S. 1718, to designate the facility of the United States Postal Service located at 3710 West 73rd Terrace in Prairie Village, Kansas, as the "Senator James B. Pearson Post Office," 1:30 p.m., 2154 Rayburn.

Subcommittee on National Security, Emerging Threats and International Relations and the Subcommittee on Technology, Information Policy, Intergovernmental Relations and the Census, joint hearing on "First Responder Interoperability: Can You Hear Me Now?" 10 a.m., and 11:30 a.m., 2154 Rayburn.

Committee on Science, Subcommittee on Energy, hearing on "What are the Administration Priorities for Climate Change Technology?" 10 a.m., 2318 Rayburn.

Committee on Ways and Means, Subcommittee on Human Resources, hearing to Examine Recent Failure to Protect Child Safety, 10 a.m., 1100 Longworth.

Next Meeting of the **SENATE**

9:30 a.m., Thursday, November 6

Senate Chamber

Program for Thursday: After the transaction of routine morning business (not to extend beyond 10:30 a.m.) Senate will resume consideration of the nomination of William H. Pryor, Jr., of Alabama, to be United States Circuit Judge for the Eleventh Circuit, with a vote on the second motion to close further debate on the nomination. If cloture is not invoked, Senate will continue consideration of H.R. 2673, Agriculture Appropriations Act.

Next Meeting of the **HOUSE OF REPRESENTATIVES**

10 a.m., Thursday, November 6

House Chamber

Program for Thursday: Consideration of H.R. 1829, Federal Prison Industries Competition in Contracting Act of 2003 (open rule, one hour of debate).

Extensions of Remarks, as inserted in this issue

HOUSE

Alexander, Rodney, La., E2236
Baker, Richard H., La., E2230
Ballance, Frank W., Jr., N.C., E2240
Bereuter, Doug, Nebr., E2233
Bishop, Sanford D., Jr., Ga., E2240
Bonner, Jo, Ala., E2239
Bono, Mary, Calif., E2241
Bordallo, Madeleine Z., Guam, E2236
Burton, Dan, Ind., E2233
Buyer, Steve, Ind., E2234
Capito, Shelley Moore, W.Va., E2229, E2230, E2233
Cardoza, Dennis A., Calif., E2234
Case, Ed, Hawaii, E2237
Crowley, Joseph, N.Y., E2240
Davis, Tom, Va., E2231
English, Phil, Pa., E2239, E2242
Evans, Lane, Ill., E2244
Filner, Bob, Calif., E2243
Fossella, Vito, N.Y., E2230
Graves, Sam, Mo., E2238
Hoeffel, Joseph M., Pa., E2231
Kennedy, Mark R., Minn., E2237
Kildee, Dale E., Mich., E2242
King, Peter T., N.Y., E2231
Lowey, Nita M., N.Y., E2232, E2240
McCollum, Betty, Minn., E2229, E2230
McInnis, Scott, Colo., E2239, E2240, E2240, E2241, E2241, E2242, E2242, E2243, E2244, E2245
Michaud, Michael H., Me., E2245
Miller, Gary G., Calif., E2229, E2231
Moore, Dennis, Kansas, E2236
Norton, Eleanor Holmes, D.C., E2245
Nunes, Devin, Calif., E2232
Oxley, Michael G., Ohio, E2230
Platts, Todd Russell, Pa., E2239
Pombo, Richard W., Calif., E2233
Pomeroy, Earl, N.D., E2230
Porter, Jon C., Nev., E2239, E2240, E2242
Radanovich, George, Calif., E2232
Rogers, Harold, Ky., E2230
Ross, Mike, Ark., E2229, E2230
Ruppersberger, C.A. Dutch, Md., E2237
Shays, Christopher, Conn., E2231
Skelton, Ike, Mo., E2235
Solis, Hilda L., Calif., E2245
Souder, Mark E., Ind., E2239
Tauscher, Ellen O., Calif., E2244
Udall, Mark, Colo., E2243
Weldon, Dave, Fla., E2234
Wolf, Frank R., Va., E2238

Congressional Record The *Congressional Record* (USPS 087–390). The Periodicals postage is paid at Washington, D.C. The public proceedings of each House of Congress, as reported by the Official Reporters thereof, are printed pursuant to directions of the Joint Committee on Printing as authorized by appropriate provisions of Title 44, United States Code, and published for each day that one or both Houses are in session, excepting very infrequent instances when two or more unusually small consecutive issues are printed one time. ¶Public access to the Congressional Record is available online through *GPO Access*, a service of the Government Printing Office, free of charge to the user. The online database is updated each day the Congressional Record is published. The database includes both text and graphics from the beginning of the 103d Congress, 2d session (January 1994) forward. It is available through GPO Access at www.gpo.gov/gpoaccess. Customers can also access this information with WAIS client software, via telnet at swais.access.gpo.gov, or dial-in using communications software and a modem at (202) 512–1661. Questions or comments regarding this database or GPO Access can be directed to the GPO Access User Support Team at: E-Mail: gpoaccess@gpo.gov; Phone 1–888–293–6498 (toll-free), 202–512–1530 (D.C. area); Fax: 202–512–1262. The Team's hours of availability are Monday through Friday, 7:00 a.m. to 5:30 p.m., Eastern Standard Time, except Federal holidays. ¶The Congressional Record paper and 24x microfiche will be furnished by mail to subscribers, free of postage, at the following prices: paper edition, $217.00 for six months, $434.00 per year, or purchased for $6.00 per issue, payable in advance; microfiche edition, $141.00 per year, or purchased for $1.50 per issue payable in advance. The semimonthly Congressional Record Index may be purchased for the same per issue prices. To place an order for any of these products, visit the U.S. Government Online Bookstore at: bookstore.gpo.gov. Mail orders to: Superintendent of Documents, P.O. Box 371954, Pittsburgh, PA 15250–7954, or phone orders to (866) 512–1800 (toll free), (202) 512–1800 (D.C. Area), or fax to (202) 512–2250. Remit check or money order, made payable to the Superintendent of Documents, or use VISA, MasterCard, Discover, American Express, or GPO Deposit Account. ¶Following each session of Congress, the daily Congressional Record is revised, printed, permanently bound and sold by the Superintendent of Documents in individual parts or by sets. ¶With the exception of copyrighted articles, there are no restrictions on the republication of material from the Congressional Record.

POSTMASTER: Send address changes to the Superintendent of Documents, Congressional Record, U.S. Government Printing Office, Washington, D.C. 20402, along with the entire mailing label from the last issue received.