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House of Representatives

The House met at 9 a.m.

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

Lord our God, grant Your servants patience and perseverance.

Patience calms the soul within.

Perseverance reaches beyond oneself to accomplish the task at hand.

Humbled by our own frailty and sometimes overwhelmed by the expectations laid upon us, we need Your mighty assistance.

Unsure which comes first, perseverance or patience, touch each Member of this House personally that all may contribute to the ways of freedom and the work of justice.

May virtue flourish here that all may see that by helping others to persevere we find the strength and purpose to persevere ourselves; for we are Your servants, both now and forever.

Amen.

THE JOURNAL

The SPEAKER. 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. Will the gentleman from Georgia (Mr. GINGREY) come forward and lead the House in the Pledge of Allegiance.

Mr. GINGREY 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.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair will entertain five 1-minute speeches on each side.

ST. URSULA BULLDOGS WIN OHIO STATE VOLLEYBALL CHAMPIONSHIP

NOTICE

If the 108th Congress, 1st Session, adjourns sine die on or before November 23, 2003, a final issue of the Congressional Record for the 108th Congress, 1st Session, will be published on Monday, December 15, 2003, in order to permit Members to revise and extend their remarks.

All material for insertion must be signed by the Member and delivered to the respective offices of the Official Reporters of Debates (Room HT–60 or S–410A of the Capitol), Monday through Friday, between the hours of 10:00 a.m. and 3:00 p.m. through Friday, December 12, 2003. The final issue will be dated Monday, December 15, 2003, and will be delivered on Tuesday, December 16, 2003.

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By order of the Joint Committee on Printing.

ROBERT W. NEY, *Chairman.*

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

Mr. CHABOT. Mr. Speaker, this morning I would like to recognize the achievement of an exceptional group of young women in my Cincinnati congressional district, the St. Ursula Bulldogs volleyball team.

St. Ursula battled Ursuline Academy, another outstanding Cincinnati school, for Ohio's State volleyball championship. St. Ursula emerged victorious, capping off an undefeated season. With 29 wins and zero losses. St. Ursula was also declared national champion.

The victory marked St. Ursula's eighth State volleyball title, making it the only Ohio school to accomplish this feat in history.

Mr. Speaker, these are two excellent schools academically as well as in sports. They have faced each other three straight years for the State title. They are shining examples of what can be accomplished with hard work, perseverance, and teamwork.

It gives me great pleasure, especially since my niece, Maria, is a student at St. Ursula, to acknowledge in the United States Congress the success and achievement of these exceptional young women and their coaches, St. Ursula's Julie Perry and Ursuline's Amie Meyer.

Congratulations.

MEDICARE CONFERENCE REPORT'S RURAL PACKAGE

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

Mr. GINGREY. Mr. Speaker, I rise today in support of the rural package provided for in the House-Senate Medicare agreement. The package corrects existing inequities for rural and small town hospitals and providers by equalizing the disproportionate reimbursement payments they have been experiencing in the past.

Rural hospitals' base payment rate will be permanently extended by 1.6 percent to match the urban hospital payment rate and the amount of disproportionate share payments will be more than doubled to 12 percent of total Medicare inpatient payments.

The bill additionally pays cost plus 1 percent to the Critical Access Hospitals to ensure that they can improve access and services.

And that, Mr. Speaker, is exactly the purpose of the rural package: To provide immediate help to rural area and small city hospitals so that they can provide sustained access and quality service to their patients.

Our seniors deserve nothing less than that, and I urge my colleagues to vote in favor of our Nation's rural hospitals. Pass the Medicare conference report.

CONGRESS COULD DO BETTER FOR SENIORS

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

Mr. DEFAZIO. Mr. Speaker, today the House will take up an incredibly complicated $400 million bill which purports to provide seniors something they need: help in buying pharmaceuticals. We could do this more simply and more cost effectively. We could have the government negotiate lower drug prices on behalf of seniors as they do for the Veterans' Administration, a minimum of a 24-percent reduction for veterans' drugs and actually an average of about 50 percent.

There is a bigger group of Medicare people. We could do better. It would not cost anything.

We could also allow the free reimportation of FDA-approved, U.S.-certified, U.S.-manufactured drugs from Canada and other countries. Many seniors in my district are doing that now, saving an average of 50 percent. But, no. Instead, this bill is going to prohibit the reimportation. This bill is going to prohibit the government from negotiating lower prices for pharmaceuticals, all to protect the profits of the pharmaceutical industry at a time when many seniors cannot afford the drugs they need to maintain their health.

PRESIDENT BUSH'S SPEECH IN LONDON

(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, this week President George W. Bush gave an inspiring speech at Whitehall in London, while visiting the Royal Family and Prime Minister Tony Blair. The President stated clearly that the United States is committed to winning the war on terrorism.

In one of the most important moments of the speech, President Bush explains why we cannot forget September the 11th and the innocent thousands that were killed that day. The President said, ''The hope that danger has passed is comforting, it is understandable, and it is false. The attacks that followed on Bali, Jakarta, Casa Blanca, Bombay, Mombassa, Najaf, Jerusalem, Riyadh, Baghdad and Istanbul were not dreams. They're part of the global campaign by terrorist networks to intimidate and demoralize those who oppose them.''

The President is absolutely correct and I encourage all Americans to remember the act of war brought upon our Nation just 2 years ago. I have confidence that our military will win the global war on terror and I commend the dozens of coalition countries that have joined us in this fight for freedom.

Mr. Speaker, in conclusion, may God bless our troops.

BUSINESS WILL NOT ALLOW GOVERNMENT TO OPERATE LIKE A BUSINESS

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

Mr. GEORGE MILLER of California. Mr. Speaker, very often when we go out and hold town hall meetings, people stand up in the town hall and say: Congressman, why do you not run the government more like a business?

The answer is when we try to run the government like a business, business won't let us.

If one is a Wal-Mart, they negotiate their pharmaceutical prices. They negotiate the prices of goods sold in their store.

In one is a COSTCO, they negotiate pharmaceutical prices and people go to COSTCO to buy their pharmaceuticals.

But if the government wants to negotiate the prices as the largest purchaser of pharmaceuticals in the world, we will not be allowed to because the Republican bill prohibits the Secretary of Health and Human Services from negotiating a better price for America's seniors and American families.

We cannot run the Congress like a business when the businesses are all lobbying to keep a monopoly, to keep high prices, to keep people from going to Canada and getting FDA-approved drugs. That is what suppliers do. People go where there are lower prices. They can search the world over in the globalized economy for lower prices. But American seniors who need lifesaving drugs cannot search the world over for lower prices like the businesses can, because business will not let government run the government like a business.

JOBS AND GROWTH PACKAGE REAPING BENEFITS FOR WORKING FAMILIES

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

Mr. SHUSTER. Mr. Speaker, it has become apparent that the Jobs and Growth Tax Relief Package passed by Congress earlier this year has helped fuel the recent surge in the economy. The American economy grew at a rapid pace of 7.2 percent during the third quarter of this year, the best since 1984.

The seeds of economic growth are beginning to take hold. Our economy is rebounding. We have created strong economic policy built on a foundation of tax relief. The jobs and growth package that Congress passed has been responsible for putting taxpayers' hard earned dollars back in their own pockets.

This week we further our focus on jobs by passing an important comprehensive energy package and we will have an opportunity to strengthen our health care system by passing an important Medicare prescription drug bill

later today. These building blocks will continue to provide substantial stimulus over the coming months.

Most importantly, we must remember that America's strength comes from its workers, its small business owners, and its families dedicated to a better way of life. As a Congress, we must continue to assist our working men and women by removing the obstacles so they can capture the American dream.

NEVER NEVER LAND OF CORPORATE WELFARE

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

Mr. EMANUEL. Mr. Speaker, my colleagues on the other side of the aisle always talk about being the protectors of the free market system and believes if the free market would operate without government hindrance, business would be fine and society would be fine.

This week this House passed an energy bill that gave $20 billion of taxpayer money to companies to do drilling for oil, do their basic services, when they should be doing that on their own without taxpayer subsidies.

Now, we are about to pass a prescription drug bill that pays HMOs $80 billion to provide health insurance.

These are the bastions of capitalism? We used to have ''end welfare as we know it.'' This is a new form of welfare. These are businesses who have come to rely on the government subsidies as the only way to operate their businesses. I think that today, rather than being the culture of the protectors of capitalism and the principles of capitalism, the Republican Party has become the bastions of the culture of welfare and we need to end welfare as it is being abused in our society.

Lately, the way I have seen our government turn into literally a culture of welfare for corporate and special interests, I am beginning to think that we have been caught captive in the Never Never Land. It is not Michael Jackson, it is us who have been caught here in this culture of welfare that has come to dominate and be used by businesses that have come to rely on the government, and the taxpayers more importantly, to afford their basic bottom line.

ADOPTION INFORMATION ACT

(Mrs. JO ANN DAVIS of Virginia asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. JO ANN DAVIS of Virginia. Mr. Speaker, this Saturday, November 22, numerous organizations will join together in celebration of National Adoption Day to recognize the many blessings afforded by adoption. In honor of this day, I would like to draw attention to a bill that I introduced this year that seeks to raise awareness of adoption, the Adoption Information Act, H.R. 1229.

Essentially, the Adoption Information Act would require all federally funded clinics to provide a detailed pamphlet of adoption referral information to all people seeking family planning services. All too often, women seeking pregnancy counseling do not receive all the information necessary to make an informed decision. Information on what adoption is and referral for adoption services are rarely discussed at all, and when they are that information is often inaccurate and incomplete.

H.R. 1229 aims to ensure that women are empowered with the accurate and complete information they need to make informed decisions.

Mr. Speaker, I urge my colleagues to support the Adoption Information Act.

FIRST DO NO HARM

(Mrs. CHRISTENSEN asked and was given permission to address the House for 1 minute.)

Mrs. CHRISTENSEN. Mr. Speaker, I want to respond to one of my physician colleagues who was on the floor last evening and speak to others who think that they and we ought to support the conference report on Medicare reform. One of the most important tenets of the oath we take as physicians is that we must do no harm. This is to guide us in our practice and our interactions with both our patients and society.

The Medicare bill that will be before us today will do much harm by threatening to take away retiree prescription drug coverage. By refusing to provide wraparound coverage for poor seniors and disabled on Medicare, it will exclude many poor, disabled, and elderly by means testing, and most of all it will begin to destroy this important program which so many depend on and need.

Mr. Speaker, if this bill were to pass tomorrow, it would not help one senior next year. We have time to do it right and fulfill the promise we made to provide a comprehensive plan. Physicians, do not allow our profession to be used to pass a bad bill or hurt our patients.

I urge physicians to call their representatives and tell them to vote ''no.'' I urge my colleagues to vote ''no.''

Whether physician or Member of Congress, above all we must do no harm.

PROVIDING FOR CONSIDERATION OF MOTIONS TO SUSPEND THE RULES

Mr. SESSIONS. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 456 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 456

Resolved, That it shall be in order at any time on the legislative day of Friday, November 21, 2003, for the Speaker to entertain motions that the House suspend the rules. The Speaker or his designee shall consult with the Minority Leader or her designee on the designation of any matter for consideration pursuant to this resolution.

□ 0915

The SPEAKER pro tempore (Mr. SIMPSON). The gentleman from Texas (Mr. SESSIONS) is recognized for 1 hour.

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

Mr. Speaker, this rule provides for suspensions that will be in order at any time on the legislative day of Friday, November 21, 2003. It also provides that the Speaker or his designee will consult with the minority leader or her designee on any suspension considered under the rule.

Mr. Speaker, as I noted yesterday, the Republican leadership of this House has set out on an aggressive legislative plan for this week on behalf of the American people. The goal of this plan is to pass a number of bills over the next few days which will dramatically improve the quality of life for all Americans.

This week we have already succeeded in passing an energy conference report that will bring our Nation's outdated energy policy into the 21st century through comprehensive legislation that promotes conservation, reduces America's growing dependence on foreign oil, and creates new jobs and cleaner skies.

Today we will consider legislation to make sure that America uses best practices technology and procedures to prevent tragic wildfires, like the ones that California just suffered through, from ravaging our Nation's forests. This important bipartisan legislation takes a healthy step forward in providing a better approach to addressing the problems that have to date prevented the proper management of forest health on private forest land.

This bill creates new programs to detect and suppress dangerous forest pests. It also creates two new programs which help family forest owners to manage their forests, protect watersheds, and help to protect wildlife on private lands. Both of these programs use a nonregulatory, incentive-based approach to promote conservation, rather than a top-down, one-size-fits-all regulatory approach.

For the balance of the week, we are slated to consider legislation to, among other things:

Number one, to authorize spending levels for the intelligence activities we need to win the war.

Number two, to reform Medicare to make sure that more of our seniors have the prescription drug coverage that they need while giving them much more and more choices for their health

care coverage, and also to allow all Americans to begin planning for their health needs through savings accounts that can be purchased, can grow, and can be used on a tax free basis.

Number three, and to provide for a uniform national credit reporting system that ensures that consumers are protected from identity theft while giving them access to the fast and reliable credit that makes our economy the envy of the world.

I understand that Members on either side of the aisle may have different views about how to address each of these issues that I have talked about, but we will have an opportunity to hear a great deal of debate from both sides over the next few days on each one of these issues, and so many other things. However, a great deal of the legislation that the Republican House leadership has also scheduled on behalf of all Americans has broad support from both the majority and the minority, and in an attempt to make sure that this important work is finished by the end of this legislative week as well, we are here today to pass a rule to provide for the consideration of those bills.

Mr. Speaker, this balanced rule provides the minority with the ability to consult with the Speaker on any suspension that is offered, ensuring that their input and views are duly considered before any legislation considered under this rule is brought to the floor.

Mr. Speaker, I encourage my colleagues on both sides of the aisle to support this uncontroversial and balanced rule which passed yesterday by a voice vote.

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

Mr. MCGOVERN. Mr. Speaker, I thank the gentleman from Texas for yielding me 30 minutes, and I yield myself such time as I may consume.

Mr. Speaker, we have no objection to this rule which would allow for this House to consider suspension bills today. We are not going to ask for a vote. There is no controversy over this and there is no reason to debate this. But I do want to just take a couple of minutes to alert my colleagues to something that I think is quite serious, and that is the fact that we probably some time today will consider the so-called Medicare prescription drug bill.

Mr. Speaker, this bill, if I understand correctly, was filed at about 1:20 a.m. this morning and under House rules, Mr. Speaker, all Members of this House, Democrats and Republicans, are supposed to have 3 days, 3 days to review any conference report so they can actually read what is in it so that they will know what, in fact, that they are voting on. It is obvious, as has been the case so many times over and over, that the Republican majority is choosing to ignore the rules of this House and it is particularly disturbing that they have chosen to do so once again with regard to a bill that I think is so very important.

This is a bill, in my opinion, that is going to end Medicare as we know it. It is going to privatize Medicare and is not going to provide our senior citizens with the prescription drug benefits that they expect. But yet we are rushing it to the floor with very little consideration and with almost no opportunity for Members to know what is in it.

Mr. Speaker, let me read today the lead paragraph in an editorial that appeared in today's Washington Post. ''Before we say anything else about the Medicare bill that the House-Senate conference committee approved yesterday, it is important to point out that the process by which this bill was created hardly reflects well on our political culture. This is an extremely expensive, 1,100-page bill that will have a profound effect on the Nation's fiscal and physical health and although it was not finished until yesterday afternoon after several months of a largely secret conference, last night House leaders were planning to bring it up for a vote tomorrow. If they do, most Members will have no real idea of what they are voting for or against.''

Now, my colleagues on the other side will say, gee, we are coming up to Thanksgiving and we all need to go home and we need to get everything done before Thanksgiving. Well, most Americans have a couple of days off at Thanksgiving and then they go back to work the following week. There is no reason why this House cannot go to work the following week and do the people's business and do it right.

One of the problems with not being able to read bills before they come to the floor is that oftentimes days later, weeks later, sometimes months later we find out that there are little goodies, special interest provisions that are hidden in these bills that are very expensive, that help one particular special interest, but do great harm to the American people.

Mr. Speaker, I do not want anyone to have an excuse that they do not know what is in this bill. And there are people on the other side of the aisle who also had requested early on that we have at least 3 days to review this important piece of legislation. I think it is unfortunate that we are moving today on a very important piece of legislation, a bill, as I said before, that in my mind undermines one of the most important and successful social programs in the history of this country, and is being rushed to the floor without giving Members or their staff the opportunity to read the bill or to go home and check with their constituents.

In case my colleagues forgot, constituents are the people who elect us. We are supposed to be serving constituents who have elected us to this high office, and I think we are doing a great disservice to those by allowing this Medicare bill to come to the floor without at least respecting the rules.

Mr. Speaker, let me finally say if my Republican colleagues want to continue to waive these rules and not report rules, why do they not just repeal all the rules? There is no sense to have rules of this House if they are not going to follow them.

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

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

Mr. Speaker, the gentleman from Massachusetts (Mr. MCGOVERN) is exactly correct. We are going to this morning, in about 35 minutes, walk upstairs here in the Capitol. We are going to go to the Committee on Rules. Our young chairman, the gentleman from California (DAVID DREIER), will open up the meeting where we will be open for debate and I am sure controversy. But most of all, it will be part of the process that has been something that the Committee on Rules in this House has done for a long time, and that is follow through with the process to make sure that people at 10 o'clock Eastern time in Washington, D.C., and Members of Congress have a chance to walk upstairs and to talk about this bill and to present their ideas and to talk about what this conference report is all about.

Obviously, this conference report is debatable. It is nonamendable. It will be an up-or-down vote. This is part of a process that has taken place where Members of this great body, with our colleagues on the other side of the Capitol, the Senate, got together, worked through problems. But I think that if we were trying to wait until today, as my colleague from Massachusetts would suggest, to find out what people want back home, I think we have made a terrible mistake. I think Members on this side of the aisle have already gone home and listened to people. That is what this is about, to be a body that has heard people. And we have passed not only this legislation as a result also of consultation back home, but even last January when we handled the budget we talked about what we thought this bill would look like. And, of course, our colleagues on the other side of the aisle, said there is no way that we could do that. We just would never pull that off.

Well, Mr. Speaker, today it looks like we have. And I would like to describe a little of what we pulled off. We will hear the details at 10 o'clock upstairs, but those details essentially include competition in the area of health care. This competition that we are talking about, which will be debated up in the Committee on Rules, is about allowing families back home, including people who may not be in Medicare yet, to begin saving for their future. We are going to have something that is called health savings accounts that were previously known as MSAs. These health savings accounts are going to allow people to save on a pre-tax basis and then save this money on a tax-free basis and then spend it in health care on a tax-free basis.

Why is this important? This is important because over the lifetime of a person and their family they will be able to prepare with this money for what their needs are going to be for health care. Why is that important? That is important to our Nation because a consumer that has money in their pockets can make wiser decisions, rather than showing up in a system like Medicare where many times they cannot even find where their doctor accepts Medicare.

This will change health care for this country as we continue on a moving-forward basis. It empowers people. We think it is the right thing. We think that is what people are asking for back home.

Mr. Speaker, on the prescription drug angle, no question in my mind, the Washington Post is probably right. Oh, my gosh, this is an expensive bill. But you know what? We did it in a way that will help people who need the most help and I am proud of that.

So, Mr. Speaker, I know that my friends want to talk about all the things that are going on up in the Committee on Rules here in just a few minutes. I can assure them and the American public that what we are all about is about process and doing the right thing for people back home.

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

□ 0930

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

Mr. Speaker, I appreciate the gentleman from Texas' comments, but he missed the whole point of what I was trying to say. On substance, we will debate that later.

This bill is a lousy bill. It privatizes Medicare. It does not provide our seniors with a prescription drug benefit that they believe they are going to get, and that they expect and deserve. This is a lousy bill.

But what I was talking about was the process. We will talk about the substance later. This process stinks, and the bottom line is that you and the majority continually ignore the rules of this House or waive the rules of this House.

The rules are that when you file a conference report, you are supposed to have 3 days to review it. This was filed, this important historical legislation that you talk about, was filed at 1:20 a.m. in the morning. All right. I do not know whether you read the whole thing, but I am going to tell you, most Members on both sides did not.

Let me read you a letter that was sent to the gentleman from Illinois (Speaker HASTERT); to the gentleman from Texas (Mr. DELAY), the majority leader; and to the majority whip, the gentleman from Missouri (Mr. BLUNT).

Dear gentleman: We write to request that if the conferees on the Medicare Prescription Drug and Modernization Act of 2003 report to the House a conference report, that copies of the text of the conference report, the text of the explanatory statement and the text of the Congressional Budget Office cost estimate for the conference report be made available to all Members at least 3 calendar days after filing, excluding Saturdays, Sundays and legal holidays, unless the House is in session on those days, and prior to consideration of the conference report or to any measure reported from the Committee on Rules providing for the consideration of the conference report.

''The general public will evaluate not only what Congress does regarding Medicare and prescription drugs, but the way in which it does it. A bill proposing such substantive changes to its Medicare system and costing an estimated $400 billion over the next decade deserves the careful and thoughtful consideration of all Members.''

It goes on and on. I will include this letter for the RECORD, Mr. Speaker.

OCTOBER 29, 2003.

Hon. J. DENNIS HASTERT,
Speaker, House of Representatives, Washington, DC.
Hon. ROY BLUNT,
Majority Whip, House of Representatives, Washington, DC.
Hon. TOM DELAY,
Majority Leader, House of Representatives, Washington, DC.

DEAR GENTLEMEN: We write to request that if the Conferees on the Medicare Prescription Drug and Modernization Act of 2003 report to the House a Conference Report, copies of the text of the Conference Report, the text of the explanatory statement, and the text of Congressional Budget Office cost estimate for the Conference report be made available to all Members at least three calendar days after filing (excluding Saturdays, Sundays, and legal holidays, unless the House is in session on those days) and prior to consideration of the Conference Report or to any measure reported from the Committee on Rules providing for the consideration of the Conference Report.

The general public will evaluate not only what Congress does regarding Medicare and prescription drugs, but the way in which it does it. A bill proposing such substantive changes to the Medicare system and costing an estimated $400 billion over the next decade deserves the careful and thoughtful consideration of all Members.

Allowing Members adequate time to properly evaluate the Conference Report will avoid a needless and difficult internal fight on the Rule, and allow Leadership to concentrate its efforts on final passage of the Conference Report. It will also lead to more public confidence in the legislative process and greater acceptance of that process' final product.

Therefore, while some of us are likely to support and others to oppose the Conference Report on H.R. 1, each of us strongly urges you to abide by regular order and provide at least three calendar days for Members to review the Conference Report and materials necessary to properly evaluate the Conference Report.

Sincerely,

Mr. John Kline, Mr. C. Michael Burgess, Mr. Randy Neugebauer, Mr. Johnny Isakson, Mr. Tom Tancredo, Mr. Dave Weldon, Mr. Virgil H. Goode, Jr., Mr. Donald Manzullo, Mr. Jim Ryun, Mr. Todd Akin, Mr. Gil Gutknecht, Mr. Ernest J. Istook, Jr., Mr. Jeff Flake, Mrs. Sue Myrick, Mr. Jeff Miller, Mr. Phil Crane, Mr. Trent Franks, Mr. Mike Pence, Mrs. Marilyn Musgrave, Mr. Pete Hoekstra, Mr. Joseph R. Pitts, Mr. Scott Garrett, Mr. Tom Feeney, Mr. Kevin Brady, Mr. Roscoe Bartlett, Mr. William ''Mac'' Thornberry, Mr. Tim Murphy, Mr. Steve King, Mr. Ron Paul, Mr. Johnson Boozman, Mr. John Culberson, Mr. J. Gresham Barrett, Mr. John Carter, Mr. John N. Hostettler, Mr. Devin Nunes, Mr. J. Randy Forbes, Mr. Mark E. Souder, Mr. Jim DeMint, Mr. Mark Kennedy, Mr. Charlie Norwood, Mr. Chris Chocola.

This was signed by 41 Republican Members of this House, and it is clear by the fact that we are moving in the fashion that we are today that not only do you not care that those of us on the Democrat side feel it is important, but you do not even care what your Republican Members think with regard to being able to read this bill.

So, Mr. Speaker, I would say to my colleague from Texas, what I am complaining about right now is the process, and on a bill this important, Members, staff and our constituents deserve to know what is in this bill. Quite frankly, the sound bites and the press releases from the leadership of this House, from the gentleman from California (Mr. THOMAS) and others, that does not cut it. We have been there, we have done that before.

What we need to do is read the fine print to find out what other special interest goodies are tucked in there for the pharmaceutical industry or the HMOs.

Mr. Speaker, I yield 4 minutes to the gentleman from California (Mr. GEORGE MILLER)

Mr. GEORGE MILLER of California. Mr. Speaker, I thank the gentleman for yielding me time. I think he makes a very important point.

We thought we had an agreement. In fact, we had the word of the Speaker of the House there would be a 3-day layover period for this legislation so Members and interested parties could read this legislation to discover exactly what is in it.

The Republicans make a great deal out of the fact that this bill will provide for competition. We know it will not provide for price competition on pharmaceuticals, because it specifically prohibits price competition. It does not let the Secretary of Health and Human Services negotiate lower prices, lower costs, for senior citizens in the Medicare program.

But, interestingly enough, Mr. Speaker, and maybe every Member of Congress will want to read the bill very closely, the gentleman on the other side says what we do here is we promote competition. We are going to put in place private health plans that are going to compete with Medicare, and people are going to get better services, more services, at a lower cost.

Now, that is an interesting notion of competition. I don't know where the free market is, but they decided now in this bill that they are going to have to give these plans almost a 30 percent increase, more than they pay for Medicare, to try to make these plans run. But this competition is such a good idea, and it is pushed by the Republicans. The victims are going to be the

senior citizens, but the Republicans are saying this competition is a great idea.

Well, I want to tell my Republican friends in the House who have not read the bill, pick up the Wall Street Journal today. See what your Senators have done. This is a great bill for competition. It is so good, it is so good, that Senator GORDON SMITH of Oregon, Senator KYL of Arizona, Senator SPECTER, and there is one other Senator whose name I cannot pick out of the story here, have decided it is so good, they have excluded their areas in their States from the competition.

They say, ''Oh, no, you are not going to do this in my area. You are not going to do this with my senior citizens.'' The Senators apparently are a little closer to the process here, and they have read the bill. They said, ''You know, we had one of these demonstrations a number of years ago, and it blew up in our face, both in terms of cost and in terms of services to the senior citizens.''

So, Senators, you know how they make their deals over there; we cannot do this over here because of the Committee on Rules, they got in there in the last minute and said, ''Exclude my area in Pennsylvania, exclude my area in Arizona, exclude my area in Oregon. I am not having any of this competition for my senior citizens. Just those lucky-duckies over there in the House that have one of these competition plans lands on their congressional district. Then we will see how it goes.''

That is why you want to read the bill. That is why you want to be able to have a 3-day layover period to protect the rights of every Member of this House and the constituents and the people that they represent in their congressional districts.

But the arrogance of this leadership, the arrogance of the Speaker, the arrogance of the Committee on Rules just constantly suggests that democracy means very little to them; the rights of each and every Member mean very little to them. They now have the power, the Republicans have the power, and, with that power, slowly has come arrogance. And they have decided that there is no reason for debate; there is no reason for us to be able to try to tell the American people what is in this bill before we vote on it so maybe they can participate.

They want to run the Congress like AARP runs their organization; one person at the top makes a decision, and 30 million people out there are put in jeopardy. That is not the democratic process. That is not the democratic process.

I cannot wait to see the Constitution you guys want to write in Iraq. If this is what you are doing to the People's House on the most important piece of social legislation in this country, you want to shut down debate, you do not want to give people time to read it.

If you cannot read the bill, my colleagues in the House, read the Wall Street Journal. Read the Wall Street Journal, because maybe you, too, can scramble up to the Committee on Rules in the next hour and get an exemption from competition like those wonderful, powerful Senators have done. Do not read the bill, read the Wall Street Journal.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. SIMPSON). The Chair would remind all Members that they should refrain from improper references to Senators.

Mr. GEORGE MILLER of California. Mr. Speaker, I do not know how to identify them if I do not identify them by name.

The SPEAKER pro tempore. The Chair would remind all Members they should refrain from identifying individual Senators by name.

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

Mr. Speaker, this competition angle is an important part of what this Medicare bill will be. You see, we Members of Congress that occasionally go home who are aware of the things that happen at home in the real marketplace, some of those things that are very exciting in the world of competition are happening in health care. They are happening all across this country.

Sometimes when you go home and you open up a newspaper, or you watch on TV and they talk about LASIK eye surgery. LASIK eye surgery used to be $1,200 an eye. Due to competition, due to machines, due to procedures now becoming available, they are $299 an eye. That means that as a result of competition, as a result of physicians, medical doctors, learning how to do these procedures, we have sent these teachers all across the country, and they have perfected this technique. That is an example of where competition does work. Over 1 year these surgeries have gone from over $1,200 to $299 an eye. We think competition will be a huge part of the success of this Medicare bill.

But let us go back to the process. The process is that this has been debated not only in the public and in newspapers and TV and on this House floor since January, or before, when many of our colleagues on the other side were saying, where is that prescription drug bill? Where is that prescription drug bill?

Mr. Speaker, we now have it on the floor of the House of Representatives. It will be in the Committee on Rules today and on this floor very quickly. It will be something that has, by popular demand, been asked for, and it comes as a result of these two bodies, the House and the Senate, working through very difficult negotiations.

It is a process that has been followed, it is a process that works, it is a process that I think has allowed people for a long time to know the answer as to what is in this bill, so much so that the Democrat leadership has already blasted the AARP a week ago for supporting the bill because they knew what was in the bill.

So I think it is a misnomer to think that we just do not know or do not understand. People who wish to know, people who wish to be a part of this bill could gain the information. I am proud of what we are doing today. The gentleman from California (Chairman DREIER) will open up the Committee on Rules in about 20 minutes, and the debate there will start.

But, let us not forget, this is not about amending a bill. This is a conference report. This is not like one Member in this body can change one word that is in this document, because that is not our process or procedure. It will be an up-or-down vote. It will be based upon what a Member thinks is the right thing to do. I trust their judgment.

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

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

Mr. Speaker, the gentleman from Texas keeps on talking about the Committee on Rules and the action we are about to take, as if something important is going to happen.

What is going to happen in the Committee on Rules is we are going to waive all the rules. We are going to waive the rule that says Members have a right to read this bill. So I guess it is historic in the fact that once again we are going to trample on the rights of Members of both parties.

I should say to the gentleman from Texas, it is not just Democrats that are complaining about the need to read the bill. I just cited to him a letter that was signed by 41 of some of the most conservative Republicans in this House who said, we should read the bill. One of the reasons why, I suspect, is if you read the Washington Post today, there is a headline, ''Drug Makers Protect Their Turf.'' I will insert this article in the RECORD.

[From the Washington Post, Nov. 21, 2003]

DRUGMAKERS PROTECT THEIR TURF

MEDICARE BILL REPRESENTS SUCCESS FOR PHARMACEUTICAL LOBBY

(By Ceci Connolly)

No industry in negotiations over the $400 billion Medicare prescription drug bill headed to the House floor today outpaced the pharmaceutical lobby in securing a favorable program design and defeating proposals most likely to cut into its profits, according to analysts in and out of the industry.

If the legislation passes as Republican leaders predict, it will generate millions of new customers who currently lack drug coverage. At the same time, drug-manufacturing lobbyists overcame efforts to legalize the importation of lower-cost medicines from Canada and Europe and instead inserted language that explicitly prohibits the federal government from negotiating prices on behalf of Medicare recipients.

''It couldn't be clearer there is going to be a positive effect overall,'' said Dan Mendelson, president of Health Strategies Consultancy, which bills itself as a think tank and consulting firm. ''The volume will definitely go up. There will be a lot of people who didn't have coverage before who will have it now and a lot of people getting an upgrade in terms of coverage.''

Democrats and consumer advocates complain that the Republican-crafted compromise does little to contain soaring drug

costs. They say that by handing the Medicare drug program's administration to private insurers, Congress missed a chance to exert pressure on pharmaceutical companies to reduce prices.

But Republicans and some industry analysts say that adopting a drug-purchasing mechanism similar to those in corporate health plans is the best way to extract discounts from drugmakers.

If Medicare negotiated on behalf of its 40 million beneficiaries, ''I wouldn't be negotiating; I'd just be fixing the price,'' said Thomas Scully, the program's administrator. ''Let's get seniors organized into big purchasing pools and get bulk discounts and see how they fare.''

Representatives of the industry's main lobbying arm, the Pharmaceutical Research and Manufacturers of America (PhRMA), declined yesterday to discuss the legislation. But the clearest indication that the bill offers a brighter future for the industry came from Wall Street, where pharmaceutical stock prices have steadily risen over the past week as the legislation's prospects for passage improved. Analysts at Goldman Sachs & Co. project the new Medicare benefit could increase industry revenue by 9 percent, or about $13 billion a year.

After objecting for years to proposals to add prescription drug coverage to Medicare, the pharmaceutical lobby recently shifted positions and poured enormous resources into shaping the legislation. Since the 2000 election cycle, the industry has contributed $60 million in political donations and spent $37.7 million in lobbying in the first six months of this year.

The lobbying continued in earnest this week with a television and print advertising campaign urging passage of the bill. In one series of witty commercials sponsored by the industry-backed Alliance to Improve Medicare, elderly citizens look into the camera and demand: ''When ya gonna get it done?''

One Republican with ties to the industry said drugmakers eluded the three things they feared most: legalized importation of lower-cost medicines, many of them patented or made in the United States; government price controls; and easier market access for generic drugs that cost considerably less than brand-name drugs. ''In their view, by improving access for all seniors, we will ameliorate any pressure on the industry toward price controls or reimportation,'' the source said.

About 24 percent of Medicare beneficiaries—nearly 10 million senior citizens—do not have any prescription benefits. some of them buy medicine at the highest retail prices. Academic studies and anecdotal evidence suggest, however, they many go without prescription medicines and would become new customers for drugmakers if the bill becomes law. The remaining 30 million Medicare recipients but some supplemental drug coverage, according to the most recent government figures.

Even those with some drug coverage are expected to spend more with the new benefit, said Fredric E. Russell, whose investment management company owns several drug stocks. Whenever a new health benefit is offered, he said, patients and doctors jump at the chance to take advantage of it.

Under the bill, beginning in 2006, all Medicare beneficiaries would have the option of buying a drug plan for about $35 a month, plus a $275 annual deductible. Insurance companies and pharmacy benefit managers (PBMs) would administer the programs for the government.

The great unknown is what sort of prices those insurers will ultimately negotiate on behalf of their Medicare clients, said Kristine Bryan, senior health care analyst at Brown Brothers Harriman & Co. ''Generally, when you have a large purchaser, you have the ability to demand better pricing,'' she said.

Republican congressional staffers also point out that because the bill waives a requirement that state Medicaid programs receive the ''best price'' available, the new private insurers could save Medicare $18 billion. It would, however, likely increase states' drug costs.

Many Democrats say private purchases have not been as successful at bargaining as have government programs such as the Veterans Administration and Medicaid, which secure some of the steepest drug discounts available.

''We've been going through PBMs for 10 years and nothing's happened except the price of drugs has gone up,'' said Democratic presidential candidate Howard Dean, a physician.

Perhaps the most striking political victory for the pharmaceutical industry was the decision to reject provisions that would have allowed Americans to legally import drugs from Canada and Europe, where medications retail for as much as 75 percent less than in the United States. Polls show that an overwhelming majority supports the change, and the House approved the provision, 243 to 186. But the Bush administration and pharmaceutical lobby said the move was dangerous and would cut into future research and development.

The provision was dropped from the bill's final version.

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Mr. Speaker, it talks about all the special sweetheart deals that are in this bill for the pharmaceutical industry. I do not know whether the gentleman was aware of all these little deals that were cut. I suspected they were there, but now I want to find out who is getting what and how much. I want to connect all the dots here. That is why we want to read the bill.

So, again, what we are saying here is not anything radical, quite frankly. We are saying follow the House rules. We have rules of this House. If you do not want to follow the House rules, if you keep on ignoring them, then do away with the rules. Do not have any rules. But we do have rules to protect not only the rights of the minority, but your Members, so they know what you are voting on.

Mr. Speaker, I yield 4 minutes to the gentleman from Oregon (Mr. DEFAZIO).

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

Mr. Speaker, 14,345 days. That is how long it has been since Medicare was enacted, the most important social program to lift seniors out of poverty in the history of the United States.

I worked with seniors, ran a senior citizen program, studied in the field of gerontology. Before Medicare, we had double the rate of poverty among seniors because they were driven there because of the cost of medical care.

Medicare has been a tremendous benefit to our seniors. It was opposed by the Republicans, it was opposed by the AMA, it was opposed by the nursing homes and all of them. Now, of course, they are the greatest supporters of the program because of the reimbursement and the business it provides.

But now we are about to make the most important changes in the 13,435-day history of Medicare, and we cannot have 1 day. We are not to be allowed 1 day to read a 791-page bill, which, to the best of my knowledge, and the gentleman can correct me on his own time if this is wrong, is not available in printed form. Some people like to read 791 pages on a computer screen. I do not. I think there are a lot of other Members of this Congress and the public who would like to actually have a printed copy in their hand to be able to flip back and forth easily and understand what this bill really does. But we are not going to have printed copies, or perhaps we will at some point when the debate begins. But even with speed reading, that is going to be tough.

So a 791-page, unbelievably complicated bill making extraordinary changes in a program which we have had for 39 years, and we cannot take 24 hours, or even, as the rules would provide, 72 hours to read it. What would be the harm in voting on Monday? Let it sit over the weekend. Let everybody have a chance to read it. I would be willing to stay over the weekend, work through the weekend, get through the other work and vote on this bill on Monday.

The gentleman talks about competition in the marketplace. This is a bizarre bazaar of a marketplace, because this is more like a souk, where there are all these back-room deals, and you do not know what is going on.

Competition? Well, it has subsidies for the private health insurance industry, HMOs, who still continue to enjoy an antitrust exemption, so there will be no requirement that they offer these plans; there will be no requirement that they guarantee seniors coverage beyond a 1-year basis; and there will be no requirement for them to take seniors who are not good risks or keep seniors after they make a claim. As many of my constituents know, as soon as you claim against an insurance company these days, they tell you are going to be terminated when your renewable comes up. That is what is going to happen to seniors in these private plans.

Then we have protectionism. The party of free trade, free trade over here, the Republicans are trading our jobs to China and all these other places, this bill is protectionist. It is not going to allow Americans to reimport FDA-approved, U.S.-manufactured drugs from Canada or any of the other developed industrial nations who bargain on behalf of their citizens and get huge price reductions. So Americans are going to have the door slammed on the one place they can get less expensive drugs. And none of the benefits under the bill, even at the cost of $400 billion, will reach the simple benefit that my constituents can get by importing FDA-approved, U.S.-manufactured drugs from Canada.

So we are going to spend $400 billion, create this unbelievable Rube Goldberg, and the benefit for every one of

my constituents will be less than they can get today by buying from Canada, and we are going to slam that door with this bill. So they are not going to have that opportunity any more. They are going to be forced to buy drugs at higher prices, even with the so-called coverage under this bill. That is price fixing.

So we have a bill that has protectionism, price fixing, subsidies for the HMOs, the insurance industry is exempt from antitrust laws, and the gentleman says somehow this is the marketplace of competition.

What a bizarre view of a true, free and competitive marketplace. We could more simply allow these Medicare constituents to have a negotiated price for the reduction of their drugs, as we do for VA, but the industry is opposed to that because there would be too much market force, too much market clout on the part of the government in those negotiations, and allow the continued, safe reimportation of drugs from Canada.

And there is a big red herring here. The administration says FDA-approved, U.S.-manufactured drugs reimported from Canada are not safe, they cannot guarantee their safety, except we know that the drug custody chain in the United States of America is much more compromised than in Canada.

Canada first negotiates about a 50 percent reduction in prices, licenses the importers, licenses everybody, and tracks all the people who touch the drugs. In the U.S., the pharmaceutical companies dump huge amounts of drugs into an unregulated secondary market that is licensed by the States, into these phony closed-door pharmacies, and organized crime is involved in getting counterfeit drugs into the system here in the United States.

There is a huge breach of the integrity and safety of the system here in the United States, which there is no concern about because the industry is making money by having that system, but we are going to say, oh, those Canadian drugs, they are not safe. They are safer, in all probability. There have been no instances proven in Canada, unlike the United States, of organized crime getting counterfeit drugs into the system.

Mr. Speaker, we could do something simpler and cheaper if we defeat this bill.

Mr. SESSIONS. Mr. Speaker, I have the honor and privilege to yield 4 minutes to the gentleman from Florida (Mr. FOLEY), a young man who serves on the Committee on Ways and Means.

Mr. FOLEY. Mr. Speaker, I thank the gentleman for bringing the rule to the floor and for yielding me time.

Mr. Speaker, there is a commercial on these days that has a catch line, and it says, ''What is in your wallet?'' Well, I ask Members of Congress to ask themselves that very question, what is in your wallet?

I will tell you what is in mine. It is a card that I get as a Member of Congress. It says BlueCross BlueShield Federal Employee Program. It is a PPO. It has a prescription drug benefit attached to it, a $35 copayment. Certain attributes of this plan work for Members of this Congress.

In my congressional district I have the fifth largest Medicare-eligible population of 435 Members of this body, the fifth largest Medicare-eligible population. When I go home to my town hall meetings, they say, ''I want what you have. I want choice. I want opportunity.'' Interestingly enough, they do not say, ''I want it all, and I want it free.'' They want fairness, because they want the system to continue.

The harangues on this floor the last couple days are amazing. We have heard repeatedly, speaker after speaker, ''We haven't seen this bill; we haven't read this bill.'' But we have spent hours of time talking about what is bad about what is in this bill, so either they have not seen the bill, or they are just guessing what must be in the final work product.

For 4 years I have been on this committee, and I have met over on the other side of the Chamber with the respected Senator BOB GRAHAM, Senator HARRY REID, at that time Senator CHUCK ROBB and a number of Members of the Senate as we tried to work out an opportunity to find a prescription drug plan that would suit the test of time and be financially equivalent, if you will.

In our bill there is a wellness provision which allows us to do diagnostic testing for cardiovascular disease, allows us to test for diabetes early, before the onset of these diseases. There is, in fact, a drug discount card that will be offered to those lower-income individuals who need assistance. That drug discount card will have, much like an ATM, $600 of purchasing power so they will have an opportunity to buy the vital drugs they need.

Many people on the other side of the aisle decided politically to sign the AARP pledge. If you read the pledge, it says all Medicare beneficiaries will have access to a stable prescription drug benefit on a voluntary basis. Not forced, not coerced, not mandatory. Affordable prices will be the rule, not the exception. We are trying to do that.

To those who suggest just reimport drugs from Canada, let me ask the basic question; read the articles in Florida in the newspapers where there have been numerous arrests because of counterfeit drugs coming from Canada.

Reasonable premiums, deductibles and copayments. Those are in the bill. Prescription coverage will leave no individual with extraordinary out-of-pocket costs. There is a catastrophic provision written into this legislation. Reduction in soaring drug costs will keep the program affordable. Extra help for low-income individuals. Help for rural communities that I represent with their hospitals, their ambulances, their doctors. We talk about a number of things in the bill that I think provide relief for every American. Increased fees, if you will, for physicians, increased index for the hospital what we call the market basket.

So if you look at the Medicare bill, yes, there may be problems for some. But AARP, which was, up until last week, described as the ''gold standard'' of senior lobbying organizations, has decided to take this first step with us.

Will this be a perfect vehicle? No. No legislation I have ever worked on in this process has ever been perfect. We have had to come back, work it, amend it, and deal with some of the consequences. And if we fail to make this critical step and pass this rule and pass this legislation, we will have surrendered our ability to bring seniors a necessary improvement to the Medicare health delivery system that they so vitally need.

So I urge my colleagues, support the rule and support the underlying legislation. Let us do for seniors what Claude Pepper and Franklin Delano Roosevelt tried to do to enhance their safety and security.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair would remind Members to refrain from improper references to Senators.

Mr. MCGOVERN. Mr. Speaker, I yield 30 seconds to the gentleman from California (Mr. GEORGE MILLER).

Mr. GEORGE MILLER of California. Mr. Speaker, the President stood in the well and said he wanted the senior citizens to have a drug benefit like Members of Congress have with this card. Under our prescription drug benefit, the government pays 80 percent, we pay 20 percent. Under this bill, of the first $5,000, the seniors pay 80 percent and the plan pays 20 percent.

You guys have reversed the figures on the senior citizens. Out of the first $5,000, the seniors pay $4,200. Out of our first $5,000, the government pays 80 percent. Somewhere between the President's speech there and this bill, you lost 80 percent of the benefits for seniors.

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

Mr. Speaker, there was a statement that was made that I think we just need to set the record straight on, and that is that this bill does not talk about reimportation from Canada, where Congress makes a decision on that issue. We allow the FDA to make that decision. It is not the Congress that makes that decision.

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

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

Mr. Speaker, let me just say to the gentleman from Texas, he knows very well what is going on here. The administration already decided they are not going to allow citizens to be able to get their drugs from Canada, even though they are cheaper. They already made their decision.

What we have in this bill basically is to protect the status quo, which means

our senior citizens get gouged and gouged and gouged and gouged.

Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Florida (Mr. HASTINGS), my colleague on the Committee on Rules.

Mr. HASTINGS of Florida. Mr. Speaker, I thank my good friend from Massachusetts for yielding me time.

Mr. Speaker, it is very difficult to not get involved in the discussion that is ongoing. There is a great need for us to correct a few things, and I hope that I can without exuding the passion that I normally bring to debate.

I would borrow from an article in today's New York Times written by Paul Krugman where he says, ''Let's step back a minute. This is a bill with huge implications for the future of Medicare. It is also, at best, highly controversial. One might therefore have expected an advocacy group for retired Americans to take its time in responding, to make sure that major groups of retirees won't actually be hurt, and to poll its members to be sure that they are well informed about what the bill contains and do not object to it. Instead, AARP executives have thrown their weight behind an effort to ram the bill through before Thanksgiving. And, no, it is not urgent to get the bill passed so retirees can get immediate relief. The plan won't kick in until 2006 in any case, so no harm will be done if the Nation takes some time to consider.''

What we have asked for here is 3 days. That is a part of the Rules of this House of Representatives, and every Member of this body, particularly those of us on the Committee on Rules, know that to be true. Despite my Democratic colleagues' best efforts to make this an inclusive and comprehensive process, one that addresses the real concerns of all of America's seniors and disabled, we were shut out from negotiations. We were shut out in June, and we are shut out now.

What we have before us, plain and simple, is an evisceration of Medicare. This bill was filed at 1:30 a.m. this morning. There is an axiom that says, ''He who makes the rules, rules.'' All of us in the minority know that the majority rules. We should, however, in this great country be exemplars of fairness, lest we be perceived as fools making rules. If we cannot be fair, who can? And it is that this process is wrong, and it is just that simple. It is not a question about Medicare or anything, if we did this on the next bill, the forest measure, if we did it on yesterday's bill. This is the first time in the whole of this year that we have brought a bill in the daylight, and my colleagues know that.

What we are doing here is critically important. I, for one, do not want to go back to my district that joins the district of my good friend the gentleman from Florida (Mr. FOLEY), where both of us have as high as 34 percent seniors, and tell them that I sure did read this information that is in this bill. Never mind about castigating anybody, the fact of the matter is most Members of this body, all of them on this side, have not read the present contents of the bill.

Yes, there were hearings; yes, there were opportunities for people to talk through the years. I came here along with many of you 11 years ago. We were talking about prescription drugs then. I read my clippings. I was saying, ''I am going up there and try to get you prescription drugs.'' The Democrats were in the majority, we did not get it. The Republicans have been in the majority, and we have not gotten it. And what we are getting ready to get is have this country in turmoil because we are not protecting all of our seniors.

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Mr. SESSIONS. Mr. Speaker, I yield myself such time as I may consume. The Committee on Rules begins testimony in 2 minutes. We came down to the floor this morning to make sure that we were going to have the ability to have a same-day rule. I am satisfied that we have broken into a lot of other things to talk about this morning.

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

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

Let me just conclude by saying that on the substance of the bill that we are talking about, the Medicare prescription drug bill, there is a fundamental disagreement between me and some of my friends on the other side of the aisle because to me protecting Medicare is nonnegotiable. I think we are going down a very dangerous road here with this bill.

But what my frustration is at this particular moment is that we are going down that road when most Members of this House have no idea exactly what is in this bill. We get little bits and pieces and some of what we are finding out, quite frankly, I think most Americans do not like, little special interest deals for pharmaceutical companies, for HMOs, a not-so-generous prescription drug benefit for senior citizens, something that does not kick in for another 2 years. I think the American people and the Members of this Congress deserve having all of us go into this with our eyes wide open.

I read to you before, I say to my colleague from Texas, a letter signed by 41 of some of the most conservative Republicans in this House who asked your leadership, made one simple request of your leadership, and that is that they respect the rules of this House and give them and the entire House 3 days to review the contents of this bill. That is not too much to ask for. I think people on both sides of the aisle, even those who are going to support this bill, want to know exactly what is in it. They do not.

The fact of the matter is we are about to go up to the Committee on Rules, we are going to waive all the rules, disregard them once again as has become a habit in this place, and I think it is sad, especially on a bill this important. Our constituents deserve better.

Mr. Speaker, I would hope that maybe between the time the gentleman from Texas and I leave the House floor to go up to the Committee on Rules that there might be a change of mind and the leadership might actually respect the rules of this House, but I doubt it. Having said that, I think it is unfortunate. I think the losers are the American people.

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

Mr. SESSIONS. Mr. Speaker, I yield myself the balance of my time. I thank the time that the Speaker has given us this morning to debate this rule. I believe it is a fair rule. I have not heard much debate about it.

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.

WAIVING POINTS OF ORDER AGAINST CONFERENCE REPORT ON H.R. 1904, HEALTHY FORESTS RESTORATION ACT OF 2003

Mr. HASTINGS of Washington. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 457 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 457

Resolved, That upon adoption of this resolution it shall be in order to consider the conference report to accompany the bill (H.R. 1904) to improve the capacity of the Secretary of Agriculture and the Secretary of the Interior to plan and conduct hazardous fuels reduction projects on National Forest System lands and Bureau of Land Management lands aimed at protecting communities, watersheds, and certain other at-risk lands from catastrophic wildfire, to enhance efforts to protect watersheds and address threats to forest and rangeland health, including catastrophic wildfire, across the landscape, and for other purposes. All points of order against the conference report and against its consideration are waived. The conference report shall be considered as read.

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

Mr. HASTINGS of Washington. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to my good friend and namesake, 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. HASTINGS of Washington asked and was given permission to revise and extend his remarks.)

Mr. HASTINGS of Washington. Mr. Speaker, House Resolution 457 is a rule

providing for the consideration of the conference report to accompany H.R. 1904, the Healthy Forests Restoration Act of 2003. The rule waives all points of order against the conference report and its consideration and provides that the conference report shall be considered as read.

Mr. Speaker, recent reports of catastrophic wildfires in the West have helped millions of Americans to understand what Members of western districts have known for years, that steps must be taken to improve our management of national forests in order to reduce the risk of runaway forest fires that threaten lives, property and even entire communities.

H.R. 1904, the Healthy Forests Restoration Act, contains several key measures that will enable Federal land managers to better manage potentially explosive stands of timber and underbrush. Passage of the bill would also enable local communities to play a more meaningful role in the management of lands that pose potential threats. H.R. 1904 would authorize the removal of dead, dying and diseased trees and underbrush from Federal lands. It would also strengthen the ability of land managers to pursue fire prevention strategies under an expedited system that would limit excessive court challenges to proposed changes in management plans for Federal lands.

The bill authorizes $760 million annually for fire prevention, suppression and management activities, a significant increase over current allocations.

Mr. Speaker, the conferees have done an excellent job of protecting the House position on this legislation, which passed the House by a large margin back in May 2003. The conferees should be commended for moving to complete the work on this important legislation before Congress adjourns and we in turn should pass it without further delay.

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

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

Mr. HASTINGS of Florida. Mr. Speaker, I thank my good friend and namesake, the gentleman from Washington (Mr. HASTINGS), for yielding me the time.

Mr. Speaker, I am pleased to yield 4 minutes to the gentleman from Oregon (Mr. DEFAZIO).

Mr. DEFAZIO. I thank the gentleman for yielding me this time.

Mr. Speaker, it was just a little over a year ago that the Biscuit fire was raging in southwest Oregon in an area shared by myself and the gentleman from Oregon (Mr. WALDEN). We held a hearing in the Committee on Resources during that fire about the issue of the fuel buildup in our forests. After I listened to a few of the witnesses, I really did not ask any questions, I gave a pretty impassioned speech about how I was tired of the fact that we all kind of went to our political corners on this issue when a real solution was warranted. Surprisingly after the hearing I was approached by a number of Members that people would be surprised could sit down in a room and work together on an issue like this, but notably the gentleman from Colorado (Mr. MCINNIS) came forward and said to me, I really agreed with a lot of what you said and I would like to try and work something out, as did the gentleman from Arizona (Mr. SHADEGG), the gentleman from Oregon (Mr. WALDEN), and the gentleman from California (Mr. GEORGE MILLER). We sat down and began some very difficult negotiations.

Unfortunately, last year the clock ran out on us. We had an election year, so we did not get the bill done. But now here we are hopefully at the point of adopting the bill in the House and the Senate and seeing it signed into law. This is not exactly the bill I would have written. It is not exactly what we negotiated last year, but I believe it is a bill that can get the job done. Most importantly, it authorizes $760 million. I think we could even authorize and do more work than that on an annual basis given the unnatural buildup of fuels in the forests, but if we can get that money actually spent, it will provide for a lot of jobs. It will provide for tremendous protection for communities and resources.

The bill has language about how the work should be conducted. The idea is to leave the big old fire-resistant trees and return the forest to what we call a presettlement condition, before we began unnaturally repressing fire more than 100 years ago with the settlement of the West. What you need to do, and there was a dramatic example at the Davis fire in central Oregon this year, you could see where the lodgepole pines were growing up into the crowns of the big old fire-resistant Ponderosas and unfortunately a lot of those Ponderosas went because that is called a ladder fuel. It just ran up this crummy old lodgepole and right up into the beautiful old Ponderosa and we lost everything. We need to go in and remove those lodgepole pines and other unnatural fuel buildups. That will provide both for jobs, potentially for some merchantable material in certain areas, and eventually we will be able to manage our forests back or help return them to a state where low-intensity fires can burn through, fires that do not destroy whole stands, that do not turn the Earth into glass and sterilize it. That is the condition that prevails today in the West.

This bill is not without controversy. That is again part of the process. I think the protections are there. People still have a right to appeal but appeals will be expedited. People have to participate meaningfully in the process. I do not have a problem with that. I think people should participate meaningfully in the process and we should open it up to everybody who is concerned. People will still have a right to go to court if they feel that the law is being violated but we are going to have the money, we are going to have the tools and if this administration applies this properly, if they get and spend all the money that is promised under this bill, we will begin a very long process of restoring our forests to a more natural state in the western United States and in a state that will not lead to a multi-number of catastrophic fires on an annual basis, which is the state we are seeing today.

I want to thank my colleagues on that side. I neglected the Committee on Agriculture, where I do not serve, but I know that the Committee on Agriculture also played a key role in this legislation. I think we will be all the better for it.

Mr. HASTINGS of Washington. Mr. Speaker, I am pleased to yield 4 minutes to the distinguished gentleman from Virginia (Mr. GOODLATTE), chairman of the Committee on Agriculture.

Mr. GOODLATTE. Mr. Speaker, I thank the gentleman from Washington for yielding me this time and for bringing this rule to the floor and I thank the Committee on Rules for very expeditiously moving this process. I know that when I left the Committee on Rules last night it was close to 9:30 and they were still going on to other legislative business. So often the members of the Committee on Rules have to do that. Of course part of the reason for that is that we are so very near the end of this session of Congress. So it is critically important given what happened in California just a few weeks ago and what is going to happen again next year that we pass this legislation promptly so we can begin the process. It is going to take a long time.

The gentleman from Oregon is correct. There are not enough resources nor are there enough acres being addressed in this legislation, but nonetheless this is a very important first step and this is the first major piece of legislation related to forestry to be passed out of a House-Senate conference committee in more than 20 years. This is a very, very important development. We have a tremendous opportunity today, and when the Senate acts to send to the President a good bill that will give us the first step in this process.

It has been a fair process that has involved everybody in it. Over 2 weeks ago, we came to the floor to appoint conferees. The ranking Democrat on the House Committee on Agriculture who has worked with us every step of the way, and I might add that I believe 19 of the 24 House Democrats on the Committee on Agriculture voted for the original House-passed legislation, very strong bipartisan support in crafting this legislation. He made a motion to instruct conferees calling for the prompt action at an open conference to report back a bill a week ago. Unfortunately, the other body did not respond in that fashion and did not appoint their conferees until yesterday

morning. Nonetheless, in the meantime there was a tremendous amount of bipartisan and bicameral discussions going on about how to move the House and the Senate closer together on these pieces of legislation and we achieved that. Then yesterday we did have in the short period of time after the Senate appointed conferees the opportunity for an open conference, Members were given the opportunity to offer amendments, there was clearly a tremendous amount of consensus on both sides of the Capitol and in both parties on the need to move forward with this and we had a very expeditious conference.

Nonetheless, I think we kept the commitment made by the House on the motion of the ranking member, the gentleman from Texas, to have an open conference and to move as expeditiously as the process allowed us to do.

This bill is going to allow us to take major steps to let the Forest Service do the job they are charged with doing, protecting our national forests. This will also allow us to make absolutely certain that we have a process that is open and fair to everybody who is concerned about our national forests from any perspective. We are accelerating the process so that when ideas about what needs to be done to protect our forests take place, they can take place promptly, but we are not excluding the public in any way from this process. They will have the opportunity from start to—a judicial review if that becomes necessary—finish to have input in the process, but it will be done in such a way that the system can no longer be rigged to stretch out these decisions for many years and have our forests destroyed in the meantime.

□ 1015

That is vitally important.

I want to thank everybody who has been involved in this process. The gentleman from California (Chairman POMBO), the Committee on Resources, made important contributions. The gentleman from Colorado (Mr. MCINNIS), the subcommittee chairman, was also vitally important. He introduced the legislation. And certainly the gentleman from Oregon (Mr. WALDEN) has been with us every step of the way as well. The same thing has been true on the other side of the aisle, whether they have agreed with all the measures or not. We thank them for their input.

Mr. Speaker, I urge my colleagues to support this rule and the underlying bill.

Mr. HASTINGS of Florida. Mr. Speaker, I yield 4 minutes to the distinguished gentleman from California (Mr. GEORGE MILLER), my good friend.

Mr. GEORGE MILLER of California. Mr. Speaker, I, too, want to join in this in thanking Members on both sides of the aisle for their participation and cooperation in this legislation. As the gentleman from Oregon (Mr. DEFAZIO) noted, we started some 2 years ago with the gentleman from Colorado (Mr. MCINNIS) and others talking about what would be possible. The gentleman from Oregon (Mr. WALDEN) and we came up with what we thought was possible, we did not make it, went back this year and continued that process.

And we passed a bill out of the House, a bill that I did not agree with in its entirety by any means, but then the Senate was also able to pass legislation. And as a result of those negotiations, which I wish had been a little bit more open, but the fact of the matter is as a result of those negotiations, we now have this, we will have this bill before us later today. And I want to thank the Committee on Rules for providing us this opportunity.

Mr. Speaker, let me just say this one point. I wish the firefighter protections that had been offered and accepted in the Senate, they were offered by Senator BOXER of California, would have been kept in the bill. I think it is important now as we see these larger, more catastrophic fires, as we see fires that move through residential areas, to understand that the firefighters there are put in jeopardy from many other things besides just the fires themselves, but also the chemicals and building materials and the rest of it that are caught up in these huge winds created by the fires.

But let me say as to the bill, I think this is a bill that is a vast improvement over what left the House. In this compromise, in this conference report we will target half of the appropriated money into those areas most likely to have the most catastrophic fires. The rest of the money can be used in forest treatment and other areas of the national forest. That is important.

It is also important that we involve the communities, and communities can come up with those plans that they think serve their area best. Hopefully, they will use community resources, small businesses, and others to develop those plans. People are also entitled to have some review of those plans.

But what this bill does not allow you to do is to drag the process out forever, forever and ever. You have got to come in, make your case, you made it or you have not made it. But those rights are protected, and you can appeal that to court.

Some people do not like the fact that the bill extends the urban interface area out to a mile and a half. The fact of the matter is when you see the size of some of these fires, the treatment in the urban interface area is nothing more than a firebreak. And a little tiny area is not going to stop some of these fires that we have seen over the last decade in the West.

Finally, with respect to the treatment in the larger forest, the goods for services contracts are still allowed, but as the gentleman from Oregon (Mr. DEFAZIO) pointed out, the important part of this bill, what Senator FEINSTEIN was able to do was get an authorized amount of money in here, because if we just do it on goods for services, we will either have to cut down all the trees to save them in order to get enough money to carry out the project, or we will not be able to treat those areas, as we saw in southern California, of negligible timber value but high risk to the communities.

And so we need to have an appropriation to follow this authorization so we can treat those areas of high intensity, of great potential of catastrophic fires, the potential to engulf communities. We have got to go there with some Federal dollars and some goods for services. And I think that is a balance that makes sense.

I spend several weeks a year backpacking in the high country and the forests and parks of this country. You do not have to walk very long in the forest to see the need for treatment. If you love the big old trees, as the gentleman from Oregon (Mr. DEFAZIO) again pointed out, you have got to understand that we have allowed a ladder to build up in these forests. And the big ponderosas, the big sugar pines are at risk because of the understory, the undergrowth that is there that will take the flames right into the crowns. And, obviously, once in the crowns, with any wind they move so fast that we cannot deal with them.

So, Mr. Speaker, I would like to say that I think that this is a product that the House should vote for. Members on both sides of the aisle should support this. It is very, very important to so many of our communities and very important to the stewardship of our natural resources.

Mr. HASTINGS of Washington. Mr. Speaker, I yield 4 minutes to the gentleman from Oregon (Mr. WALDEN), an individual that has had a great deal of impact on this legislation.

Mr. WALDEN of Oregon. Mr. Speaker, I want to thank my colleague from Washington, with whom I have worked closely on this and other legislation to improve the great Northwest and certainly improve and protect America's forests. I want to thank the chairman of the Committee on Agriculture, the gentleman from Virginia (Mr. GOODLATTE), and the gentleman from California (Mr. POMBO), the chairman of the Committee on Resources, and certainly my friend and colleague, the gentleman from Colorado (Mr. MCINNIS), for their yeoman's effort on this legislation; my friend, the gentleman from California (Mr. GEORGE MILLER), and the gentleman from Oregon (Mr. DEFAZIO) as well for their work; and certainly the President of the United States, who on not one, but two occasions has come out to the Northwest to drive home the point that we had to pass legislation that embodies the principles contained in H.R. 1904.

I think it is especially important. There are not many of us who do not recognize that if we do not remove the ladder fuels that my colleague from California talked about, the old growth

policy that will be out there is one of let it burn, because that is what is happening today in America's forests. Because we have taken natural fire out of the equation and taken human management out of the equation, these forests have become completely overstocked. So it is like any other fire, it is about the fuel load. And the fuel load is such that when fire starts today, unlike 100 years ago, when it starts today, it burns catastrophically.

We witnessed it in the Biscuit Fire in southern Oregon a year ago. We witnessed it in the B&B fire this summer in my district. We witnessed it in California. We can see it all across America's great forests and rangelands that when there is too much fuel, the fire is nearly uncontrollable and certainly catastrophic.

Let us talk about the human consequences, because we saw it especially this year in California, but we have seen it before. Last year 23 firefighters lost their lives, and the American taxpayer spent $1.5 billion containing 2002's record fires.

This shows you a scene that, unfortunately, is one that has been seen far too often: a home that has been destroyed in a forested area. This next shot shows you what happens to fish habitat. This was in my district in eastern Oregon, a fire that took place in 1989. This is a stream that used to be part of the spring Chinook salmon habitat. You can see it is nothing but a mudflow here. There is no buffer. These are all dead trees. It looks like a moonscape or a Mars-scape. This was in the Wallowa Whitman National Forest. This is what you get when you cannot control forest fires.

This, on the other hand, is an example of how a fire that has been treated like we are talking about treating performs. This is an area where President Bush accompanied me and Senator SMITH and others, Senator WYDEN, up to the Squires Peak fire in 2002. And you can see where the land had been treated, there are good healthy trees left behind. There is a fire burning here, but it has fallen to the ground, because that is what happens when you treat in these areas. The fire drops to the ground, and our firefighters are able to control and contain it. The damage is not that significant. In fact, it can be very positive in terms of when a fire burns like this to regenerate.

But just on the other side of this hill where the same people who fought the fire have been doing the thinning work, it was completely obvious because they had not thinned there yet. Where they had not thinned, the fire had been in the canopy, it had been at the top. It had been catastrophic and extraordinarily destructive.

Finally, let me make this point. By streamlining this process we are going to be able to get in and do this kind of work sooner so we do not end up with that kind of devastation I showed you earlier. But we also, as a policy, as a Congress, need to take a look at what happens after a catastrophic fire. How can we get in and restore America's great conifer forests instead of letting them become brush? How do we get in and protect the habitat that remains after a fire and improve it so our fish runs can come back? That is a debate we will have to have in the future.

Today, though, I am delighted that we are at this point with a comprehensive bipartisan, bicameral plan that will move us an enormous generation forward to protect and preserve America's forests, create jobs in our rural communities, and make sure fire, when it burns, is not catastrophic.

Mr. HASTINGS of Florida. Mr. Speaker, I would like to thank the gentleman from Oregon (Mr. WALDEN) and the gentleman from Virginia (Mr. GOODLATTE) and the ranking members. I know that they have done a serious and yoeperson's job in bringing us this far, which, while I thank them, I still have reservations, and I know the gentleman from Oregon (Mr. WALDEN) and I have talked about them. But that does not mean that they did not work hard.

Mr. Speaker, I yield 3 minutes to the gentleman from Washington (Mr. INSLEE), my good friend.

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

Mr. INSLEE. Mr. Speaker, unfortunately, actually the way this final package was developed was a continuation of the sad deterioration of an effort to actually reach consensus in this body. And the reason I say that is the way this package was put together is some folks went into a closed room and excluded other Members of the House from consideration. In fact, the ranking Democrat on the Subcommittee on Forests and Forest Health of the Committee on Resources was excluded from consideration to try to reach a consensus product here, as was virtually anyone who questioned the original bill who left the House.

This is the system, if you can imagine, when they are sitting around a table in Iraq right now and they ask, how do you do democracy in America, I guess you would have to say, in the House we just have this secret group and exclude Members from the minority party who are ranking Members. And that is what happened here, and it is unfortunate because we may have been able to reach a consensus of unanimity here on the House floor.

Now, let me point out a couple significant concerns with this final product. Number one, it does not cut the mustard in saving our houses and our towns from fire. We just witnessed this enormous devastation in California as a result of these fires, hundreds and hundreds of houses that were burned. And we do not have enough money in the Federal Treasury to come close to treating all of the acres that need treatment. At most, under this bill, we will only treat about 2 percent of the acres that need treating a year in our forests. That means we have got to be smart and target our resources where it is going to do the most good, and where it is going to do the most good fastest is around our homes and our towns to prevent the devastation that happened in California.

It ought to be a clear, unanimous consensus in this House that we put the majority of our resources protecting our families and our homes and our towns. And this bill does not do it. Yes, it is better than the House version because it says 50 percent, but what are you going to tell people next time? Sure, you had 200 houses burned, we will save 100 of them this time. Well, 50 percent is not good enough saying we are just going to save half your town; 50 percent is not good enough when we say we are going to save half your subdivision.

We ought to put a clear majority of our resources in protecting these belts, these protective moats, if you will, around our houses, and we are not doing it. Why we are not doing it? Because the timber industry has driven a lot of this debate. Who is for this is the timber industry. And who is against it is the Sierra Club. And it is too bad we did not really reach a consensus when we could have on this bill.

Mr. HASTINGS of Washington. Mr. Speaker, I yield 3 minutes to the gentleman from Colorado (Mr. MCINNIS), who has worked extremely hard on this issue and has been working on this issue.

Mr. MCINNIS. Mr. Speaker, I thank the chairman for yielding me time. I also thank the Members and my colleagues on the Democratic side who worked with me on my bill. This is a bill I introduced. I have been working on it in great detail for a number of years.

Now, it is true that in the process I did not include 435 Members to come to our meetings to come to some kind of compromise. Now, there are reasons I did not include 435. First of all, that is not routine. Second of all, we could not get them all into one location. Third of all, not very many of them were interested. They are interested, most of them, in the final product, but they are not interested because they have their own priorities in putting this together.

And, finally, there is a very definite class of people that you cannot bring in to a room and expect a compromise. My good colleague, the gentleman from Washington (Mr. INSLEE), is not one of those people that I felt that I could bring into these negotiations and come out with anything positive.

□ 1030

I have got to get people in there that are willing to come up with a solution, and I will give you two good examples, two very ardent spokesmen for the environment, the gentleman from California (Mr. GEORGE MILLER) and the gentleman from Oregon (Mr. DEFAZIO).

Those are about two of the toughest individuals on this House floor when it

comes to speaking about environmental issues. While the gentleman from Washington (Mr. INSLEE), for example, is very tough on environmental issues, the fact is I can negotiate with the gentleman from California (Mr. GEORGE MILLER). I can negotiate with the gentleman from Oregon (Mr. DEFAZIO). And that is exactly why the gentleman from California (Mr. GEORGE MILLER) and the gentleman from Oregon (Mr. DEFAZIO) and the gentleman from Oregon (Mr. WALDEN) and myself and the gentleman from Virginia (Mr. GOODLATTE) and the gentleman from California (Mr. POMBO), that is exactly why that group of people came together to work out a compromise with the Senate to come up with a bill that is good for all of us.

So what we are seeing today is not opposition to the content of the bill by the gentleman from Washington (Mr. INSLEE). What we are seeing with all due respect to the gentleman from Washington (Mr. INSLEE) is sour grapes. Hey, I did not get to play in the game. I was not invited to the meeting.

As I said, there is a reason why the gentleman from Washington (Mr. INSLEE) was not invited to the meeting. I wanted a meeting with production. I needed to have a meeting that would come out with a product that could pass both the Senate and the House and accomplish something out there with our forests, and that is exactly what this bill does. That is exactly why we should pass this rule and that is exactly why I expect this bill in both the Senate and the House, the Senate and the House, to pass with bipartisan; that is, Republican and Democratic, support.

Mr. HASTINGS of Florida. Mr. Speaker, I yield myself such time as I may consume. I thank again my good friend from Washington (Mr. HASTINGS) for having yielded me time.

As the gentleman previously mentioned, this is a typical rule for a conference report and I will not oppose it. I will, however, oppose the underlying conference report, not because my good friend said it would not have been productive to have some of us in the conference. I do not serve on the committee so I do not know how I got thrown into that. I would not have been in the conference in the first place and perhaps he should not have been.

But, Mr. Speaker, President Theodore Roosevelt told Congress in 1907, ''The conservation of our natural resources and the proper use constitute the fundamental problem which underlies almost every other problem of our national life.''

Indeed, it does, Mr. Speaker.

In 2002 alone, wildfires burned more than 6½ million acres at a cost to taxpayers of more than $1 billion. Hundreds of families were evacuated and uncontrollable fires caused millions of dollars worth of damage. The images of the recent wildfires in southern California are fresh in our minds and pictures of homes burning to the ground and thoughts of livelihoods being destroyed will never be forgotten.

Yes, the underlying report takes significant steps to improve our ability to combat and mitigate wildfires. And, again, I congratulate the gentleman from Oregon (Mr. WALDEN), the gentleman from Virginia (Mr. GOODLATTE) and their ranking members and their committee for their work. But in my opinion it goes a bit too far. And for anyone who says that this or any other bill is not a perfect bill but we should support it anyway, I say absolutely not. If we know that a problem exists in the legislation, then let us fix it. Let us fix it before it becomes law.

The underlying conference report loosens current law regarding the logging and controlled burning of our Nation's forests. Moreover, it eviscerates environmental studies and the ability of organizations and private citizens to submit appeals on the cutting down of as many as 20 million acres. Under the report, appeals are subject to, in my view, unnecessary and unrealistic deadliness that insult the process and force Federal judges to adhere to judicial deadlines that make it impossible to fully consider the complexities of the appeal.

Mr. Speaker, at a time when more than half of the United States is experiencing some form of drought and dryness, it is critical for Congress to consider legislation that is proactive in defending and responding to the adverse effects of wildfires. And I spoke last night with the gentleman from Oregon (Mr. WALDEN) and the gentleman from Virginia (Mr. GOODLATTE) and my friends in the Committee on Rules about the fact that drought is an attendant feature that must deal with our concerns about forest fires.

It is equally critical for Congress to also consider legislation that helps communities mitigate the effects of the reoccurring events that often result in an excessive and prolonged fire season. In fact, my colleague on the other side of the aisle, the gentleman from Montana (Mr. REHBERG) and I have introduced a bill that does just that. H.R. 2781, the National Drought Preparedness Act, moves our country away from an ad hoc response-oriented approach and towards a more proactive mitigation-based approach.

Our bill provides States and local communities with the resources and tools to develop drought preparedness plans and think about the ramifications of drought before we find ourselves in one.

We are now faced with a vote clearly indicative of the concerns raised by President Roosevelt nearly one century ago. Whether we answer the challenge made by the late President or allow his legacy to fall victim to an influential timber lobby is a decision that Members will have to make later today.

I realize we do not oppose removing excess vegetation that increases the risk and facilitates the spread of wildfires. I certainly do not take issue with the report's efforts to address insect manifestations in forests. It is, in fact, crucial that Congress address these two issues.

What I do take issue with, however, is why the majority cannot just stop there. Instead, it uses the report to further its agenda under the blanket of healthy forests. Cutting down national forests and limiting public participation and administrative reviews does not get us any closer to stopping the spread of wildfires, and it certainly does not make our forests any healthier.

Teddy Roosevelt once noted, ''Forests are the lungs of our land, purifying the air and giving fresh strength to our people.'' He continued, ''A nation that destroys its soils destroys itself.''

Mr. Speaker, we must not allow the late President Roosevelt's warning to be realized by the 108th Congress. I urge my colleagues to support the rule and oppose the underlying report.

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

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

Mr. Speaker, the bill that this rule allows to be taken up is a very significant piece of legislation, and I just want to make one point that I do not think has been made in the debate on this rule regarding this underlying legislation, and that is that this legislation is geared towards what we call multiple use areas within our national system, our national forests and our BLM lands. Multiple use by definition means it should be open for recreation, commercial activity, and so forth. But, unfortunately, with policies that have been enacted de facto in the past 10 or 15 years, in fact, we have closed up these multiple use areas.

This legislation addresses these problems that have built up for a time and as a result has built up to unhealthy forests and unhealthy BLM lands. So it is a significant first start, an extremely significant first start.

With that, Mr. Speaker, I urge my colleagues to support the rule and support the underlying legislation.

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.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. 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 a vote is objected to under clause 6 of rule XX.

Record votes on postponed questions will be taken later today.

HIGHLANDS CONSERVATION ACT

Mr. CALVERT. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1964) to establish the Highlands Stewardship Area in the States of Connecticut, New Jersey, New York, and Pennsylvania, and for other purposes, as amended.

The Clerk read as follows:

H.R. 1964

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 ''Highlands Conservation Act''.

SEC. 2. FINDINGS.

Congress finds the following—

(1) The Highlands region is a physiographic province that encompasses more than 2,000,000 acres extending from eastern Pennsylvania through the States of New Jersey and New York to northwestern Connecticut.

(2) The Highlands region is an environmentally unique area that—

(A) provides clean drinking water to over 15,000,000 people in metropolitan areas in the States of Connecticut, New Jersey, New York, and Pennsylvania;

(B) provides critical wildlife habitat, including habitat for 247 threatened and endangered species;

(C) maintains an important historic connection to early Native American culture, colonial settlement, the American Revolution, and the Civil War;

(D) contains recreational resources for 14 million visitors annually;

(E) provides other significant ecological, natural, tourism, recreational, educational, and economic benefits; and

(F) provides homeownership opportunities and access to affordable housing that is safe, clean, and healthy.

(3) An estimated 1 in 12 citizens of the United States live within a 2-hour drive of the Highlands region.

(4) More than 1,400,000 residents live in the Highlands region.

(5) The Highlands region forms a greenbelt adjacent to the Philadelphia-New York City-Hartford urban corridor that offers the opportunity to preserve water, forest and agricultural resources, wildlife habitat, recreational areas, and historic sites, while encouraging sustainable economic growth and development in a fiscally and environmentally sound manner.

(6) Continued population growth and land use patterns in the Highlands region—

(A) reduce the availability and quality of water;

(B) reduce air quality;

(C) fragment the forests;

(D) destroy critical migration corridors and forest habitat; and

(E) result in the loss of recreational opportunities and scenic, historic, and cultural resources.

(7) The water, forest, wildlife, recreational, agricultural, and cultural resources of the Highlands region, in combination with the proximity of the Highlands region to the largest metropolitan areas in the United States, make the Highlands region nationally significant.

(8) The national significance of the Highlands region has been documented in—

(A) the New York-New Jersey Highlands Regional Study conducted by the Forest Service in 1990;

(B) the New York-New Jersey Highlands Regional Study: 2002 Update conducted by the Forest Service;

(C) the bi-State Skylands Greenway Task Force Report;

(D) the New Jersey State Development and Redevelopment Plan;

(E) the New York State Open Space Conservation Plan;

(F) the Connecticut Green Plan: Open Space Acquisition FY 2001–2006;

(G) the open space plans of the State of Pennsylvania; and

(H) other open space conservation plans for States in the Highlands region.

(9) The Highlands region includes or is adjacent to numerous parcels of land owned by the Federal Government or federally designated areas that protect, conserve, or restore resources of the Highlands region, including—

(A) the Wallkill River National Wildlife Refuge;

(B) the Shawanagunk Grasslands Wildlife Refuge;

(C) the Morristown National Historical Park;

(D) the Delaware and Lehigh Canal Corridors;

(E) the Hudson River Valley National Heritage Area;

(F) the Delaware River Basin;

(G) the Delaware Water Gap National Recreation Area;

(H) the Upper Delaware Scenic and Recreational River;

(I) the Appalachian National Scenic Trail;

(J) the United States Military Academy at West Point, New York;

(K) the Highlands National Millenium Trail;

(L) the Great Swamp National Wildlife Refuge;

(M) the proposed Crossroads of the Revolution National Heritage Area;

(N) the proposed Musconetcong National Scenic and Recreational River in New Jersey; and

(O) the Farmington River Wild and Scenic Area in Connecticut.

(10) It is in the interest of the United States to protect, conserve, and restore the resources of the Highlands region for the residents of, and visitors to, the Highlands region.

(11) The States of Connecticut, New Jersey, New York, and Pennsylvania, and units of local government in the Highlands region have the primary responsibility for protecting, conserving, preserving, restoring and promoting the resources of the Highlands region.

(12) Because of the longstanding Federal practice of assisting States in creating, protecting, conserving, and restoring areas of significant natural and cultural importance, and the national significance of the Highlands region, the Federal Government should, in partnership with the Highlands States and units of local government in the Highlands region, protect, restore, and preserve the water, forest, agricultural, wildlife, recreational and cultural resources of the Highlands region.

SEC. 3. PURPOSES.

The purposes of this Act are as follows:

(1) To recognize the importance of the water, forest, agricultural, wildlife, recreational and cultural resources of the Highlands, and the national significance of the Highlands region to the United States.

(2) To authorize the Secretary of the Interior to work in partnership with the Secretary of Agriculture to provide financial assistance to the Highlands States to preserve and protect high priority conservation lands in the Highlands region.

(3) To continue the ongoing Forest Service programs in the Highlands region to assist the Highlands States, local units of government and private forest and farm landowners in the conservation of lands and natural resources in the Highlands region.

SEC. 4. DEFINITIONS.

In this Act:

(1) HIGHLANDS REGION.—The term ''Highlands region'' means the physiographic province, defined by the Reading Prong and ecologically similar adjacent upland areas, that encompasses more than 2,000,000 acres extending from eastern Pennsylvania through the States of New Jersey and New York to northwestern Connecticut.

(2) HIGHLANDS STATE.—The term ''Highlands State'' means—

(A) the State of Connecticut;

(B) the State of New Jersey;

(C) the State of New York;

(D) the State of Pennsylvania; and

(E) any agency or department of any Highlands State.

(3) LAND CONSERVATION PARTNERSHIP PROJECT.—The term ''land conservation partnership project'' means a land conservation project located within the Highlands region identified as having high conservation value by the Forest Service in which a non-Federal entity acquires land or an interest in land from a willing seller for the purpose of permanently protecting, conserving, or preserving the land through a partnership with the Federal Government.

(4) NON-FEDERAL ENTITY.—The term ''non-Federal entity'' means any Highlands State, or any agency or department of any Highlands State with authority to own and manage land for conservation purposes, including the Palisades Interstate Park Commission.

(5) STUDY.—The term ''study'' means the New York-New Jersey Highlands Regional Study conducted by the Forest Service in 1990.

(6) UPDATE.—The term ''update'' means the New York-New Jersey Highlands Regional Study: 2002 Update conducted by the Forest Service.

SEC. 5. LAND CONSERVATION PARTNERSHIP PROJECTS IN THE HIGHLANDS REGION.

(a) SUBMISSION OF PROPOSED PROJECTS.—Annually, the Governors of the Highlands States, with input from pertinent units of local government and the public, may jointly identify land conservation partnership projects in the Highlands region that shall be proposed for Federal financial assistance and submit a list of those projects to the Secretary of the Interior.

(b) CONSIDERATION OF PROJECTS.—The Secretary of the Interior, in consultation with the Secretary of Agriculture, shall annually submit to Congress a list of those land conservation partnership projects submitted under subsection (a) that are eligible to receive financial assistance under this section.

(c) ELIGIBILITY CONDITIONS.—To be eligible for financial assistance under this section for a land conservation partnership project, a non-Federal entity shall enter into an agreement with the Secretary of the Interior that—

(1) identifies the non-Federal entity that shall own or hold and manage the land or interest in land;

(2) identifies the source of funds to provide the non-Federal share required under subsection (d);

(3) describes the management objectives for the land that will assure permanent protection and use of the land for the purpose for which the assistance will be provided;

(4) provides that, if the non-Federal entity converts, uses, or disposes of the land conservation partnership project for a purpose inconsistent with the purpose for which the assistance was provided, as determined by the Secretary of the Interior, the United States may seek specific performance of the conditions of financial assistance in accordance with paragraph (3) in Federal court and shall be entitled to reimbursement from the non-Federal entity in an amount that is, as determined at the time of conversion, use, or disposal, the greater of—

(A) the total amount of the financial assistance provided for the project by the Federal Government under this section; or

(B) the amount by which the financial assistance increased the value of the land or interest in land; and

(5) provides that land conservation partnership projects will be consistent with areas identified as having high conservation value in the following:

(A) Important Areas portion of the Forest Service study.

(B) Conservation Focal Areas portion of the Forest Service update.

(C) Conservation Priorities portion of the update.

(D) Lands identified as having higher or highest resource value in the Conservation Values Assessment portion of the update.

(d) NON-FEDERAL SHARE REQUIREMENT.—The Federal share of the cost of carrying out a land conservation partnership project under this section shall not exceed 50 percent of the total cost of the land conservation partnership project.

(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary of the Interior from the general funds of the Treasury or the Land and Water Conservation Fund to carry out this section $10,000,000 for each of the fiscal years 2005 through 2014. Amounts appropriated pursuant to this authorization of appropriations shall remain available until expended.

SEC. 6. FOREST SERVICE AND USDA PROGRAMS IN THE HIGHLANDS REGION.

(a) IN GENERAL.—In order to meet the land resource goals of, and the scientific and conservation challenges identified in, the study, update, and any future study that the Forest Service may undertake in the Highlands region, the Secretary of Agriculture, acting through the Chief of the Forest Service and in consultation with the Chief of the National Resources Conservation Service, shall continue to assist the Highlands States, local units of government, and private forest and farm landowners in the conservation of lands and natural resources in the Highlands region.

(b) DUTIES.—The Forest Service shall—

(1) in consultation with the Highlands States, undertake other studies and research as appropriate in the Highlands region consistent with the purposes of this Act;

(2) communicate the findings of the study and update and maintain a public dialogue regarding implementation of the study and update; and

(3) assist the Highland States, local units of government, individual landowners, and private organizations in identifying and using Forest Service and other technical and financial assistance programs of the Department of Agriculture.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary of Agriculture to carry out this section $1,000,000 for each of the fiscal years 2005 through 2014.

SEC. 7. PRIVATE PROPERTY PROTECTION AND LACK OF REGULATORY EFFECT.

(a) ACCESS TO PRIVATE PROPERTY.—Nothing in this Act shall be construed to—

(1) require any private property owner to permit public access (including Federal, State, or local government access) to such private property; and

(2) modify any provision of Federal, State, or local law with regard to public access to or use of private lands.

(b) LIABILITY.—Nothing in this Act shall be construed to create any liability, or to have any effect on any liability under any other law, of any private property owner with respect to any persons injured on such private property.

(c) RECOGNITION OF AUTHORITY TO CONTROL LAND USE.—Nothing in this Act shall be construed to modify any authority of Federal, State, or local governments to regulate land use.

(d) PARTICIPATION OF PRIVATE PROPERTY OWNERS.—Nothing in this Act shall be construed to require the owner of any private property located in the Highlands region to participate in the land conservation, financial, or technical assistance or any other programs established under this Act.

(e) PURCHASE OF LANDS OR INTERESTS IN LANDS FROM WILLING SELLERS ONLY.—Funds appropriated to carry out this Act shall be used to purchase lands or interests in lands only from willing sellers.

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

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

GENERAL LEAVE

Mr. CALVERT. 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. 1964.

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

There was no objection.

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

Mr. Speaker, H.R. 1964, introduced by my good friend, the gentleman from New Jersey (Mr. FRELINGHUYSEN) and amended by the Committee on Resources, would authorize the Secretary of the Interior and the Secretary of Agriculture to provide financial assistance to States to preserve and protect high priority conservation lands in the Highlands region. This geographic region encompasses over 2 million acres of land stretching from western Connecticut across the Lower Hudson River Valley and northern New Jersey into northeastern Pennsylvania.

Mr. Speaker, not only has the U.S. Forest Service documented the national significance of the Highlands area in two extensive studies in 1990 and 2002, but the President in his 2004 budget recognized the New York-New Jersey Highlands forest area as one of nine priority forests areas in the country that are threatened.

H.R. 1964, as amended, is supported by the administration and the majority and minority of the committee. I urge adoption of this bill.

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

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

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

Mr. Speaker, we fully support the goals of H.R. 1964. The purpose of this legislation is to facilitate conservation and preservation, ideals we fight for in this Congress on a regular basis.

However, we must point out that the scope of H.R. 1964 is truly stunning. This legislation will create a new Federal conservation program covering 2 million acres and 1.4 million people in 4 States. The precise boundaries of this new Federally created area are only generally defined in the bill, and there are no references to a map to allow property owners to know if their property is included or not.

Furthermore, the goals of this new conservation program are sweeping. The bill states that the Federal Government should work with States, units of local government and private property owners to ''protect, restore and preserve the water, forest, agricultural, wildlife, recreational and cultural resources'' contained in this new Federal area. It is difficult to imagine a broader conservation mandate.

Given the ongoing and severe underfunding of the land and water conservation funds, we continue to have concerns regarding the impact of this new $100 million effort may have on other worthy conservation programs funded with LWCF dollars. However, we will support H.R. 1964 at this time.

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

Mr. CALVERT. Mr. Speaker, I yield 3 minutes to the gentleman from New Jersey (Mr. FRELINGHUYSEN).

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

My thanks to the gentleman from California (Mr. CALVERT), and particular thanks to the chairman, the gentleman from California (Mr. POMBO), the chair of the House Committee on Resources, for all of his work and the work of his staff that have helped improve this bill and make it possible for us to discuss it and vote on it today. I also thank the ranking member for her assistance and recognize the gentleman from New York (Mr. ENGEL), who is going to speak later, as well as the gentlewoman New York (Mrs. KELLY) and the gentleman from Pennsylvania (Mr. GERLACH) and over 30 Members of Congress that are sponsoring this bill.

Mr. Speaker, the Highlands is one of the last open treasures in the most densely populated area of the United States. In New Jersey alone, my home State, it includes more than a million acres of forests, farms, streams, wetlands, lakes, reservoirs and historic sites. We need to preserve these assets.

The Highlands Conservation Act represents a major commitment to protect them. While remaining mindful of property rights, this bill complements ongoing State, private and local partnerships that are actively working to protect open space. Our bill does not ask the Federal Government to become the landowner or steward to these lands; rather, the people of New Jersey, New York, Connecticut and Pennsylvania would retain ownership and responsibility for caretaking of these lands. Indeed, the government will not be taking any land. Participants would all be willing sellers.

Mr. Speaker, the President recognized the national significance of the Highlands in his 2004 budget message in January and designated the Highlands as one of nine national priorities areas threatened by development.

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These lands, as the gentleman from California (Mr. CALVERT) has said, have been identified by the U.S. Forest Service in virtually all other Federal, State and local entities as critical lands in need of preservation.

This bill represents an opportunity for the Federal Government to work with the State government and local groups to preserve the Highlands. It is a unique opportunity, an historic opportunity, and it is a symbolic opportunity of the Federal Government to work with so many partners.

This legislation also represents a landmark commitment of the Federal Government to the Highlands. It is a genuine partnership. It is important to preserving open space. I am proud to support the bill and to have so many partners in that regard.

Mrs. CHRISTENSEN. Mr. Speaker, I yield 5 minutes to the gentleman from New York (Mr. ENGEL).

Mr. ENGEL. Mr. Speaker, I thank the gentlewoman for yielding time to me, and I rise in strong support of H.R. 1954, the Highland Stewardship Act. I am proud to be an original cosponsor of this bill. I pledged that I would do everything in my power to pass this bill, and I am delighted that this bill is on the floor today.

I want to start by thanking the Committee on Resources chairman, the gentleman from California (Mr. POMBO), the gentleman from West Virginia (Mr. RAHALL), the ranking member, and the gentleman from California (Mr. RADANOVICH), the subcommittee chairman, and the gentlewoman from the Virgin Islands (Mrs. CHRISTENSEN), the subcommittee ranking member, for their assistance and support.

More importantly, I want to commend the sponsor of this legislation the gentleman from New Jersey (Mr. FRELINGHUYSEN). It is because of his vigorous and stalwart support of this bill and his active participation in moving it forward that we are here today. It has been a pleasure to work with him, and this is a very, very important bill not only for his district and my district, but for many, many districts and many, many States in the Northeast.

I represent Rockland County. We have a pristine area there which is very, very important, and we need to protect this area. We very often talk about suburban sprawl and development, which is unwanted and which would mar this pristine land. This bill gives us the opportunity to balance that. That is what is so important.

The Highlands in my district encompasses an area totally of 1.5 million acres from the lower Hudson River Valley in New York to the Delaware River in New Jersey. Within this area are some spectacular things to see and do, and, of course, many people, 1.4 million people, live within the Highlands area.

The Highlands adjoins a metropolitan area, the New York metropolitan area, with a population of more than 20 million people. More than 11 million people rely on the Highlands' drinking water resources, which serves at least half of New York City's water supply. More than 14 million people visit the Highlands each year for recreational opportunities. Over 240 species of birds, mammals, amphibians and reptiles depend on Highlands habitat, and more than 160 historical and cultural sites have been identified in the region.

Where once apple farms and bungalows dotted the landscape, we now have 300,000 people living in Rockland County, and as I mentioned before, it is very, very important to have that balance between development and preserving pristine areas such as this.

The Federal Government has an important role to play in protecting our area of national significance here in our own backyard. I have supported increased funding for Forest Service programs such as the Forest Legacy Program, the Forest Stewardship Program and the new Forest Land Enhancement Program that protect environmentally sensitive forestlands such as the Highlands.

Again, I want to say that it is vitally important that the Federal Government facilitate partnerships between all levels of government to protect the Highlands and prevent the region from suffering from further urban sprawl. My district is a combination of an urban district and a suburban district, and I am very, very sensitive to the needs of the suburbs, and this bill and the money put into this bill goes a long way in keeping that balance and keeping these lands pristine.

The Highlands Act will really move us far along in this effort because we do not want further urban sprawl. So I thank the chairs and ranking members and, again, most of all, my friend from New Jersey (Mr. FRELINGHUYSEN). This is truly bipartisan and truly a very, very good day for the American people.

Mr. CALVERT. Mr. Speaker, I yield what time he may consume to the gentleman from California (Mr. POMBO), the chairman of the Committee on Resources.

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

I come to the floor today to speak in support of this bill. This is the kind of legislation that in the past I have opposed and have had concerns about, but I have to give all due credit to my colleague the gentleman from New Jersey (Mr. FRELINGHUYSEN) and the gentleman from New Jersey (Mr. SAXTON) for the work that they put into this bill.

When they originally introduced this legislation, I had some concerns over it, and they came in and sat down with me, and we were able to work through all of the concerns that I had, and they were very good at coming in and sitting down and working through the property rights concerns that I had, what impact this would have on small property owners that were involved with this area, and gave me the assurances that as we worked our way through this process, that their private property rights would be protected. They were willing to accept language into the bill that protects those small property owners, and I think that that is extremely important.

I will tell my colleagues, on any legislation like this in the future that we choose to move through the Committee on Resources, we will use this bill as a template, as a way to get things done in a bipartisan way in trying to move forward with a Federal and a local partnership in protecting lands that are environmentally sensitive and that are important, but at the same time protecting the property rights of those individual owners, which is something that is extremely important to me.

So I just want to come down here and tell my colleagues I strongly support this legislation. I think that the work that the gentleman from New Jersey (Mr. SAXTON) and the gentleman from New Jersey (Mr. FRELINGHUYSEN) did on this is a very, very positive step for the future. I know that they are going to do great things with this. I know that this land is extremely important to them. So I look forward to working with them in future and making sure that these lands are protected, at the same time that small property owners are protected.

So I thank them for all of the great work that they did, and I urge my colleagues to support this legislation.

Mrs. CHRISTENSEN. Mr. Speaker, I yield 5 minutes to the gentleman from New Jersey (Mr. PASCRELL), my good friend and classmate.

Mr. PASCRELL. Mr. Speaker, I rise in very strong support of H.R. 1964, the Highlands Conservation Act.

I want to congratulate the chairmen and ranking members for getting this to the floor, but I want to pay particular attention, and I know he does not like this but I will do it anyway, to the gentleman from New Jersey (Mr. FRELINGHUYSEN). This has been a continuation, Mr. Speaker, of his work in the New Jersey State Legislature, not to balance anything, but to secure and preserve lands not only in New Jersey, but to set a model throughout the United States, and I think he has done that, and he has done it in a most professional way.

I am proud to work with my colleagues across the aisle for years to preserve and protect this magnificent sweep of the Appalachian ridges, stretching for 1.5 million acres across New Jersey and New York.

The Highlands are an essential source of drinking water, we have heard that already, clean air, and wildlife habitat, and recreational opportunities for nearly 25 million people located right in the backyard of our Nation's most densely populated region. The irony is staring us right in the face.

The Highlands region has been in grave danger throughout the last decade. The region lost 5,200 acres a year to intensive development of strip malls and office campuses. Development also threatens the water supply for millions of residents in New Jersey and endangers critical wildlife.

In land right next to my district, millions of residents enjoy the drinking water and the recreational resources of the Ramapo Mountains, the Wyanokie Highlands and the Pequannock Watershed. This bill will provide millions of dollars in land preservation assistance to protect this core of wilderness in our region.

The Highlands Conservation Act should be a model for future land preservation efforts. We have debated land preservation on this very floor, and yes, we need to have a sensible approach to it and respect, as the gentleman from California pointed out, property rights.

This legislation encourages a strong partnership between the Federal, State and local communities, and the gentleman from New Jersey, my colleague in the State legislature, this has been the center of his work on preservation, and it is fitting, it is fitting on this floor that we salute his efforts, particularly at a time when things can get downright contentious here.

The bipartisan efforts we have made to create innovative legislation that preserves critical land while respecting the rights of property owners should set a standard for this House. Advocates for this bill worked tirelessly with environmentalists and private industry to create a worthy compromise that does a service to the legislative process.

So preservation of the Highlands will benefit all Americans. Indeed, the Highlands is not just a New Jersey resource. As in any other parts in this country, it is a national treasure.

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

Again, I want to point out that this bill eliminated the Office of Highlands Stewardship and the accompanied regulatory process. It reduced the authorization level from $25 million annually to $10 million annually over 10 years. It focused conservation efforts only on those resources most important. This bill clarified that the bill would not establish a wholly new programmatic category of land use, and, finally, it assured landowners in the Highlands region that private property rights will be protected by including safeguards for those landowners potentially at risk.

So, Mr. Speaker, this is a good piece of legislation. It has been developed over a long period of time.

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

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

As stated, we did have some concerns about the expense of the bill and the funding for it, given the limitations of the land and water conservation fund, but we are supportive of the bill.

Mr. HOLT. Mr. Speaker, I rise today in support of the Highlands Conservation Act.

To anyone in this Congress who questions the value of efforts to preserve open space, I invite them to come to New Jersey. My constituents, like most people around the state, have seen the ills of sprawl and the consequences of poor planning and meager preservation efforts.

Despite the fact that many see rampant commercial and industrial development in New Jersey, however, there are still some wonderful tracts of land left in some areas of our state. One in particular is part of this tract we are trying to save through today's legislation, the Highlands Region. These are important not just for aesthetically pleasing vistas, but especially for the health of our environment, our water, our air, and mostly our people.

The Highlands is an incredible 2 million acre swath across four states—New Jersey, New York, Connecticut, and Pennsylvania. This tract is home to nearly one and a half million people and is still a quick drive away from New York City and other major metropolitan areas.

Even more importantly, the Highlands provides and protects the drinking water supplies for over 15 million people who live in the Philadelphia-New York-Hartford metropolitan area, which cuts right through my central New Jersey district.

That is why it is so important that the House today pass the Highlands Conservation Act. This bill authorizes federal Land and Water Conservation Fund money that will be matched at least one to one by local, state, and private funding. The governors of the four Highlands states will identify which lands are best eligible for conservation efforts, then apply to the federal government for funding. I know that the governor of New Jersey is ready and eager to get to work identifying these areas and preserving more green space in the state.

I also want to highlight provisions in the bill that provide technical assistance to communities and organizations involved in conservation efforts for the Highlands. So many people in the region have already done so much wonderful work to help preserve the area, and they will now get the added benefit of assistance and expertise from the federal government.

I want to recognize Mr. FRELINGHUYSEN for his leadership on this issue and his hard work to get the legislation on the floor. I also want to salute the work of former Representative Ben Gilman, who led the effort on this legislation during the last Congress.

I also want to thank Chairman POMBO, Ranking Member RAHALL, Subcommittee Chairman RADANOVICH, and Ranking Member CHRISTENSEN for helping see this legislation through the Resources committee. This bill means a lot to New Jersey, and I urge my colleagues to support it.

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

The SPEAKER pro tempore (Mr. SIMPSON). The question is on the motion offered by the gentleman from California (Mr. CALVERT) that the House suspend the rules and pass the bill, H.R. 1964, 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.

The title of the bill was amended so as to read: ''A bill to assist the States of Connecticut, New Jersey, New York, and Pennsylvania in conserving priority lands and natural resources in the Highlands region, and for other purposes.''.

A motion to reconsider was laid on the table.

TWENTY-FIRST CENTURY WATER COMMISSION ACT OF 2003

Mr. CALVERT. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 135) to establish the ''Twenty-First Century Water Commission'' to study and develop recommendations for a comprehensive water strategy to address future water needs, as amended.

The Clerk read as follows:

H.R. 135

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 ''Twenty-First Century Water Commission Act of 2003''.

SEC. 2. FINDINGS.

Congress finds that—

(1) the Nation's water resources will be under increasing stress and pressure in the coming decades;

(2) a thorough assessment of technological and economic advances that can be employed to increase water supplies or otherwise meet water needs in every region of the country is important and long overdue; and

(3) a comprehensive strategy to increase water availability and ensure safe, adequate, reliable, and sustainable water supplies is vital to the economic and environmental future of the Nation.

SEC. 3. ESTABLISHMENT.

There is established a commission to be known as the ''Twenty-First Century Water Commission'' (in this Act referred to as the ''Commission'').

SEC. 4. DUTIES.

The duties of the Commission shall be to—

(1) use existing water assessments and conduct such additional assessments as may be necessary to project future water supply and demand;

(2) study current water management programs of Federal, Interstate, State, and local agencies, and private sector entities directed at increasing water supplies and improving the availability, reliability, and quality of freshwater resources; and

(3) consult with representatives of such agencies and entities to develop recommendations consistent with laws, treaties, decrees, and interstate compacts for a comprehensive water strategy which—

(A) respects the primary role of States in adjudicating, administering, and regulating water rights and water uses;

(B) identifies incentives intended to ensure an adequate and dependable supply of water to meet the needs of the United States for the next 50 years;

(C) suggests strategies that avoid increased mandates on State and local governments;

(D) eliminates duplication and conflict among Federal governmental programs;

(E) considers all available technologies and other methods to optimize water supply reliability, availability, and quality, while safeguarding the environment;

(F) recommends means of capturing excess water and flood water for conservation and use in the event of a drought;

(G) suggests financing options for comprehensive water management projects and for appropriate public works projects;

(H) suggests strategies to conserve existing water supplies, including recommendations for repairing aging infrastructure; and

(I) includes other objectives related to the effective management of the water supply to ensure reliability, availability, and quality, which the Commission shall consider appropriate.

SEC. 5. MEMBERSHIP.

(a) NUMBER AND APPOINTMENT.—The Commission shall be composed of 9 members who shall be appointed not later than 90 days after the date of enactment of this Act. Member shall be appointed as follows:

(1) 5 members appointed by the President;

(2) 2 members appointed by the Speaker of the House of Representatives, in consultation with the Minority Leader of the House of Representatives; and

(3) 2 members appointed by the Majority Leader of the Senate, in consultation with the Minority Leader of the Senate.

(b) QUALIFICATIONS.—Members shall be appointed to the Commission from among individuals who—

(1) are of recognized standing and distinction in water policy issues; and

(2) while serving on the Commission, do not hold any other position as an officer or employee of the United States, except as a retired officer or retired civilian employee of the United States.

(c) OTHER CONSIDERATIONS.—In appointing members of the Commission, every effort shall be made to ensure that the members represent a broad cross section of regional and geographical perspectives in the United States.

(d) CHAIRPERSON.—The Chairperson of the Commission shall be designated by the President.

(e) TERMS.—Members of the Commission shall be appointed not later than 90 days after the date of enactment of this Act and shall serve for the life of the Commission.

(f) VACANCIES.—A vacancy on the Commission shall not affect its operation, and shall be filled in the same manner as the original appointment provided under subsection (a).

(g) COMPENSATION AND TRAVEL EXPENSES.—Members of the Commission shall serve without compensation, except members shall receive travel expenses, including per diem in lieu of subsistence, in accordance with applicable provisions under subchapter I of chapter 57, United States Code.

SEC. 6. MEETINGS AND QUORUM.

(a) MEETINGS.—The Commission shall hold its first meeting not later than 60 days after the date on which all members have been appointed under section 5, and shall hold additional meetings at the call of the Chairperson or a majority of its members.

(b) QUORUM.—A majority of the members of the Commission shall constitute a quorum for the transaction of business.

SEC. 7. DIRECTOR AND STAFF.

A Director shall be appointed by the Speaker of the House of Representatives and the Majority Leader of the Senate, in consultation with the Minority Leader and chairmen of the Resources and Transportation and Infrustructure Committees of the House of Representatives, and the Minority Leader and chairmen of the Energy and Natural Resources and Environment and Public Works Committees of the Senate. The Director and any staff reporting to the Director shall be paid a rate of pay not to exceed the maximum rate of basic pay for GS–15 of the General Schedule.

SEC. 8. POWERS AND PROCEEDINGS OF THE COMMISSION.

(a) HEARINGS.—The Commission shall hold no fewer than 10 hearings during the life of the Commission. Hearings may be held in conjunction with meetings of the Commission. The Commission may take such testimony and receive such evidence as the Commission considers appropriate to carry out this Act. At least 1 hearing shall be held in Washington, D.C., for the purpose of taking testimony of representatives of Federal agencies, national organizations, and Members of Congress. Other hearings shall be scheduled in distinct geographical regions of the United States and should seek to ensure testimony from individuals with a diversity of experiences, including those who work on water issues at all levels of government and in the private sector.

(b) INFORMATION AND SUPPORT FROM FEDERAL AGENCIES.—Upon request of the Commission, any Federal agency shall—

(1) provide to the Commission, within 30 days of its request, such information as the Commission considers necessary to carry out the provisions of this Act; and

(2) detail to temporary duty with the Commission on a reimbursable basis such personnel as the Commission considers necessary to carry out the provisions of this Act, in accordance with section 5(b)(5), Appendix, title 5, United States Code.

SEC. 9. REPORTS.

(a) INTERIM REPORTS.—Not later than 6 months after the date of the first meeting of the Commission, and every 6 months thereafter, the Commission shall transmit an interim report containing a detailed summary of its progress, including meetings and hearings conducted in the interim period, to—

(1) the President;

(2) the Committee on Resources and the Committee on Transportation and Infrastructure of the House of Representatives; and

(3) the Committee on Energy and Natural Resources and the Committee on the Environment and Public Works of the Senate.

(b) FINAL REPORT.—As soon as practicable, but not later than 3 years after the date of the first meeting of the Commission, the Commission shall transmit a final report containing a detailed statement of the findings and conclusions of the Commission, and recommendations for legislation and other policies to implement such findings and conclusions, to—

(1) the President;

(2) the Committee on Resources and the Committee on Transportation and Infrastructure of the House of Representatives; and

(3) the Committee on Energy and Natural Resources and the Committee on the Environment and Public Works of the Senate.

SEC. 10. TERMINATION.

The Commission shall terminate not later than 30 days after the date on which the Commission transmits a final report under section 7(b).

SEC. 11. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated $9,000,000 to carry out this Act.

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

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

GENERAL LEAVE

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

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

There was no objection.

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

H.R. 135, introduced by the gentleman from Georgia (Mr. LINDER), and cosponsored by a wide range of Members from both parties, creates a national commission to develop increased water supplies. The gentleman from Georgia (Mr. LINDER) and his colleagues have properly recognized that drought is a national problem, not just a Western issue.

This bill creates a process while adhering to States' rights to address this problem. I urge my colleagues to support this bill.

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

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

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

Mrs. CHRISTENSEN. Mr. Speaker, I rise in support of H.R. 135. This legislation would establish the 21st Century Water Policy Commission to study Federal, State, local, and private water management programs in an effort to develop recommendations for a comprehensive national water strategy.

Mr. Speaker, the objectives of H.R. 135 are worthwhile, and I appreciate the cooperation we have received from the sponsor of this bill. I urge my colleagues to support this legislation.

Mr. Speaker, I yield 10 minutes to the gentleman from Illinois (Mr. COSTELLO) and ask unanimous consent that he be allowed to control said time.

The SPEAKER pro tempore (Mr. SIMPSON). Is there objection to the request of the gentlewoman from the Virgin Islands?

There was no objection.

Mr. CALVERT. Madam Speaker, I yield 10 minutes to the gentleman from Tennessee (Mr. DUNCAN) and ask unanimous consent that he be allowed to control that time.

The SPEAKER pro tempore (Mrs. BIGGERT). Is there objection to the request of the gentleman from California?

There was no objection.

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

Madam Speaker, first of all, I want to commend my colleague, the gentleman from Georgia (Mr. LINDER), and I rise in strong support of H.R. 135, the 21st Century Water Commission Act of 2003.

Madam Speaker, I yield 5 minutes to the gentleman from Georgia (Mr. LINDER).

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

Madam Speaker, I rise in support of H.R. 135, the 21st Century Water Commission Act of 2003. H.R. 135 is designed to bring together our Nation's premier water experts to recommend strategies for meeting our water challenges in the next century.

I would like to first thank the gentleman from California (Chairman CALVERT) and his staff and the gentleman from Tennessee (Chairman DUNCAN) and his staff for being so helpful in

bringing this bill to the floor and having hearings.

Ensuring fresh water for U.S. citizens will be a critical challenge facing the United States as we enter the 21st Century. Water related issues have been of interest to me for many years. In fact, I wrote an article in 1978 that predicted that one of the 12 major challenges for our country in the next century would be providing enough fresh water for our booming population.

Since that time, about 25 years ago, America still does not have an integrated or comprehensive water policy, even with hundreds of thousands of Federal, State, local and private sector employees working to solve water problems. If we wait another 10 or 20 years to get serious about meeting our demand for clean water, it will be too late.

According to the October 27, 2003, edition of U.S. News and World Report, ''Our population has more than doubled since World War II, and at this rate, we could be on our way to 1 billion people living in the United States by the end of this century.'' The population growth will clearly put a strain on our already-burdened water supply.

As my colleagues are aware, many States across the Nation are currently facing a water crisis. Once thought to be a problem only in the arid West, severe droughts last summer caused water shortages up and down the east coast. States once accustomed to an unlimited access to water realized that they are not immune to the problems which the West has experienced for decades.

In addition, numerous news articles over the past few years have increased our attention to other water problems that we currently face. To name just a few, aquifers are being challenged by salt water intrusion, rivers and wells are drying up all over the country, crops are being threatened, and our aging water pipes leak billions of gallons of fresh water in our cities all over the country. For example, New York City loses 36 million gallons per day and Philadelphia loses 85 million per day just through leaks in infrastructure.

Let me be clear about one thing: my bill does not give the Federal Government more direct authority or control over water. This commission is designed to make recommendations about how we can coordinate water management efforts on all levels, so that localities, States, and the Federal Government can work together.

Some highlights of the bill are as follows:

The commission will look for ways to ensure fresh water for citizens for the next 50 years.

The commission will be composed of nine members, appointed by the President and key leaders in the House and Senate.

The commission will look for ways to eliminate duplication and conflict among Federal Government agencies.

The commission will consider all available technologies and other methods to optimize water supply reliability.

The commission will hold hearings in distinct geographical regions of the United States and in Washington, D.C., to seek a diversity of views, comments, and input.

Not later than 6 months after the date of the first meeting of the commission, and every 6 months thereafter, the commission will transmit a report to the Congress. A final report will be due within 3 years of the commission's inception.

In John Steinbeck's novel, ''East of Eden,'' the narrator observes, ''It never failed that during the dry years that people forgot about the rich years, and during the wet years they lost all memory of the dry years. It was always that way.''

The United States cannot afford to reevaluate its water policies every time a crisis hits. Now is the time to get ahead of this issue, and I believe the 21st Century Water Commission can serve as the channel for doing so.

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

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

Mr. COSTELLO. Madam Speaker, I rise today in support of H.R. 135, the 21st Century Water Commission Act of 2003. This bill is a step towards addressing the availability of clean and safe water resources to meet the Nation's needs.

Madam Speaker, clean, safe and available sources of water are essential to the physical and economic well-being of this country. Commercial fishing, agriculture, real estate, manufacturing, and recreation and tourism are just a few of the economic sectors that rely on clean water to operate and ensure productivity. Every day, the U.S. economy relies on the availability of clean water to grow, process, or deliver products and services.

However, at the same time, there is an emerging concern about the availability of adequate safe supplies of water to meet the growing list of often competing needs.

Throughout the first three-quarters of the 20th century, demand for water in the United States dramatically increased.

However, this Nation made progress in reducing the overall consumption of water resources in the past 20 years. Water withdrawals in the United States are now 10 percent below their peak. In addition, industrial water use dropped nearly 40 percent from its height as industrial water-use efficiency improved and as the mix of U.S. industries changed. At the same time, industrial productivity continues to rise, demonstrating that improvements in water-use efficiency are possible without negatively impacting economic growth.

In the past few years, considerable media attention has focused on the availability of adequate water supplies to meet current and future demands. In the last 2 years, regions of the country that have not traditionally experienced water resource concerns, including the Midwest and the Northeast, often found themselves with a greater demand for water resources than were available—and were forced, in some communities to ration water use.

While this debate has long existed in the more arid regions of the West, these experiences in the eastern half of the country have served as a wake-up call to the fact that water supply problems can occur in almost every region of the country. The question is now being asked, ''What can be done to ensure adequate water to meet current and future needs?''

This legislation would create a Federal commission of experts on water policy to study this issue, and to recommend strategies and changes to current law that may be necessary to ensure the availability of adequate water resources for future generations.

Madam Speaker, it is important for this Nation to have a dialogue on what can be done to ensure that sufficient water resources are available to meet current and future needs. I do have some concerns with this legislation, and with the broader topic of planning for water resource needs. We need to fully discuss what the Federal role in water resource planning should be, and how Federal financial resources are to be expended to address this growing concern.

In addition, I believe that the scope of any national water resource planning study must include all affected parties, and must look to both structural and non-structural approaches to reduce consumption and ensure adequate, safe, and reliable sources of water for generations to come.

If this Congress truly wants to enter the debate on a national water resource policy, we must make sure that the record is complete, and that all alternatives are examined to determine the appropriate means to resolve this important question.

I hope that we can continue to work together on this legislation as it continues through the legislative process.

Mr. DUNCAN. Madam Speaker, I yield such time as he may consume to the gentleman from Pennsylvania (Mr. SHUSTER).

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

Madam Speaker, this legislation deals with an issue which I have considered a priority for some time, our water resources and the ability of the Federal Government to provide our communities with effective solutions to their problems.

Our economy depends on our Nation's water resources. In fact, the United States economy base has grown both geographically and economically through its efficient and effective water system. We must realize that water is a precious resource, and we take steps to ensure its proper use.

This legislation establishes a 21st Century Water Commission to study and develop recommendations for a comprehensive water strategy to address future waters needs. This commission would assess our current and future water supply needs and consider

all available technologies for increasing water supply efficiently while safeguarding the environment. Additionally, this commission will suggest financing options and strategies to preserve existing water supplies.

Most importantly, the commission will pursue strategies that avoid increasing mandates on State and local governments. We understand that unfunded mandates take away from local decisionmaking. When the first withdrawal from a municipality's finances must go for an unfunded mandate, that community then has less discretion in paying for vital services and programs expected by its citizens. It is critical to the health of our local communities not to burden them with these types of mandates.

I would like to thank the gentleman from Tennessee (Chairman DUNCAN) and the ranking member, the gentleman from Illinois (Mr. COSTELLO), and the entire Committee on Resources for all their hard work.

I support H.R. 135 wholeheartedly and ask that my colleagues do the same.

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

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

Madam Speaker, I have the privilege of chairing the Subcommittee on Water Resources and Environment. We held a hearing on this legislation, and the then chairman, the gentleman from Alaska (Mr. YOUNG), and I and the ranking member, the gentleman from Minnesota (Mr. OBERSTAR), and the ranking member of my subcommittee, the gentleman from Illinois (Mr. COSTELLO), all approved bringing this legislation to the floor at this time.

As I said a few moments ago, I rise in strong support of H.R. 135, the 21st Century Water Commission Act of 2003. I want to commend the gentleman from Georgia (Mr. LINDER) for his foresight and his hard work in bringing this legislation to this point.

A couple of years ago, the New York Times had a series of articles in which they called water the oil of the 21st century. There is probably nothing that people take more for granted than a clean, safe, adequate water supply.

This bill begins the hard work of tackling one of the most important and difficult environmental and economic issues facing our Nation, and that is ensuring that we have an adequate water supply. We need water for our homes, farms, and factories. Water also supports navigation, generates power, and sustains our environment. Communities cannot grow or even exist without adequate water.

As we enter the 21st century, demands for water are growing and are outstripping supplies in many areas, both in the West and the East, leading to disputes over water supply and allocation. In response, many municipalities, businesses and land developers are trying to secure more water rights so they will have adequate water supplies now and in the future.

Last year's drought in the East made it clear that while water may be abundant in many areas, it is not limitless, and even our Nation's most water-rich regions can run dry. Even though the East has been wet this year, much of the West remains very, very dry. Policymakers no longer can ignore this issue. We need to start planning for the future.

H.R. 135, the 21st Century Water Commission Act of 2003, will help start that planning process by looking at our Nation's available water supply and the projected demand for water and making recommendations on how to meet that demand.

Because of the importance of water to our Nation's economy and well-being, I held a series of hearings this past spring on water scarcity problems, ways businesses and communities are responding, and how H.R. 135 can help States and communities address their water problems. The witnesses strongly supported greater planning for future water needs, involving all levels of government, and supported H.R. 135 as a means to help start that process.

H.R. 135 respects the primary role that States play in addressing water supply issues, but the Federal Government can provide expertise and technical assistance. Numerous parties strongly support this legislation, including the U.S. Conference of Mayors, Urban Water Council, the American Farm Bureau Federation, the National Water Resources Association, the National Association of Homebuilders, the Association of California Water Agencies, and many others.

I urge all of my colleagues to support this very important bill and once again commend our colleague, the gentleman from Georgia (Mr. LINDER), for leading this effort.

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

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

Madam Speaker, once again I want to commend the gentleman from Georgia (Mr. LINDER) for his leadership on this bill. As the chairman of the Subcommittee on Water and Power, I have witnessed firsthand throughout this country water problems that tend to grow, not shrink, as our country faces the problem of less water and water quality issues throughout our country.

Vision is an important thing that we do around here that sometimes we forget. The gentleman from Georgia (Mr. LINDER) certainly is showing vision to make sure that we have adequate water in the future.

The 21st Century Water Commission, I refer to it as the Linder Water Commission, will recommend a strategy that recognizes and respects the primary role of States and water rights laws while eliminating duplication and conflict among governmental agencies. This is an incredibly important strategy. We need dependable water supplies that are safe and secure for our future generations.

Again, I commend the gentleman from Georgia (Mr. LINDER) for his leadership.

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

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

Madam Speaker, I support this legislation strongly. I commend our colleague, the gentleman from Georgia (Mr. LINDER), who came before our committee for a hearing, and to urge the adoption of this legislation.

Mr. OBERSTAR. Madam Speaker, I rise today in support of H.R. 135, a bill to establish a commission to examine the issue of clean, safe, and reliable water supplies for this generation and for generations to come.

Madam Speaker, water may well be the most precious resource the earth provides to humankind. The existence of water set the stage for the evolution of life and is an essential ingredient of all life today.

Recognizing the importance of this vital resource, the United Nations designated 2003 as the ''International Year of Freshwater.'' Throughout the year, the United Nations has been conducting a series of international meetings to raise awareness on the importance of available sources of clean and safe fresh water. According to the U.N., throughout the world roughly one person in six lives without regular access to safe drinking water, and over twice that number—or 2.4 billion—lack access to adequate sanitation. In addition, water-related diseases kill a child every eight seconds.

In the United States, we have avoided many of these concerns through careful planning and decades of investment in our water infrastructure. Nationally, a combination of Federal, State, and local funds have built 16,024 wastewater treatment facilities that provide service to 190 million people, or 73 percent of the total population.

In addition, 268 million people in the United States—or 92 percent of the total population—are currently served by public drinking water systems, which provide a safe and reliable source of drinking water for much of the Nation.

As I noted earlier, clean, safe, and reliable sources of water are critical to this Nation's health and livelihood. However, in the past few decades, a series of natural and potentially human induced events have demonstrated that our Nation remains vulnerable to shortages of water.

In my own State, shortages of snowfall and rain of over the past few years have had an adverse impact on local water supplies, agriculture, and recreation and tourism, and have resulted in a lowering of water levels in Great Lakes to historic levels. One thing that is certain is that no area of this country is immune to the threat of diminished water supplies, and we must be vigilant to prepare for such occurrences.

This bill is a part of the debate on the very important issue of water resource planning in this country. The gentleman from Georgia, Mr. LINDER, has taken an important step in encouraging this debate, calling for the creation of a Federal commission to examine issues related to national water resource planning, and to report its findings on potential ways to insure against large-scale water shortages in the future.

While I believe that the legislation introduced by our colleague is a good starting point, we must be sure to fully examine all of the relevant issues for ensuring adequate supplies of clean and safe water to meet current and future needs.

For example, water resource planning should work toward increasing the efficiency of water consumption as well as increasing the supply of water. Simply increasing the supply of water can be a more costly approach to meeting future water needs, and in any case, merely postpones any potential water resource crisis.

In addition, it is important to remember that issues of water supply are closely related to water quality. Contaminated sources of freshwater serve little use to this Nation's health or livelihood, and merely increase the overall cost of providing safe a reliable water resources to the population. In addition, human activities, whether through the pollution of waterbodies from point or non-point sources, the elimination of natural filtration abilities of wetlands, or through the destruction and elimination of aquifer recharge points, can have a significant impact on available supplies of usable water.

We cannot base our future water resource planning needs on the possibility of continually finding ''new'' sources of freshwater while, at the same time, continuing to destroy or contaminate existing sources. Such a practice is unsustainable and unconscionable.

I urge my colleagues to support the bill.

Mr. STENHOLM. Madam Speaker, I rise today in strong support of H.R. 135, the Twenty-First Century Water Commission Act.

One thing I've learned since being elected twenty-five years ago, is that Congress can't pass a bill and make it rain.

This morning I look at the United States Drought Monitor again and I was reminded of a disturbing trend that several states have experienced for many years. Twenty-five states are suffering from drought conditions, and with no definite starting or ending point, droughts are extremely hard to predict.

But, as a cotton farmer from West Texas, I am always optimistic that the rains will come eventually. In the meantime, we cannot afford to leave a single stone unturned in our efforts to ensure that our citizens have a safe and adequate water supply.

Will my district be able to meet our water needs fifty years from Now? We aren't able to answer that question today, and we sure can't wait until that time is upon us to find out.

This is why I joined my colleagues in cosponsoring the 21st Century Water Policy Commission Act. This legislation does what so many communities in my West Texas district are already trying to do. It establishes commission to consider all aspects of water management, water supply and demand, and it recommends comprehensive policy for meeting our nation's water needs in the 21st Century. For these reasons, I'm glad to support H.R. 135.

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

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. CALVERT) that the House suspend the rules and pass the bill, H.R. 135, 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.

CONVEYANCE OF DECOMMISSIONED SHIP TO UTROK ATOLL

Mr. CALVERT. Madam Speaker, I move to suspend the rules and pass the bill (H.R. 2584) to provide for the conveyance to the Utrok Atoll local government of a decommissioned National Oceanic and Atmospheric Administration ship, as amended.

The Clerk read as follows:

H.R. 2584

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

TITLE I—UTROK ATOLL RADIOLOGICAL MONITORING SUPPORT

SEC. 101. UTROK ATOLL RADIOLOGICAL MONITORING SUPPORT.

(a) In support of radiological monitoring, rehabilitation, and resettlement of Utrok Atoll, whose residents were affected by United States nuclear testing, the Secretary of Commerce may convey to the Utrok Atoll local government without consideration, all right, title, and interest of the United States in and to a decommissioned National Oceanic and Atmospheric Administration ship in operable condition.

(b) The Government of the United States shall not be responsible or liable for any maintenance or operation of a vessel conveyed under this section after the date of the delivery of the vessel to Utrok.

TITLE II—RATIFICATION OF CERTAIN NOAA APPOINTMENTS, PROMOTIONS, AND ACTIONS

SEC. 201. RATIFICATION OF CERTAIN NOAA APPOINTMENTS, PROMOTIONS, AND ACTIONS.

All action in the line of duty by, and all Federal agency actions in relation to (including with respect to pay, benefits, and retirement) a de facto officer of the commissioned corps of the National Oceanic and Atmospheric Administration who was appointed or promoted to that office without Presidential action, and without the advice and consent of the Senate, during such time as the officer was not properly appointed in or promoted to that office, are hereby ratified and approved if otherwise in accord with the law, and the President alone may, without regard to any other law relating to appointments or promotions in such corps, appoint or promote such a de facto officer temporarily, without change in the grade currently occupied in a de facto capacity, as an officer in such corps for a period ending not later than 180 days from the date of enactment of this Act.

TITLE III—INTERNATIONAL FISHERIES REAUTHORIZATION

SEC. 301. SHORT TITLE.

This title may be cited as the ''International Fisheries Reauthorization Act of 2003''.

SEC. 302. EXTENSION OF PERIOD FOR REIMBURSEMENT UNDER FISHERMEN'S PROTECTIVE ACT OF 1967.

Section 7(e) of the Fishermen's Protective Act of 1967 (22 U.S.C. 1977(e)) is amended by striking ''2003'' and inserting ''2008''.

SEC. 303. REAUTHORIZATION OF YUKON RIVER SALMON ACT OF 2000.

Section 208 of the Yukon River Salmon Act of 2000 (16 U.S.C. 5727) is amended by striking ''2000'' and all that follows through ''2003'' and inserting ''2004 through 2008''.

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

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

GENERAL LEAVE

Mr. CALVERT. Madam 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. 2584, as amended.

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

There was no objection.

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

Madam Speaker, H.R. 2584 will transfer a decommissioned NOAA vessel to the Utrok Atoll local government in the Republic of the Marshall Islands. The Utrok Atoll is one of 29 low coral atolls in the Marshall Islands that is inhabited by 600 people.

This small atoll has been exposed to the horrible effects of radioactive pollution during our nuclear bomb testing period. These citizens require ongoing tests, monitoring and medical care; and it is currently difficult for them to obtain access to that care.

The fundamental goal of this legislation is to provide these citizens with a reliable, safe means of transportation to the city of Majuro. This city is the capital of the Marshall Islands and is more than 300 miles from the Utrok Atoll.

The NOAA vessel likely affected by this measure is the McArthur. The ship is 175 feet long, has a cruising speed of 10 knots, a cruising range of over 6,000 nautical miles and a draft of 12 feet. It was commissioned as a NOAA research vessel in 1966 and decommissioned on May 20, 2003.

Under the terms of H.R. 2584, all rights, title, and interest in the ship are transferred to the Utrok Atoll government. The vessel must be in operable condition prior to the actual transfer; but in the future, all maintenance, responsibility, and liabilities are conveyed to the Utrok Atoll government.

□ 1115

Title II of the bill is a corrective measure for the Department of Commerce which may approve appointments and confirmations made for the NOAA Corps in the Clinton and Bush administrations. This measure has been unanimously adopted by the other body.

Title III of the bill reauthorizes two important laws dealing with international fisheries, the Fisherman's Protective Act and the Yukon River Salmon Act. Identical language was incorporated in H.R. 2048 which unanimously passed the House of Representatives on October 20 of this year. This

title is noncontroversial and simply extends these two acts for an additional 5 years at existing funding levels.

Madam Speaker, I compliment the gentleman from American Samoa (Mr. FALEOMAVAEGA) for sponsoring this bill, and urge my colleagues to support this important humanitarian effort.

Madam Speaker, I reserve the balance of my time.

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

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

Mrs. CHRISTENSEN. Madam Speaker, as stated by the previous speaker, H.R. 2584 is noncontroversial legislation that would convey a decommissioned research vessel formerly operated by the National Oceanic and Atmospheric Administration to the local government of Utrok Atoll located in the Republic of the Marshall Islands.

Congress should do whatever we can to help the residents of Utrok Atoll. It is imperative that they receive the critical medical testing and treatment necessary to address the increased rates of thyroid cancer and birth defects that have arisen as a result of the U.S. nuclear testing program we conducted in the Northern Marshall Islands between 1946 and 1958.

The conveyance of this former NOAA vessel will allow more convenient and less expensive transportation for these residents who have to make a 265-mile trip to the neighboring islands of Majuro where the medical facilities are located.

I commend the gentleman from American Samoa (Mr. FALEOMAVAEGA) for introducing this legislation to help the residents of this very remote atoll in the Pacific Ocean.

This legislation also contains a very important amendment to address a problem regarding serious lapses in procedure affecting past appointments and promotions for NOAA's Uniformed Corps of Officers.

It is important that the chain of command of the NOAA Corps not be disrupted. And while any future repeat of these procedural lapses may not be tolerated, this matter must be addressed expeditiously to prevent any operational or command dysfunction from arising.

I urge all Members to support this legislation.

Mr. FALEOMAVAEGA. Madam Speaker, I rise in support of H.R. 2584, a bill I introduced to assist our friends from Utrõk Atoll as they continue efforts to resettle and rehabilitate their islands as a result of the effects of the United States nuclear testing in the Marshal Islands. I would like to express my gratitude to Chairman RICHARD POMBO and Ranking Member NICK RAHALL of the Resources Committee for their continued support of Pacific Island issues. I would also like to thank my distinguished colleagues and co-sonsors—Congressmen ANIBAL ACEVEDO-VILÁ (PR), DAN BURTON (IN), JOHN DOOLITTLE (CA), ELTON GALLEGLY (CA), JEFF FLAKE (AZ) and Congresswoman MADELEINE BORDALLO (Guam).

The purpose of this proposed legislation is simply to authorize the Secretary of Commerce to convey a decommissioned, operable NOAA vessel to the Government of Utrõk. The vessel would be used to provide support for radiological monitoring, rehabilitation and resettlement of Utrõk, an atoll that is part of the Republic of the Marshall Islands.

As you know, many of the Marshall Islands atolls were devastated by the effects of the U.S. Nuclear Testing activities during the 1940's and 50's. Utrõk was one of four atolls acknowledged by the U.S. Government and suffering unsafe radiologicval exposure and its residents were forced to evacuate 72 hours after the miscalculated Bravo shot. Two months later, the people of Utrõk were assured it was safe to return home. We know now that this was a grave mistake because Utrõk residents have since suffered increased radiological illnesses and birth defects. Today, the people of Utrõk are seeking to rehabilitate their home island so that it is a safe place to live.

Last year a comprehensive scientific report recommended a potassium fertilizer treatment to accompany the ongoing resettlement process on Utrõk, a treatment which would suppress the remaining radioactive Cesium-137 in the soil and prevent its further uptake in the food supply. In addition, the U.S. Department of Energy concluded a MOU with Utrõk that committed the DOE to build a Whole body Counting (WBC) facility in order to monitor radioactivity levels in the people of Utrõk. This new facility is located about 265 miles away in Majuro and will be used to ensure that the potassium fertilizer regime is effective and the administration of the fertilizer treatment is done properly. However, Utrõk residents are responsible for their own transportation to Majuro. Transportation by plane is expensive and available only once per week, and is unreliable, as the Utrõk runway is in disrepair and the airline often declines to land. Travel by commercial ships, although less expensive, is infrequent and unfeasible.

One solution to help facilitate transportation between Utrõk and Majuro is to transfer a decommissioned NOAA vessel to the Utrõk Atoll Local Government. In addition to transport of Utrõk residents to the WBC facility, the vessel will be used for moving several tons of potassium fertilizer, transporting equipment and materials for radiological remediation, and transporting USDA food supplies. Because of the Cesium-137 contamination is locally grown food, at least 50% of the diet of Utrõk residents must be imported to limit the risk of radiological poisoning.

The Utrõk Atoll Local Government also fully supports this measure and adopted are solution (022–03) on July 4th 2003 stating that the NOAA vessel transfer would be ''one of the crucial needs that will fully support our future goals to develop, rehabilitate and resettle the atoll after the aftermath of the 'Bravo' fallout''. The Utrõk Government also expects the ship to be available for use by other atolls for their respective communities, who will help pay for the ongoing maintenance of the vessel.

Mr. Speaker, I am hopeful that this bill will remind the Congress of our ongoing responsibility to the people of RMI for the mistakes the United States made regarding its nuclear testing activities in the Asia Pacific region. Once again, I urge my colleagues to support this important legislation and I thank my colleagues for their support.

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

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

The SPEAKER pro tempore (Mrs. BIGGERT). The question is on the motion offered by the gentleman from California (Mr. CALVERT) that the House suspend the rules and pass the bill, H.R. 2584, 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.

The title of the bill was amended so as to read: ''A bill to provide for the conveyance to the Utrok Atoll local government of a decommissioned National Oceanic and Atmospheric Administration ship, and for other purposes.''.

A motion to reconsider was laid on the table.

MESSAGE FROM THE SENATE

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

H.R. 3038. An act to make certain technical and conforming amendments to correct the Health Care Safety Net Amendments of 2002.

H.R. 3140. An act to provide for availability of contact lens prescriptions to patients, 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''.

H.R. 3185. An act to designate the facility of the United States Postal Service located at 38 Spring Street in Nashua, New Hampshire, as the ''Hugh Gregg Post Office Building''.

H.R. 3491. An act to establish within the Smithsonian Institution the National Museum of African American History and Culture, and for other purposes.

H. Con. Res. 320. Concurrent resolution expressing the sense of the Congress regarding the importance of motorsports.

The message also announced that the Senate has passed with amendments in which the concurrence of the House is requested, a joint resolution of the House of the following title:

H.J. Res. 78. Making further continuing appropriations for the fiscal year 2004, and for other purposes.

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

S. 1152. An act to reauthorize the United States Fire Administration, and for other purposes.

S. 1561. An act to preserve existing judgeships on the Superior Court of the District of Columbia.

PREDISASTER MITIGATION PROGRAM REAUTHORIZATION ACT OF 2003

Mr. LATOURETTE. Madam Speaker, I move to suspend the rules and pass the bill (H.R. 3181) to amend the Robert

T. Stafford Disaster Relief and Emergency Assistance Act to reauthorize the predisaster mitigation program, and for other purposes.

The Clerk read as follows:

H.R. 3181

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 ''Predisaster Mitigation Program Reauthorization Act of 2003''.

SEC. 2. PREDISASTER HAZARD MITIGATION.

Section 203(m) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5133(m)) is amended by striking ''December 31, 2003'' and inserting ''September 30, 2006''.

SEC. 3. HAZARD MITIGATION.

(a) IN GENERAL.—The last sentence of section 404(a) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170c(a)) is amended by striking ''7.5'' and inserting ''15''.

(b) APPLICABILITY.—The amendment made by subsection (a) shall apply with respect to a major disaster declared by the President after September 30, 2002.

SEC. 4. REPAIR ASSISTANCE TO INDIVIDUALS AND HOUSEHOLDS.

(a) IN GENERAL.—Section 408(c)(2) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5174(c)(2)) is amended—

(1) in subparagraph (B) by inserting ''initial'' before ''assistance'' the first place it appears;

(2) in subparagraph (C)—

(A) in the subparagraph heading by inserting ''INITIAL'' before ''ASSISTANCE''; and

(B) by inserting ''initial'' before ''assistance''; and

(3) by adding at the end the following:

''(D) ADDITIONAL ASSISTANCE.—Subject to the limitation contained in subsection (h), the President may provide additional repair assistance under this paragraph to an individual or household that is unable to complete the repairs described in subparagraph (A) using insurance proceeds, loans, or other financial assistance, including assistance from the Small Business Administration.''.

(b) APPLICABILITY.—The amendments made by subsection (a) shall apply with respect to a major disaster declared by the President after the date of enactment of this Act.

SEC. 5. STUDY REGARDING COST REDUCTION.

Section 209 of the Disaster Mitigation Act of 2000 (42 U.S.C. 5121 note; 114 Stat. 1571) is amended by striking ''3 years after the date of the enactment of this Act'' and inserting ''September 30, 2005''.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Ohio (Mr. LATOURETTE) and the gentleman from Oregon (Mr. BLUMENAUER) each will control 20 minutes.

The Chair recognizes the gentleman from Ohio (Mr. LATOURETTE).

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

Madam Speaker, H.R. 3181, the Predisaster Mitigation Program Reauthorization Act of 2003 reauthorizes the Predisaster Mitigation Program for an additional 3 years and allows the President to offer additional home repair assistance to disaster victims; restores the percentage of Hazard Mitigation Grant Program funds to previously authorized levels; and requires the completion of a Congressional Budget Office study on the cost-effectiveness of the program.

This program, which was originally authorized as a pilot program as a part of the Disaster Mitigation Act of 2000 was intended to study the effectiveness of mitigation grants in the absence of a disaster, as opposed to solely following a disaster, as is currently the practice.

In addition to reauthorizing the Predisaster Mitigation Program, the bill makes two changes to other programs within the Stafford Act. H.R. 3181 authorizes the President to give additional home repair assistance when the initial amount is insignificant, and it also restores the percentage of funding available under the HMGP. In the omnibus appropriation bill that concluded the last Congress, this percentage was modified, and there was compelling testimony before our subcommittee and also brought to the attention of the members of the full Committee on Transportation and Infrastructure by people in emergency management administrations across the country that the previous levels authorized by the Committee on Transportation and Infrastructure were absolutely essential to the work that they do.

The bill also requires the completion of a CBO study on the effectiveness of the PDM. This study is required by December 30, 2006, by which time it is expected that there will be more information on which to study the effectiveness of the PDM.

This legislation is the product of a comprehensive and inclusive legislative process. It is, I believe, a balanced approach to disaster mitigation and worthy of our support. I thank the ranking member of our subcommittee, the gentlewoman from the District of Columbia (Ms. NORTON), for her invaluable assistance in crafting this legislation, and also the chairman of the Committee on Transportation and Infrastructure, the gentleman from Alaska (Mr. YOUNG) and the distinguished ranking member, the gentleman from Minnesota (Mr. OBERSTAR). Madam Speaker, I urge immediate adoption of H.R. 3181.

Madam Speaker, I reserve the balance of my time.

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

Madam Speaker, I rise in support of H.R. 3181 the Predisaster Mitigation Reauthorization Act. As the gentleman from Ohio (Mr. LATOURETTE) pointed out, the purpose is to reauthorize predisaster mitigation which provides assistance on a competitive basis to States and localities to undertake hazard mitigation projects. It is absolutely incontrovertible that if we take steps early in the process, we will protect lives, we will protect property. There is an added benefit in keeping disaster costs down and insurance rates in check.

One way or another, we all pay for natural disaster events through Federal disaster relief and insurance premiums. Nationwide, annual homeowner insurance premiums have increased 42.2 percent since 1995. In the last 25 years, there have been almost 1,000 Presidential disasters declared, and the GAO has estimated that Federal disaster relief has increased fivefold in the course of the last decade. From 1998 to 2001, this is almost $40 billion.

Not only will this legislation help homeowners be whole again, but it will save taxpayers billions of dollars in disaster assistance in the long haul.

One of the concerns I and a number of Members had when we had the Federal Emergency Management Agency with its long history of helping our Nation deal with natural disasters moved into the Department of Homeland Security was the concern that the focus on the day-to-day disaster preparedness and emergency response, I would be lost in that large bureaucracy. I am hopeful that in the course of our heightened homeland security concerns, that we do not allow the focus of that agency to become blurred. Maintaining the Hazard Mitigation Grant Program is an essential part of maintaining that focus.

By funding mitigation projects after disasters at the time when communities are most closely focused on the benefits of mitigation and protecting families from future loss, we are able to invent resources and make a difference. Sadly, there are already stories in the newspapers in southern California after, the disastrous fires and the testimony to inadequate planning and enforcement even of local regulations, the people are talking about moving back into harm's way.

The Predisaster Mitigation Program Reauthorization Act we bring to the floor today provides the balance between the predisaster program and reaffirming our support for postmitigation.

The pilot project, as has been referenced would provide for the distribution of grants to carry out disaster mitigation programs, was created to promote appropriate mitigation efforts without having to wait for a disaster to trigger the availability of funds in the future.

Even though authorized to start in 1999, it only began this calendar year, and the competitive grants have yet to be received or awarded. Even though we want to evaluate the effectiveness of the program, and the CBO cannot yet compete its mandate due to the lack of substantive information, it is appropriate for us to reauthorize for 3 years to make sure we get the evidence.

We ought to be very clear that we want to have the facts and figures to support being able to do more in the future. I deeply appreciate the work of our chairman, the gentleman from Alaska (Mr. YOUNG), and the ranking member, the gentleman from Minnesota (Mr. OBERSTAR), and the work of the chairman of the subcommittee, the

gentleman from Ohio (Mr. LATOURETTE), and the ranking member, the gentlewoman from the District of Columbia (Ms. NORTON). They provide continuing focus on this important area that too often fail to get the attention it deserves. If we do our job right, we will make a difference for people all across the country: taxpayers, homeowners, and the people who have the tough jobs working in the trenches.

Madam Speaker, I reserve the balance of my time.

Mr. LATOURETTE. Madam Speaker, I yield such time as he may consume to the gentleman from Georgia (Mr. BURNS), a very valuable new member of our subcommittee and full committee. A lot of Members join the Committee on Transportation and Infrastructure, but few have understood it as quickly as the gentleman from Georgia.

□ 1130

Mr. BURNS. Madam Speaker, I rise today to support passage of H.R. 3181, the Predisaster Mitigation Program Reauthorization Act of 2003. This comprehensive bill, developed on a bipartisan basis, extends the predisaster mitigation program for an additional 3 years, makes two important changes to the Stafford Act, and requires a Congressional Budget Office study of the program's effectiveness.

This program, which was originally included in the Disaster Mitigation Act of 2000, takes the next step in protecting our communities from the devastating effects of disasters. By encouraging communities to engage in cost-effective disaster mitigation projects before disasters strike, we can dramatically reduce the response and recovery cost of these disasters.

Unlike terrorism, natural disasters can and will strike every State and territory in the United States. From the ice storms that we suffer in my home State of Georgia to hurricanes that have even impacted Washington, D.C., every State and locality can prepare itself to reduce its risk from disasters. Whether it be seismic retrofits of buildings, safe rooms in schools, improved levees, or awareness programs, the actions that we take today will determine how we fare in a disaster. This program makes necessary funds available for such projects.

H.R. 3181 also makes two very important changes to the Stafford Act. These changes have been requested by professional organizations and have strong bipartisan support. H.R. 3181 restores to previously authorized levels the percentage of HMGP funds available following disasters and authorizes additional home repair assistance for individuals when the initial amount of $5,000 is insufficient. Each of these changes will make recovering from a disaster and preparing for disasters easier, thereby reducing future costs.

Finally, this bill requires a CBO study of the effectiveness of this program, a study which will guide future considerations for our efforts in the United States to ensure disaster relief.

I urge the adoption of H.R. 3181.

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

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

I want to thank my friend from Oregon for participating, also my friend from Georgia, again thank all the members of the subcommittee and those in the emergency management field across the country that helped participate and craft this legislation. The very able and capable staff of the committee has reminded me that yesterday we had on the floor a bill dealing with flood insurance which has a mitigation program; and although they have done mighty work, to date they have only secured 938 properties and removed them from further flood damage. This program that we are reauthorizing today has engaged in the purchase of 20,000 properties.

Again, the testimony before the subcommittee was stark and it was clear. It is easy to get a community to come together and spend money after a flood, after a hurricane, after a tornado. It is very difficult to get people to make that investment prior to, but the testimony is clear that if you make that investment in seismic upgrading of buildings or other features throughout parts of the country, you can literally save billions of dollars. It is a good program. I urge support.

Mr. OBERSTAR. Madam Speaker, I rise in support of H.R. 3181, the Predisaster Mitigation Reauthorization Act of 2003. This bill makes a limited number of necessary amendments to the Stafford Act. The Stafford Act governs the Federal Emergency Management Agency's (FEMA) responsibilities to help communities prepare for and respond to disasters. Many of the FEMA's functions were transferred to the Department of Homeland Security's Directorate of Emergency Prepareness and Response when that Department was created last year.

Over the last 25 years, this country has had nearly one thousand presidential disaster declarations in the United States and the Insular Territories. These disasters have cost our Nation billions of dollars and taken an untold number of lives.

The Stafford Act authorizes programs that not only provide funding for post-disaster recovery, but also provide funding for importance pre-disaster hazard mitigation projects.

In October 2000, Congress passed the Disaster Mitigation Act of 2000 (DMA), which reauthorized the Stafford Act and created several new programs. One of those new programs was a pre-disaster mitigation program that allowed FEMA to award grants to States on a competitive basis to implement pre-disaster mitigation plans. Although authorized to begin in fiscal year 1999, the program began in earnest only a few months ago. No competitive grant applications have yet been received by FEMA, and none of the competitive grants have been awarded. In light of this, H.R. 3181 extends the authorization of this program for another three years in order to give FEMA the time to implement the program and to give Congress the time to fairly evaluate it. In addition, the bill redirects the Congressional Budget Office (CBO) to conduct a study on the program's effectiveness.

Further, the bill reaffirms our support for the Hazard Mitigation Grant Program (HMGP) that seeks to substantially reduce the risk of future damage, hardship, or loss in any area affected by a major disaster. This program has a proven record of success. It is successful in large part because it funds hazard mitigation projects immediately after a disaster strikes, when the public and local governments are most focused on mitigation measures. In addition, it has the strong support of State and local governments.

Finally, this bill would allow the Undersecretary to provide additional home repair assistance for a homeowner upon the homeowner's showing of an inability to make the necessary repairs by other means. Not being able to properly repair a home after a disease can add further distress to an already devastating situation. While current law provides for a $5,000 cap on home repair assistance for individuals who have been impacted by a disaster, there is a significant percentage of homeowners who continue to struggle with unmet needs. This bill remedies that concern.

Madam Speaker, I'd also like to thank my colleagues on the Transportation and Infrastructure Committee, Chairman YOUNG, Subcommittee Chairman LATOURETTE, and Subcommittee Democratic Ranking Member NORTON, for their work on this important bill. I believe this bill provides a balanced approach to mitigation by providing for both pre- and post-disaster mitigation programs. I urge my colleagues to join me in supporting it.

Mr. COSTELLO. Madam Speaker, I raise today in support of H.R. 3181, the Predisaster Mitigation Act Reauthorization Act of 2002. I would like to commend my colleagues on the Transportation and Infrastructure Committee, Chairman YOUNG, Subcommittee Chairman LATOURETTE and Subcommittee Democratic Ranking Member NORTON, for all of their work on this important bill.

This bill makes a limited number of necessary amendments to the Stafford Act, which governs the Federal Emergency Management Agency's (FEMA) responsibilities to help communities prepare for and respond to disasters. The Stafford Act authorizes programs that provide funding for both post-disaster recovery, and for important pre-disaster hazard mitigation projects.

The pre-disaster mitigation program was authorized to begin in fiscal year 1999; however, the program began in earnest only a few months ago. The program allowed FEMA to award grants to states on a competitive basis to implement pre-disaster mitigation plans. Because of its late start, no competitive grant applications have yet been received by FEMA, and none of the competitive grants have been awarded. Among other things, this bill extends the authorization of this program for another three years to give FEMA the time necessary to implement the program and to give Congress the time necessary to fairly evaluate it.

Madam Speaker, I believe this is a good bill that provides a balanced approach to both pre- and post-disaster mitigation programs. I urge my colleagues to join me in supporting the bill.

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

The SPEAKER pro tempore (Mrs. BIGGERT). The question is on the motion offered by the gentleman from Ohio (Mr. LATOURETTE) that the House suspend the rules and pass the bill, H.R. 3181.

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. LATOURETTE. Madam 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. 3181.

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

There was no objection.

UNITED STATES FIRE ADMINISTRATION REAUTHORIZATION ACT of 2003

Mr. BOEHLERT. Madam Speaker, I move to suspend the rules and pass the Senate bill (S. 1152) to reauthorize the United States Fire Administration, and for other purposes.

The Clerk read as follows:

S. 1152

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

TITLE I—UNITED STATES FIRE ADMINISTRATION REAUTHORIZATION

SEC. 101. SHORT TITLE.

This title may be cited as the ''United States Fire Administration Reauthorization Act of 2003''.

SEC. 102. RE-ESTABLISHMENT OF POSITION OF UNITED STATES FIRE ADMINISTRATOR.

Section 1513 of the Homeland Security Act of 2002 (6 U.S.C. 553) does not apply to the position or office of Administrator of the United States Fire Administration, who shall continue to be appointed and compensated as provided by section 5(b) of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2204(b)).

SEC. 103. AUTHORIZATION OF APPROPRIATIONS.

Section 17(g)(1) of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2216(g)) is amended by striking subparagraphs (A) through (K) and inserting the following:

''(A) $63,000,000 for fiscal year 2005, of which $2,266,000 shall be used to carry out section 8(f);

''(B) $64,850,000 for fiscal year 2006, of which $2,334,000 shall be used to carry out section 8(f);

''(C) $66,796,000 for fiscal year 2007, of which $2,404,000 shall be used to carry out section 8(f); and

''(D) $68,800,000 for fiscal year 2008, of which $2,476,000 shall be used to carry out section 8(f).''.

TITLE II—FIREFIGHTING RESEARCH AND COORDINATION

SEC. 201. SHORT TITLE.

This title may be cited as the ''Firefighting Research and Coordination Act''.

SEC. 202. NEW FIREFIGHTING TECHNOLOGY.

Section 8 of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2207) is amended—

(1) by redesignating subsection (e) as subsection (g); and

(2) by inserting after subsection (d) the following:

''(e) ASSISTANCE TO OTHER FEDERAL AGENCIES.—At the request of other Federal agencies, including the Department of Agriculture and the Department of the Interior, the Administrator may provide assistance in fire prevention and control technologies, including methods of containing insect-infested forest fires and limiting dispersal of resultant fire particle smoke, and methods of measuring and tracking the dispersal of fine particle smoke resulting from fires of insect-infested fuel.

''(f) TECHNOLOGY EVALUATION AND STANDARDS DEVELOPMENT.—

''(1) IN GENERAL.—In addition to, or as part of, the program conducted under subsection (a), the Administrator, in consultation with the National Institute of Standards and Technology, the Inter-Agency Board for Equipment Standardization and Inter-Operability, the National Institute for Occupational Safety and Health, the Directorate of Science and Technology of the Department of Homeland Security, national voluntary consensus standards development organizations, interested Federal, State, and local agencies, and other interested parties, shall—

''(A) develop new, and utilize existing, measurement techniques and testing methodologies for evaluating new firefighting technologies, including—

''(i) personal protection equipment;

''(ii) devices for advance warning of extreme hazard;

''(iii) equipment for enhanced vision;

''(iv) devices to locate victims, firefighters, and other rescue personnel in above-ground and below-ground structures;

''(v) equipment and methods to provide information for incident command, including the monitoring and reporting of individual personnel welfare;

''(vi) equipment and methods for training, especially for virtual reality training; and

''(vii) robotics and other remote-controlled devices;

''(B) evaluate the compatibility of new equipment and technology with existing firefighting technology; and

''(C) support the development of new voluntary consensus standards through national voluntary consensus standards organizations for new firefighting technologies based on techniques and methodologies described in subparagraph (A).

''(2) STANDARDS FOR NEW EQUIPMENT.—

(A) The Administrator shall, by regulation, require that new equipment or systems purchased through the assistance program established by the first section 33 meet or exceed applicable voluntary consensus standards for such equipment or systems for which applicable voluntary consensus standards have been established. The Administrator may waive the requirement under this subparagraph with respect to specific standards.

''(B) If an applicant for a grant under the first section 33 proposes to purchase, with assistance provided under the grant, new equipment or systems that do not meet or exceed applicable voluntary consensus standards, the applicant shall include in the application an explanation of why such equipment or systems will serve the needs of the applicant better than equipment or systems that do meet or exceed such standards.

''(C) In making a determination whether or not to waive the requirement under subparagraph (A) with respect to a specific standard, the Administrator shall, to the greatest extent practicable—

''(i) consult with grant applicants and other members of the fire services regarding the impact on fire departments of the requirement to meet or exceed the specific standard;

''(ii) take into consideration the explanation provided by the applicant under subparagraph (B); and

''(iii) seek to minimize the impact of the requirement to meet or exceed the specific standard on the applicant, particularly if meeting the standard would impose additional costs.

''(D) Applicants that apply for a grant under the terms of subparagraph (B) may include a second grant request in the application to be considered by the Administrator in the event that the Administrator does not approve the primary grant request on the grounds of the equipment not meeting applicable voluntary consensus standards.''.

SEC. 203. COORDINATION OF RESPONSE TO NATIONAL EMERGENCY.

(a) IN GENERAL.—Section 10 of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2209) is amended—

(1) by redesignating subsection (b) as subsection (c); and

(2) by inserting after subsection (a) the following:

''(b) MUTUAL AID SYSTEMS.—

''(1) IN GENERAL.—The Administrator shall provide technical assistance and training to State and local fire service officials to establish nationwide and State mutual aid systems for dealing with national emergencies that—

''(A) include threat assessment and equipment deployment strategies;

''(B) include means of collecting asset and resource information to provide accurate and timely data for regional deployment; and

''(C) are consistent with the Federal Response Plan.

''(2) MODEL MUTUAL AID PLANS.—The Administrator shall develop and make available to State and local fire service officials model mutual aid plans for both intrastate and interstate assistance.''.

(b) REPORT ON STRATEGIC NEEDS.—Within 90 days after the date of enactment of this Act, the Administrator of the United States Fire Administration shall report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Science on the need for a strategy concerning deployment of volunteers and emergency response personnel (as defined in section 6 of the Firefighters' Safety Study Act (15 U.S.C. 2223e)), including a national credentialing system, in the event of a national emergency.

(c) REPORT ON FEDERAL RESPONSE PLAN.—Within 180 days after the date of enactment of this Act, the Department of Homeland Security shall transmit a report to the Senate Committee on Commerce, Science, and Transportation, the Senate Committee on Governmental Affairs, and the House of Representatives Committee on Science describing plans for revisions to the Federal Response Plan and its integration into the National Response Plan, including how the revised plan will address response to terrorist attacks, particularly in urban areas, including fire detection and suppression and related emergency services.

SEC. 204. TRAINING.

(a) IN GENERAL.—Section 7(d)(1) of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2206(d)(1)) is amended—

(1) by striking ''and'' after the semicolon in subparagraph (E);

(2) by redesignating subparagraph (F) as subparagraph (N); and

(3) by inserting after subparagraph (E) the following:

''(F) strategies for building collapse rescue;

''(G) the use of technology in response to fires, including terrorist incidents and other national emergencies;

''(H) response, tactics, and strategies for dealing with terrorist-caused national catastrophes;

''(I) use of and familiarity with the Federal Response Plan;

''(J) leadership and strategic skills, including integrated management systems operations and integrated response;

''(K) applying new technology and developing strategies and tactics for fighting forest fires;

''(L) integrating the activities of terrorism response agencies into national terrorism incident response systems;

''(M) response tactics and strategies for fighting fires at United States ports, including fires on the water and aboard vessels; and''.

(b) CONSULTATION ON FIRE ACADEMY CLASSES.—The Superintendent of the National Fire Academy may consult with other Federal, State, and local agency officials in developing curricula for classes offered by the Academy.

(c) COORDINATION WITH OTHER PROGRAMS TO AVOID DUPLICATION.—The Administrator of the United States Fire Administration shall coordinate training provided under section 7(d)(1) of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2206(d)(1)) with the Attorney General, the Secretary of Health and Human Services, and the heads of other Federal agencies—

(1) to ensure that such training does not duplicate existing courses available to fire service personnel; and

(2) to establish a mechanism for eliminating duplicative training programs.

(d) COURSES AND TRAINING ASSISTANCE.—Section 7(l) of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2206(l)) is amended by adding at the end the following: ''The Superintendent shall offer, at the Academy and at other sites, courses and training assistance as necessary to accommodate all geographic regions and needs of career and volunteer firefighters.''.

SEC. 205. FIREFIGHTER ASSISTANCE GRANTS PROGRAM.

(a) ADMINISTRATION.—The first section 33 of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2229) is amended—

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

''(2) ADMINISTRATIVE ASSISTANCE.—The Director shall establish specific criteria for the selection of recipients of assistance under this section and shall provide grant-writing assistance to applicants.''; and

(2) by striking ''operate the office established under subsection (b)(2) and'' in subsection (e)(2).

(b) MARITIME FIREFIGHTING.—Subsection (b)(3)(B) of the first section 33 of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2229(b)(3)(B)) is amended by inserting ''maritime firefighting,'' after ''arson prevention and detection,''.

(c) FIREFIGHTING IN REMOTE AREAS.—The first section 33 of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2229) is amended—

(1) by inserting ''equipment for fighting fires with foam in remote areas without access to water, and'' after ''including'' in subsection (b)(3)(H); and

(2) by inserting ''Of the amounts authorized in this paragraph, $3,000,000 shall be made available each year through fiscal year 2008 for foam firefighting equipment.'' at the end of subsection (e)(1).

SEC. 206. NATIONAL FALLEN FIREFIGHTERS FOUNDATION.

(a) MEMBERS.—Section 151303(b) of title 36, United States Code, is amended—

(1) by striking ''9'' in paragraph (2) and inserting ''12'';

(2) by striking ''six'' in subparagraph (D) of paragraph (2) and inserting ''nine''; and

(3) by striking ''3 members'' in paragraph (3) and inserting ''4 members''.

(b) COMPENSATION.—Section 151304(b)(3) of title 36, United States Code, is amended by inserting ''15 percent above'' after ''more than''.

(c) PERIOD OF AUTHORIZED ASSISTANCE.—Section 151307 of title 36, United States Code, is amended in subsection (a)(1), by striking ''During the 10-year period beginning on the date of the enactment of the Fire Administration Authorization Act of 2000, the'' and inserting ''The''.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New York (Mr. BOEHLERT) and the gentleman from Texas (Mr. RODRIGUEZ) each will control 20 minutes.

The Chair recognizes the gentleman from New York (Mr. BOEHLERT).

GENERAL LEAVE

Mr. BOEHLERT. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks and to include extraneous material on S. 1152, the bill now under consideration.

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

There was no objection.

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

I rise in support of the U.S. Fire Administration Reauthorization Act, which began life in the House as H.R. 2692, introduced by the gentleman from Michigan (Mr. SMITH), subcommittee chairman. Most Americans have never heard of the U.S. Fire Administration, but it has enhanced the protection of all of our communities, our neighborhoods; and firefighters know the agency well.

The funds we are authorizing in this bill will continue to train our local firefighters both at the National Fire Academy in Emmitsburg and in State and local training centers. These funds will also help promote residential fire sprinklers, fire prevention activities, and other activities that save lives. The U.S. Fire Administration has also administered the FIRE program, which helps our local fire departments purchase desperately needed fire equipment. It is one of the most successful Federal assistance programs devised by this Congress or any previous Congress.

One of the great things about this program is that the politicians, and I have fondness for politicians, but the politicians are sort of taking a back seat. It is the people involved, the firefighters themselves in every day protecting our homes and our neighborhoods and communities that established the criteria for this massive grant program and do the actual evaluating. It is a program with unquestioned integrity. I say that because I have watched it in operation, and all of our congressional districts across the country are taking advantage of it, not for selfish reasons but to protect our people in their homes, in their neighborhoods, in their communities, where they live.

I will tell my colleagues a personal experience in my own congressional district. Utica, New York, had an arson rate three times the national average. It was a serious problem in New York. I sat down with the previous administrator of FEMA and said, let's work with this community because this is a serious problem and it has to be addressed and it is far beyond the ability of the individual community to come to grips with it in any meaningful way without some added guidance and inspiration and, quite frankly, some financial support from beyond our borders. FEMA did it. We did it. Collectively, Utica has enjoyed its best day in the last couple of years. The arson rate is down dramatically. People feel more comfortable and safer in their homes. It is all because of some work that came out of the U.S. Fire Administration.

I would say for a whole lot of the right reasons, I urge approval of this bill which will help our localities in very tangible ways, meaningful ways that touch the lives of individual families. We owe it to our firefighters both paid and volunteer. Incidentally, let me just stress, paid and volunteer. I have heard some people suggest on occasion that we have professional firefighters and we have volunteer firefighters. There is no such differential. We have paid and unpaid but those volunteers from coast to coast are some of the most dedicated, professional, able, committed people we will find anyplace. Thank God for the volunteer firefighters of America. That is not to indicate I do not appreciate what the paid firefighters do day in and day out or making a professional career of it, but those volunteers in communities all across this land do outstanding work, give of their time and their talent and their energy to protect us and our communities. I want to salute them, and I want to dedicate passage of this bill to them.

Madam Speaker, I reserve the balance of my time.

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

I rise in support of S. 1152, the United States Fire Administration Reauthorization Act. I want to thank all the Members who had a part, including the gentleman from New York (Mr. BOEHLERT). The gentlewoman from Texas (Ms. EDDIE BERNICE JOHNSON) is on her way. I know she has worked on this very diligently.

Madam Speaker, I reserve the balance of my time.

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

I want to add something here. There was some confusion about section 204(c) of this bill regarding coordination of firefighting training activities.

I want to clarify that the reference to ''other Federal agencies'' in this section includes the Office of Domestic Preparedness and does not conflict with the counterterrorism training provisions in the Homeland Security Act of 2002.

I also would like to place in the RECORD at this juncture an exchange of letters between me as chairman of the Committee on Science and Chairman YOUNG of the Committee on Transportation and Infrastructure. I also serve on that committee, too, so in some respects I am writing to myself. This is an exchange of letters that further clarifies it.

HOUSE OF REPRESENTATIVES, COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE,
Washington, DC, November 21, 2003.

Hon. SHERWOOD, L. BOEHLERT,
Chairman, Committee on Science,
Washington, DC.

DEAR MR. CHAIRMAN: I am writing to you concerning the jurisdictional interest of the Transportation and Infrastructure Committee in matters contained in S. 1152, the United States Fire Administration Reauthorization Act of 2003.

Our Committee recognizes the importance of S. 1152 and the need for the legislation to move expeditiously. Therefore, while we have a valid claim to jurisdiction over certain provisions of the bill, I agree not to request a referral and allow the bill to be considered in the House under suspension of the rules. This, of course, is conditional on our mutual understanding my decision to forego a sequential referral waives, reduces or otherwise affects the jurisdiction of the Transportation and Infrastructure Committee, and that a copy of this letter and of your response acknowledging our jurisdictional interest will be included as part of the Congressional Record during consideration of this bill by the House.

Thank you for your cooperation in this matter.

Sincerely,

DON YOUNG,
Chairman.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON SCIENCE,
Washington, DC, November 21, 2003.

Hon. DON YOUNG,
Chairman Committee on Transportation and Infrastructure, Washington, DC.

DEAR MR. CHAIRMAN: Thank you for your letter concerning the jurisdictional interest of the Transportation and Infrastructure Committee over matters contained in S. 1152, the United States Fire Administration Reauthorization Act of 2003.

I appreciate your not requesting a referral of this bill and allowing it to be considered by the House under suspension of the rules. Specifically, I acknowledge that your Committee has a valid claim to jurisdiction over certain provisions of the bill as drafted. I agree that by forgoing a sequential referral you do not waive, reduce, or otherwise affect the jurisdiction of the Committee on Transportation and Infrastructure.

I also agree that a copy of this letter and of your letter will be included as part of the Congressional Record during consideration of this bill by the House.

Thank you for your cooperation in this matter.

Sincerely,

SHERWOOD L. BOEHLERT,
Chairman.

Madam Speaker, I reserve the balance of my time.

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

I want to take this opportunity to commend the gentlewoman from Texas (Ms. EDDIE BERNICE JOHNSON) on this specific legislation. I know that she has been working on this diligently. We recognize that there are a great number of deaths as a result of fire. We need to continue to work in this area. We know we have had natural disasters also in this area. I want to take this opportunity to thank the Members that have played a role.

Madam Speaker, I yield the balance of my time to the gentlewoman from Texas (Ms. EDDIE BERNICE JOHNSON) and ask unanimous consent that she be permitted to control that time.

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

There was no objection.

Ms. EDDIE BERNICE JOHNSON of Texas. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, let me apologize for being late. I was told to be here by 12, and I was in a briefing, so I came running.

Let me thank the chairman of the Subcommittee on Research of the Committee on Science, the staff and the other leadership of the committee for working on this bill. I rise in support of Senate bill 1152, the United States Fire Administration Reauthorization Act of 2003.

This legislation is closely related to H.R. 2692, which I joined Research Subcommittee Chairman SMITH in introducing and which was ordered reported by the Committee on Science on July 22. I would like to thank Chairman SMITH for working with me in a collegial way in the development of the fire authorization bill. The version of the authorization bill before the House preserves the key features of H.R. 2692.

The Federal Fire Prevention and Control Act of 1974, which created the U.S. Fire Administration, was intended to address a serious problem affecting the safety of all Americans. Much progress has been made as a result of this legislation to advance public education about fire safety, to improve the effectiveness of the fire services throughout the Nation, and to foster the wider use of home fire safety devices.

Nevertheless, the United States still has one of the highest fire death rates among advanced nations, and fire deaths exceed the loss of life from all natural disasters combined. Clearly, much work remains to be done in order to make needed improvements in the Nation's fire safety record. I believe that S. 1152 will ensure that the U.S. Fire Administration has the resources and policies in place to help achieve this goal.

□ 1145

One matter of concern is that the effectiveness of the U.S. fire administration could suffer due to its submersion in the new Department of Homeland Security, which understandably must concentrate its efforts on combating threats from terrorism. The legislation seeks to preserve the status and visibility of the fire administration and its vital programs to advance fire safety within the Department of Homeland Security.

To achieve this result, the bill reestablishes the position of fire administrator as a Presidentially appointed and Senate-confirmed post. This is appropriate given the role of the Fire Administrator as the lead advocate for fire services within the Federal Government.

Another important function of the U.S. Fire Administration is to support research and development and testing of new firefighting technologies. This bill reemphasizes this role and authorizes new funding to help carry it out, including support for the process for developing consensus standards for the performance of new fire protection and control technologies.

Consistent with supporting the development of appropriate voluntary consensus standards for new firefighting equipment, the bill requires that equipment provided under the fire grants program conform to such standards where they exist. Fire grants provide fire departments across the Nation with the equipment and training they need to meet their important responsibilities in protecting the public from fire hazards. The Fire Administrator is given flexibility in applying the standards requirement for these grants so that the fire departments may propose solutions that make the most sense for their particular circumstances. Provision for this flexibility in the bill is in accordance with the recommendations received during the Committee on Science hearing on the legislation. The bill makes an additional modification to the statute creating the Fire Grants Program by specifying that awards to support training may include training firefighting personnel and maritime firefighting. The need for such training was ably advocated by the gentleman from Oregon (Mr. WU), championed this provision.

Madam Speaker, this bill is a bipartisan piece of legislation that authorizes the activities of a small, but extremely valuable, Federal agency that contributes to the safety of all Americans. I am pleased to commend the measure to my colleagues and ask for their support in the passage of this bill in the House.

Madam Speaker, I reserve the balance of my time.

Mr. BOEHLERT. Madam Speaker, I yield 3 minutes to the distinguished gentleman from Michigan (Mr. SMITH), the chairman of the Research Subcommittee and a real friend of the firefighters.

Mr. SMITH of Michigan. Madam Speaker, I thank the chairman for being one of the original congressional

leaders for first responders and firefighters. And to the gentlewoman from Texas (Ms. EDDIE BERNICE JOHNSON), who is the vice chairman or ranking member of our Research Subcommittee, I thank her for her help.

We have come a long way in this Congress helping first responders, and I think it has struck all of us after 9/11, the tremendous contribution that first responders add to the security of this country. So we are now asking even more of our firefighters and medical personnel. I would like to also commend Administrator Paulison, who has done an excellent job in terms of increasing the productivity and the efficiency of the United States Fire Administration.

This legislation is consistent with the President's request of a 3 percent increase in funding for the U.S. Fire Administration, but still at the same time with the help of the gentleman from Maryland (Mr. HOYER) and the gentleman from New Jersey (Mr. PASCRELL) on that side, certainly the gentleman from Pennsylvania (Mr. WELDON) and the chairman of this committee and myself and many others on the Republican side of the aisle, we worked together to make sure that we try to give firefighters the kind of training and support that they need to more effectively and efficiently conduct their business.

I would also like to commend the gentleman from Michigan (Mr. CAMP) for initiating the standards requirement that allows different fire departments to know the quality of some of the equipment and the machinery and the items that they might buy in that fire department to make sure that they do not, for lack of a better expression, get ripped off with equipment that is not as good as it seems.

Let me conclude by saying this is the bill I introduced and we passed in the House. It is a good bill. This Congress and America have increased our understanding that first responders and firefighters are very important to this country. Eighty percent of our firefighters in the United States are volunteers, but the full-time firefighter represents 80 percent of the people. So we have got to continue to support both the full-time firefighters and the volunteers, and that is what this bill does.

Madam Speaker, the legislation before us today would reauthorize the United States Fire Administration, which is charged with helping to prevent and control fire-related losses through leadership, advocacy, education, and support. This bill has been endorsed by a number of leading fire organizations including the Congressional Fire Services Institute, International Association of Fire Fighters, National Fire Protection Association, and National Volunteer Fire Council.

S. 1152, which is companion legislation to a bill that the distinguished Ranking Member of the Research Subcommittee and I introduced earlier this year, adheres to the Administration's budget request and provides 3 percent increases each year from 2005–2008. It would also restore the position of U.S. Fire Administrator as a Presidentially-appointed, Senate-confirmed position, after it was inadvertently eliminated by the Homeland Security Act of 2002.

USFA coordinates federal fire service training, public education, research, and data collection and analysis activities. In addition, USFA has administered the fire grant program, which supports fire departments by providing them with the tools and resources necessary to protect the health and safety of the public and firefighting personnel. USFA Administrator David Paulison has done an excellent job since being appointed in 2001, and I'd like to take this opportunity to publicly recognize his outstanding service.

This legislation also directs USFA to develop standards for firefighting equipment and technology. The new standards will help to ensure that firefighters have access to the highest quality equipment available. Equipment purchased through the fire grant program must meet the new standards, although under unique circumstances, the Administrator is given flexibility to waive this requirement.

There was an effort to attach language similar to Representative BOB ETHERIDGE's bill H.R. 919, the Hometown Heroes Survivor Benefit Act, to the bill before us today. I am one of 281 cosponsors of H.R. 919, which would ensure that the family of a public safety officer who suffers a fatal heart attack or stroke in the line of duty receives survivor benefits. These families are often forced to wrangle with the Justice Department to obtain compensation. In the interest of passing the USFA reauthorization expeditiously the language was eventually dropped. However, I would like to express my commitment to continuing to work for passage of H.R. 919.

In closing, I am pleased that we were able to work closely with members of the minority as well as members of the fire services community in drafting this bipartisan legislation. I urge every Member to support S. 1152 so that we can insure the long-term viability of this important program.

Ms. EDDIE BERNICE JOHNSON of Texas. Madam Speaker, I yield 3 minutes to the gentleman from New Jersey (Mr. PASCRELL).

Mr. PASCRELL. Madam Speaker, I rise in strong support of the United States Fire Administration Reauthorization Act. And I want to commend the gentleman from New York (Mr. BOEHLERT) and the gentleman from Texas (Mr. HALL) not only for bringing this important legislation to the floor, but for their exemplary leadership they have displayed on behalf of the fire community over these many years.

Providing firefighters with the training and equipment they need to protect our communities is about as important a job as the Congress is charged with. This Congress and the previous Congress have risen to the occasion. And I am heartened by the advancement of this goal in recent years. So to the Chair and ranking members, they have done a spectacular job.

We started with the passage of the FIRE Act in 2000, to provide Federal grants directly to local fire departments to help address equipment and training and other firefighter-related needs. Since then communities have received close to 13,000 awards nationwide. There are 32,000 fire departments. Figure out the math. This has been an amazing achievement.

Two weeks ago we were able to pass the ''Staffing for Adequate Fire and Emergency Response,'' the SAFER program. That authorizes $7.6 billion through 2010 to combat the dangerous crisis of inadequate staffing in our Nation's career fire departments and volunteer departments at a time when it is more crucial than ever. We have come a long way. We have come a long way, indeed.

America's fire death rate is still one of the highest per capita in the industrial world. Fire kills 3,700 people per year, injures 20,000, and approximately 100 firefighters die annually while doing their work.

The USFA's National Fire Academy offers educational opportunities for firefighters in fire prevention and life safety activities, and, of course, we want it also to deal with the terrorist threat that is at hand. As a member of the Select Committee on Homeland Security, I find nothing to be more important than the defense of our families and our streets.

Through research, testing, and evaluation, USFA works with the public and private entities to promote and improve fire and life safety. Additionally, the data collection of the National Fire Safety Data Center is absolutely critical to identify problem areas for which prevention and mitigation strategies are needed. Firefighters, whose bravery and valor protect our Nation every day, deserve all that we can give them, and a strong, flourishing Fire Administration will assist in this regard.

And again, in conclusion, Madam Speaker, I think this is a great day for the fire services throughout the United States and a great day for our firefighters. They have earned it, and we are glad to participate in getting this legislation through today.

Mr. CAMP. Madam Speaker, I rise today in support of S. 1152, the United States Fire Administration Reauthorization Act. This bill appropriately recognizes the value of the United States Fire Administration (USFA) for its national leadership in reducing the threat of fires and educating Americans about fire prevention methods. I want to thank Research Subcommittee Chairman NICK SMITH and Science Chairman BOEHLERT for their leadership on this issue and their support for the inclusion of a bill I introduced, H.R. 545, the Firefighting Research and Coordination Act. I appreciate Senator MCCAIN'S leadership on this bill and for his hard work getting it passed last night in the Senate.

The Firefighting Research and Coordination Act helps address current policy questions on how the federal government can most effectively provide firefighters with the training and equipment necessary to protect lives. The bill gives appropriate weight to top fire service needs: the development of voluntary consensus standards for firefighting equipment and technology; establishing nationwide and

State mutual aid systems for dealing with national emergencies; and authorizing the National Fire Academy to train firefighters to respond to acts of terrorism and other national emergencies.

This legislation enjoys wide bipartisan support and the endorsement of many national fire groups including the Congressional Fire Services Institute, National Fire Protection Association, and the International Association of Firefighters and Fire Chiefs, among others. With the tools this bill provides, I am confident the USFA will continue to be recognized as the preeminent authority in fire education and fire prevention. I urge my colleagues to support this critical legislation.

Mr. HOYER. Madam Speaker, I am pleased to support S. 1152, bipartisan legislation to reauthorize the important work done by U.S. Fire Administration R. David Paulison and his dedicated staff in Emmittsburg, MD and Washington, DC.

The Federal Fire Prevention and Control Act of 1974 established the United States Fire Administration and its National Fire Academy to reduce life and economic losses due to fire and related emergencies, through leadership, advocacy, coordination and support.

Since that time, through data collection, public education, research ad training efforts, USFA has helped reduce fire deaths by at least half—making our communities and our citizens safer. For the past three years, the Fire Administrator has been tasked with administering the Assistance to Firefighters Grant program, created by Congress to adequately train and equip our career and volunteer firefighters across the country.

This $750 million program is vital to our firefighters, too many of whom risk their lives on a daily basis to protect our homes and our families without the modern equipment and advanced training they deserve. The Fire Grant program has succeeded at getting much-needed dollars to fire departments in fair, efficient manner, and USFA has been widely praised for its work in administering the program.

Authority for the Fire Grant program has now been moved to the Department of Homeland Security, and Members of the Fire Caucus, and all supporters of the fire community, will closely monitor the administration of the Grant program to guarantee that it continues to meet the needs of our fire departments.

Madam Speaker, this legislation also contains provisions important to the National Fallen Firefighters Foundations, which was established more than a decade ago through the leadership of Senator PAUL SARBANES to create an organization that would properly honor all of America's fallen fire heroes—and take care of the surviving families and loved ones as they cope with their grief and attempt to move on after their loss.

The Foundation carries out this mission with great compassion and dedication, and they have achieved a tremendous record of assisting the families of our fallen firefighters through the many programs, projects and activities they promote throughout the year. The provisions included in this legislation will allow the Foundation to continue, and to improve upon, the important work we have charged them to do.

Mr. Speaker, I am pleased to support this legislation, and urge my colleagues to do the same.

Ms. EDDIE BERNICE JOHNSON of Texas. Madam Speaker, I have no further requests for time, and I yield back the balance of my time.

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

The SPEAKER pro tempore (Mrs. BIGGERT). The question is on the motion offered by the gentleman from New York (Mr. BOEHLERT) that the House suspend the rules and pass the Senate bill, S. 1152.

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

A motion to reconsider was laid on the table.

CONDEMNING TERRORIST ATTACKS IN ISTANBUL, TURKEY, ON NOVEMBER 15, 2003

Mr. SMITH of New Jersey. Madam Speaker, I move to suspend the rules and agree to the resolution (H. Res. 453) condemning the terrorist attacks in Istanbul, Turkey, on November 15, 2003, expressing condolences to the families of the individuals murdered and expressing sympathies to the individuals injured in the terrorist attacks, and standing in solidarity with Turkey in the fight against terrorism, as amended.

The Clerk read as follows:

Whereas in Istanbul, Turkey, on November 15, 2003, two explosions, set off minutes apart during Sabbath morning services, devastated Neve Shalom, the city's largest synagogue, and the Beth Israel Synagogue, about three miles away;

Whereas more than 20 people, both Muslims and Jews, were killed, and more than 300 people, both Muslims and Jews, were wounded, in the bombing attacks on the synagogues;

Whereas on November 20, 2003, two bombs exploded at the Consulate of the United Kingdom in Istanbul and at the HSBC Bank;

Whereas among the more than 25 killed and 450 wounded in the November 20 bombing attacks on the consulate general and commercial buildings were Muslims and Christians—Turks, British diplomats, and visitors to the Turkish Republic;

Whereas the United Kingdom is an ally of the United States and Turkey in the global war on terrorism;

Whereas the acts of murder committed on November 15 and 20, 2003, in Istanbul, Turkey, were cowardly and brutal manifestations of international terrorism;

Whereas the Government of Turkey immediately condemned the terrorist attacks in the strongest possible terms and has vowed to bring the perpetrators to just at all costs;

Whereas the United States, the United Kingdom, and Turkey equally abhor and denounce these hateful, repugnant, and loathsome acts of terrorism;

Whereas with anti-Semitic activities escalating the safety and security of Jewish people throughout the world is a matter of serious concern;

Whereas since Turkey cherishes its traditions of hospitality and religious tolerance and in particular its history of more than five hundred years of good Jewish-Muslim relations, the attacks on synagogues and consular premises came as a special shock to the Turkish people and to their friends throughout the world;

Whereas the United States and turkey are allied by shared values and a common interest in building a stable, peaceful, and prosperous world;

Whereas Turkey, a predominantly Muslim nation with a secular government, has close relations with Israel and is also the only predominantly Muslim member of the North Atlantic Treaty Organization; and

Whereas as the acts of murder committed on November 15 and 20, 2003 show again that terrorism respects neither boundaries nor borders:

Now, therefore, be it *Resolved,* That the House of Representatives

(1) condemns in the strongest possible terms the terrorist attacks in Istanbul, Turkey, on November 15 and 20, 2003;

(2) expresses its condolences to the families of the individuals murdered in the terrorist attacks, expresses its sympathies to the individuals injured in the attacks, and conveys its hope for the rapid and complete recovery of all such injured individuals;

(3) expresses its condolences to the people and government of the Turkish Republic and of the United Kingdom over the losses they have suffered; and

(4) expresses its solidarity with the United Kingdom, the Turkish republic, and all other countries which stand united against terrorism and which work together to bring to justice the perpetrators of these and other terrorist attacks.

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

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

GENERAL LEAVE

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

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

There was no objection.

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

Madam Speaker, the resolution before us condemns the terrorist attacks in Istanbul last Saturday as well as yesterday morning. I want to thank the gentleman from Florida (Mr. HASTINGS), my friend, for proffering this resolution and for the prompt consideration that is being given to it by our leadership in scheduling it very quickly before the body today.

This resolution conveys our deepest and heartfelt sympathy to the victims and their families and states that the United States stands in solidarity with the Turkish people in the fight against terrorism. These attacks, Madam Speaker, bear all the hallmarks of al Qaeda, and that terrorist group has claimed responsibility for these cruel and cowardly acts.

This demonstrates, once again, that the target of global terrorists is not just the United States of America, but all those who reject their hateful vision of a clash of civilizations and governments by religious extremism.

I thought President Bush in the United Kingdom the other day said it so well when he said, ''I want to express my deep sympathy for the loss of life in Turkey. The nature of the terrorist enemy is evident once again. We see their contempt, their utter contempt, for innocent life. They hate freedom,'' the President went on. ''They hate free nations. Today, once again, we saw their ambitions of murder. The cruelty is part of their strategy. The terrorists hope to intimidate; they hope to demoralize. They particularly want to intimidate and demoralize free nations. They're not going to succeed.''

Madam Speaker, despite some significant human rights issues, and no one has been more of a critic of Turkey than I have in the past, although they are making some progress, despite all of that, Turkey remains one of the few successful democracies in the Muslim world, with a tradition of religious tolerance. The Turkish Republic is an example of how a predominantly Muslim country can enjoy a secular, democratic government. Turkey has shown that the Islamic faith of its citizens and a secular democracy can flourish side by side.

By targeting synagogues and Turkish citizens of the Jewish faith on Saturday, the terrorists attacked the notion that Muslims can live in peace and harmony with other faiths. It was a profoundly anti-Semitic act. The terrorists know that the successful example of Turkey lays bear the emptiness of their own hateful vision. It is working in Turkey, and yet now they are trying to give a different impression to the world.

By targeting the British Consulate General and a leading British bank, these terrorists viciously illustrated that all of our allies and their targets must remain united with our allies in the fight against terrorism.

Madam Speaker, these contemptible acts killed almost 50 people, including the British Consul General in Istanbul, and injured more than 750 innocent people. Our deepest condolences go out to their families and to their nations.

Turkey has been a strong American ally, as we all know, the underbelly of NATO for more than 50 years. By agreeing to this resolution, we affirm our mutual commitment to that common defense.

I would remind my colleagues that after the September 11 of 2001 attacks, NATO invoked its collective defense clause, declaring that the al Qaeda attacks in the United States were attacks against the entire alliance.

□ 1200

I thought British Prime Minister Tony Blair summed it up very well when he said, ''And when they say is this an attack directed against our alliance, indeed, it is directed against anybody who stands in the way of that fanaticism'' he went on to say, ''That is why our response has got to be to say to them as clearly as we possibly can, you are not going to defeat us because our will to defend what we believe is, in actuality, and in the end, stronger, better, more determined than your will to inflict damage on innocent people.''

Madam Speaker, let me conclude by saying this: Turkey and the United Kingdom both played important roles to drive al Qaeda from its base in Afghanistan and to replace the Taliban government that harbored those terrorists. They were the first two countries to command the International Security Assistance Force, which has stabilized the Kabul region and supported the Karzai government. Turkey and the United Kingdom stood by the United States when our Nation was the target of global terrorism. By passing this timely resolution today in a bipartisan way, Democrats, Republicans, moderates, liberals and conservatives, we affirm our determination to stand by our longtime allies and to defeat the terrorists who bear the guilt for these highly reprehensible acts.

Madam Speaker, I reserve the balance of my time.

Mr. LANTOS. Madam Speaker, I yield myself such time as I may consume. I am strongly in support of this resolution.

First, let me pay tribute to my dear friend, the gentleman from Florida (Mr. HASTINGS), for initiating this important legislation and to recognize the contributions of my friends, the gentleman from Florida (Mr. WEXLER) and the gentleman from New Jersey (Mr. SMITH). I particularly want to thank the gentleman from Illinois (Chairman HYDE) for being so gracious late yesterday afternoon in expediting the handling of this legislation.

Madam Speaker, at least 50 people are dead and over 700 are injured in a sickening and appalling wave of suicide bombings in Istanbul over this past week. The attacks targeted Jewish places of worship and British governmental and business institutions; but the overwhelming majority of the victims are Muslim Turks, proof positive of the total cynicism and utter phoniness of these so-called Islamist assassins.

This is not just a war on the Jews, though it is also that. It is not just a war on the British or on our own country, although it is that. It is a war on the entire civilized and democratic world and its values. It is now clear that al Qaeda and its Turkish supporters have declared war on the democratic Republic of Turkey as part of that overall assault. Al Qaeda recognizes that the existence of Turkey, 99 percent Muslim, pro-Western, a secular democracy on the frontiers of the Western world, makes a mockery of al Qaeda's religious extremism. These terrorists want to roll back Western values by destabilizing and destroying Turkish democracy.

Madam Speaker, the Turkish Government has behaved admirably in this dark hour. It condemned the action and it vowed to catch the perpetrators, and I have no doubt that they shall. Now, the hard work of finding these terrorists, destroying their cells, and preventing future attacks begins.

The Turkish Government and the Turkish people should know that the American people will be steadfast in our support of them in this dark hour. All civilized nations must do likewise. The Turkish Interior Minister is correct to dismiss what he calls the crocodile tears of those who express condolences, but do nothing to fight terrorism.

Madam Speaker, we mourn the deaths, we pray for the wounded, and our hearts go out to the families of all of the victims. And to all the citizens of Istanbul and all of Turkey whose lives have been so brutally violated, let us honor them by joining with Turkey and with all who believe in freedom to fight the extremist criminals who want to end our way of life. They will fail and we shall prevail. I strongly support this resolution, and I urge all of my colleagues to do likewise.

Madam Speaker, I am delighted to yield 6 minutes to the distinguished gentleman from Florida (Mr. HASTINGS), my good friend and the author of this resolution.

Mr. HASTINGS of Florida. Madam Speaker, I want to begin by thanking my good friend of long-standing here in the House of Representatives and a vigorous fighter for human rights and the protector of the rights of people who are set upon as this despicable act has done. I would also like to thank the gentleman from New Jersey (Mr. SMITH), my friend, and have him to know that I, along with him, am deeply saddened because so many of our colleagues that we serve with in the Organization for Security and Cooperation in Europe were affected. I have contacted Bruce George, our President's office from the U.K., and Dr. Yaleintas, or Professor Yaleintas, and expressed our condolences to them.

Most importantly, I would like to thank the gentleman from Illinois (Chairman HYDE), as the gentleman from California (Mr. LANTOS) has already, for expediting this matter for us and giving us an opportunity to go to the majority leader and the minority leader; and I thank them for expediting this process. The majority leader's office has been extremely helpful in that regard.

It would be remiss of me if I did not take this opportunity to commend the gentleman from Florida (Mr. WEXLER), who is my good friend and my soulmate geographically in Florida, as well as in our friendship; the gentlewoman from Texas (Ms. GRANGER) and the gentleman from Kentucky (Mr. WHITFIELD) from the majority side, my good friends that I have gotten to know through our efforts, not only in this resolution, but others; and also the gentlewoman from Nevada (Ms. BERKLEY); and countless others who have had direct involvement.

I had the good fortune less than 2 months ago to travel to Turkey with Brent Scowcroft, and it was the most illuminating and enlightening experience. It was not my first visit to Turkey; I have been there now a total of seven times.

On November 15, 2003, two explosions set off minutes apart devastated Nev Shalom Synagogue, Istanbul's largest synagogue and symbolic center to the city's 25,000-member Jewish community, and the Beth Israel Synagogue about 3 miles away. In addition, yesterday, explosions hit the Turkish headquarters of the London-based HSBC Bank and the British Consulate General, killing at least 26 people, including Roger Short, someone that I knew and the British Consul-General, and wounding over 450.

In the span of 5 days, terror claimed over 50 lives and injured more than 800 people in Turkey.

The House of Representatives gathers here today united in expressing that we abhor and denounce these hateful, repugnant, and loathsome acts of terrorism. We gather here to, in unison, make sure that the world understands our outrage by this week's attacks.

The United States is determined to stand by Turkey in the fight against the scourge of terrorism. The acts of murder committed in Istanbul were a cowardly and brutal manifestation of the moral vacuum directing the disease of international terrorism. My and all of our heartfelt condolences go out to the victims and their families.

Madam Speaker, the United States and Turkey are natural allies based on our shared values and common interests in building a stable, peaceful, and prosperous world. Moreover, as a predominantly Muslim nation with a secular government, Turkey is an example, as the gentleman from New Jersey (Mr. SMITH) has pointed out, of a successful secular Muslim democracy. Turkey is a pivotal showcase of the Muslim world that fundamentalists hate. Turkey is an ally of the United States and a friend of Israel and is NATO's only predominantly Muslim member. It has supported the war against terrorism, commandeering and offering peacekeeping forces in Afghanistan and offering peacekeepers for Iraq.

Terrorism respects neither boundaries nor borders. Instead, it intends to harm every nation that respects democracy, freedom, equality, and the rule of law.

These acts further demonstrate that the war on terrorism is not a war between civilizations. The attacks in Turkey were perpetrated by Muslim terrorists against a predominantly Muslim nation. They suggest that this is not a religious war, but one that is based on politics, culture, and our way of life.

Madam Speaker, I conclude by once again denouncing these vial, anti-Semitic, and anti-Muslim attacks against men, women, and children and expressing my sympathies to the individuals and families of the victims. I urge my colleagues to support this resolution.

Mr. SMITH of New Jersey. Madam Speaker, I yield such time as he may consume to the gentleman from Kentucky (Mr. WHITFIELD), my good friend and colleague.

Mr. WHITFIELD. Madam Speaker, I think it is certainly appropriate that we at this time are speaking about the nation of Turkey. As the gentleman from Florida so eloquently stated, Turkey has been a loyal ally of the U.S., a member of NATO, a Muslim secular country that is a great model for a Muslim democracy. Turkey has played a vital role and I think can play a much more vital role in helping with peace in the Middle East. They have a great relationship with the country of Israel. They have a large Jewish population and, as I said earlier, it is a 99 percent Muslim country.

We all abhor violence of any kind, and these acts of terrorism that seem to become more frequent throughout the world are causing all of us great heartache: the families that are involved, the suffering that is involved, the senselessness of the acts.

So I stand here today simply to express my condolences to the families in Turkey, to the nation of Turkey, and remind the American people, once again, that Turkey is a valuable and important ally of the United States. We have common interests, and I am quite confident that our nations will continue to work for peace in the Middle East and, by acts of goodness and kindness, will eventually be able to overcome these random acts of violence, this planned terrorism around the world.

Mr. LANTOS. Madam Speaker, I am very pleased to yield 3 minutes to the gentlewoman from Nevada (Ms. BERKLEY), a distinguished member of the Committee on International Relations and a steadfast fighter against global terrorism.

Ms. BERKLEY. Madam Speaker, I would like to thank the gentleman from California (Mr. LANTOS) for giving me the opportunity to speak and share my thoughts with my colleagues, and the gentleman from New Jersey (Mr. SMITH) for being stellar on this issue.

I rise today, Madam Speaker, in strong support of House Resolution 453, condemning the terrorist attacks in Istanbul, Turkey, on November 15 of this year and expressing my sincerest condolences to the victims and their families.

□ 1215

This past Saturday, as they gathered together to observe the holy Sabbath, two explosions devastated the Jewish community in Istanbul, Turkey. The first occurred at the city's largest synagogue and symbolic center to the city's 25,000-member Jewish community and the second at Beth Israel synagogue about three miles away.

More than 20 people lost their lives and more than 300 were injured as terrorism, yet again, tore the fabric of civilized society and shattered innocent lives. Most of those killed in the blasts, ironically, were Muslim Turks who lived or worked near the synagogues who were passing by when the bombs exploded. This is not the first time that al-Qaeda has targeted the Jewish institutions. In 2002, they killed 12 people in an attack at a synagogue in Tunisia.

The Turkish Government immediately condemned the terrorist attacks in the strongest possible terms and I am pleased that the Turkish people have reacted in strong solidarity with the Nation's small and long-established Jewish community.

Madam Speaker, as a youngster growing up in Las Vegas, I belonged to the Jewish youth groups, and occasionally the Anti-Defamation League would bring in films of the liberation of the concentration camps in World War II. I cannot minimize the impact of those films and their impact on my life then and now. And I would sit there and watch the films and ask myself how could one human being do such a horrific thing to another, and how is it that more people throughout the world did not stand up and vilify this horrific act.

I am here in the United States of America because my grandparents walked across Europe in order to come to this country to escape the persecution that 6 million of my fellow Jews were unable to escape in World War II. For me to have the opportunity to be on the floor of the House of Representatives and not condemn this horrific act of terrorism would be a shame and an insult to not only the 20 people that lost their lives recently in Istanbul, but the millions of other people across the world, Jewish and not Jewish, who have lost their lives senselessly and needlessly to terrorists.

I call upon my colleagues to join us, and vote for this resolution taking a strong stance against bigotry and intolerance, racism and anti-Semitism, violence and terrorism. These are very difficult and challenging times that we are living through. But it is incumbent upon all Americans, we in the House of Representatives leading the way, to stand up and condemn this sort of activity before it becomes pervasive and matter of fact.

Mr. LANTOS. Madam Speaker, I yield 3 minutes to the gentleman from Florida (Mr. WEXLER), my good friend, a distinguished member of the Committee on International Relations.

Mr. WEXLER. Madam Speaker, I want to also thank my good friend and close associate, the gentleman from Florida (Mr. HASTINGS), and my colleagues on the Congressional Turkey Caucus for initiating this vitally important resolution condemning the horrific terrorist attacks in Turkey over the past week. I also want to thank the gentleman from Illinois (Chairman HYDE), the gentleman from California (Ranking Member LANTOS),

the gentleman from New Jersey (Mr. SMITH), for especially expeditiously bringing this very important resolution to the Floor.

I rise to express my most profound and heartfelt condolences to the Turkish people and to the Turkish Government on the terrorist attacks in Istanbul and pledge the support of each Member of Congress as we listen to this debate in the full Congress to bring to justice those individuals responsible for these heinous acts. Americans know all too well the horrors of terror, and today we mourn with the Turkish and British people for this senseless loss of life.

Madam Speaker, the recent bombings in Turkey epitomize the fact that terrorism knows no boundaries and does not distinguish between religion, nation or culture. What these attacks demonstrate the common thread of terror facing the United States, Turkey, and our allies throughout the world. They also serve as a solemn reminder of our Nation's shared principles of democracy, freedom, tolerance, and the pursuit of peace.

For over 50 years Turkey has stood shoulder to shoulder with the United States as a valued strategic partner, Nato ally, and friend. It is in this same spirit of partnership that the United States and the American people stand today with the Turkish people, ready to assist in punishing those murderers who carried out these cowardly actions. Together we will continue our pursuit of justice so that we may ensure that all victims of terror, whether in Turkey, the United States or elsewhere throughout the world, will not have died in vain.

As the gentleman from Florida (Mr. HASTINGS) stated earlier, I too have had the privilege of visiting Turkey on many occasions. The Turkish people are a warm and caring people. They have great national pride, they are patriots. That will continue. And we, the American people, must continue to assist them in their pursuit of terrorism within their boundaries.

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

Madam Speaker, before yielding back our time, I would merely like to mention that a number of us coming back from Baghdad were in Ankara, Turkey's capital, just a couple of weeks ago. We had a lengthy and significant discussion with the distinguished Foreign Minister of Turkey. We reaffirmed, as did our Turkish counterparts, our firm commitment to fight terrorism globally. These tragic events in Istanbul since our visit to Ankara underscore the urgency and the importance of our stand. I call on all of our colleagues to support this very important resolution.

Mr. BEREUTER. Madam Speaker, this Member, as a cosponsor of the resolution and a committed friend of the Turkish people, rises in strong support of H. Res. 453. This Member would like to thank the distinguished gentleman from Florida (Mr. HASTINGS) for introducing this very timely resolution. Mr. HASTINGS has worked closely with Members and staff of the Committee on International Relations and its Europe Subcommittee—including the distinguished ranking members of the full committee and subcommittee, Mr. LANTOS and Mr. WEXLER—to craft the resolution that is before us this morning.

This Member would also like to thank the distinguished gentleman from New Jersey (Mr. SMITH) for his leadership on this issue and his very thoughtful remarks. Mr. SMITH is the leader of the U.S. delegation to the Parliamentary Assembly of the Organization for Security and Cooperation in Europe, and Mr. HASTINGS is an active member of that delegation, and this Member commends them for their work.

Madam Speaker, this Member serves as President of the NATO Parliamentary Assembly (NATO PA) and Chairman of the House Delegation. Though such assemblies, Members get to know their counterparts from other nations first-hand and to visit these nations to understand more about these lands and their people.

This Member already has written to Mr. Vahit Erdem, the chairman of the Turkish delegation, expressing our deepest sympathies to the Turkish parliament and the Turkish people, particularly the families of the victims.

One year ago, the NATO PA met in Istanbul, in a conference center overlooking the Bosporus straits, separating Europe from Asia. From our hotel rooms, we could look south to see the Taksim neighborhood that was devastated by the bombing of the British Consulate General yesterday. Indeed, several of us had the opportunity at night to stroll the busy, historic streets of that district.

As we discussed the key issues in the transAtlantic relationship, we also had an opportunity to experience the great city of Istanbul, one of the most historically important cities in the world. Istanbul literally lies between Europe and Asia, the only city in the world on two continents, and its history is that of a bridge between east and west.

The reprehensible terrorist attacks of last Saturday, directed against Turks of the Jewish faith, were an attempt to directly assault the religious tolerance that has been a hallmark of the Turkish Republic. Yesterday's attacks, against the British Consulate and a British bank, were an attack on the strong ties between Turkey and its allies in Europe and in North America and on the long and extraordinary transAtlantic relationship between the United Kingdom and the United States of America by further inflaming the British critics of the Iraq war and our transAtlantic relationship.

Sadly, they remind us that international terrorism remains a grave threat to all nations of the North Atlantic Alliance. Two years ago, when NATO invoked Article 5 of the North Atlantic Treaty, both Turkey and the United Kingdom showed that they were prepared to play a leading role in the war against terrorism, both alternatively taking the command of the International Security Assistance Force in Afghanistan. We remember their clear and strongly anti-terrorism, pro-American response to the al-Qaeda attacks on the United States, and in this resolution today, we pledge our support to Turkey in response to this latest terrorist atrocity.

NATO already has declared that the September 11, 2001, attacks by al Qaeda constituted an attack on the entire Alliance. Likewise, these attacks on an ally are an attack on all allies. Article 5 has already been invoked against al Qaeda. As a result NATO today is in Afghanistan, working to defeat that terrorist organization and their Taliban allies.

In the words of Lord Robertson, the NATO secretary general: ''If we fail, we will find Afghanistan on all of our doorsteps. Worse still, NATO's credibility will be shattered, along with that of every NATO government. Who will stand with us in the war against terror if we take on a commitment such as this and then fail to deliver?''

The bombings in Istanbul are a vicious reminder of the stakes in the global war on terrorism and the need to ensure that Afghanistan never again becomes a haven for those who seek to murder our people and destroy our societies. We all must provide the resources needed to win this war and protect our citizens.

Madam Speaker, in closing, this Member urges his colleague to pass this resolution.

Mr. ORTIZ. Madam Speaker, I rise to offer my condolences to the Turkish people and the Turkish government for the horrific terrorist attacks in Istanbul on November 15 and 20.

As al Qaeda has proved again and again, they intend to fight this 21st Century's first global war against civilians and non-combatants. As we have proved again and again, we will fight this war wherever it flares up. And we will win, because we have the fortitude to do the right thing.

Turkey is one of our strongest allies in the fight on global terrorism—and has repeatedly stood by our side in NATO matters (as a NATO ally) and in the war on terror, in understated ways. I have a number of friends and people we know there, that I met on numerous House Armed Services Committee trips to visit NATO allies.

All South Texans condemn the cowardly and senseless killing of innocent people in Turkey, one of the finest examples of a democracy in practice, and one of the few Muslim nations to practice democracy.

We have shared principles of democracy, freedom, tolerance and the pursuit of peace—and today we stand with our Turkish friends. Those who opposed democracy will eventually learn that to kill democracy is to kill all those who love democracy. Al Qaeda doesn't have enough bombs to kill all those who love democratic principals around the world.

My family and I are praying for the families and victims injured and perished in this atrocity.

The United States Congress hereby offers our judgment that this attack was cowardly, and we stand with our Turkish friends in this hour of great loss.

Mr. POMEROY. Madam Speaker, I rise today in support of this resolution condemning the terrorist attacks in Istanbul, Turkey on November 15 and 20, 2003. I wish to express my most sincere and heartfelt condolences to the Turkish government and the relatives of those killed or injured. My thoughts are with Turkey and its people in this time of sorrow.

If there is one thing these cowardly acts have demonstrated, it is that terrorism knows no borders. These catastrophic attacks were not just an attack on Turkey, but an attack on humanity and civilization. As Americans who have experienced terrorism firsthand, we share in Turkey's grief.

I am convinced that the United States must stand shoulder to shoulder with Turkey as it defends its safety and protects its liberty by bringing to justice those responsible for these heinous acts. Together, we must stand ready to provide any assistance deemed necessary to ensure that justice is served—not solely to account for the lives taken and injuries inflicted against the Turkish people, but in defense of freedom around the world.

In the end, Madam Speaker, these tragedies will be remembered as a time of incredible loss and sadness. But it will also mark a time when America and Turkey came even closer together to respond to global terrorism. We are united today as never to ensure that terrorism is defeated, completely and finally.

Mr. BURTON of Indiana. Madam Speaker, today I come to the House floor in strong support of H. Res. 453, a House resolution condemning the terrorist attacks in Istanbul, Turkey and expressing condolences to the families of the individuals murdered.

On November 15 and 20, four horrific terrorist attacks rocked Istanbul. Two Jewish synagogues, the British Consulate and the London-based HSBC bank were the targets. Faceless, cowardly terrorists who thrive on inflicting fear and terror on the innocent carried out these attacks. These recent attacks epitomize the fact that terrorism knows no boundaries and does not distinguish between religion, nationality or culture.

Terrorism must be condemned in the strongest terms whenever and wherever it occurs. The Government of Turkey appropriately did so and has vowed to bring the perpetrators to justice. But, no one country can do this alone. In order for the perpetrators of terrorism to be brought to justice, all the countries of the world must stand united against terrorism that targets the civilized world.

For over fifty years, Turkey has stood shoulder-to-shoulder with the U.S. as one of our most valued strategic partners and it is only fitting that Congress express sympathy for those murdered and wounded, extend condolences to the bereaved families and affirm our unity with Turkey in the ongoing fight against terror. I am pleased that the House Leadership scheduled H. Res. 453 for floor action today.

Mr. ROTHMAN. Madam Speaker, I rise today to express my sorrow and rage over the Saturday bombings of the Neve Shalom and Beth Israel synagogues and the Thursday bombings of the British Consulate and HSBC Bank in Istanbul, Turkey. Tragically, 51 innocent victims of the War on Terror have died in Turkey this week and over 750 were wounded. These victims died or were wounded simply because they gathered to pray on a Saturday morning in honor of Shabbat, the Jewish day of reflection and rest, or were going about their normal daily lives in Istanbul.

Turkish officials have identified the bombers of the Neve Shalom and Beth Israel synagogues as Turkish militants, with possible connections to al Qaeda, who loaded bombs, each with about 500 pounds of ammonium sulfate, nitrate, and fuel oil, into trucks they pulled in front of the synagogues and detonated nearly simultaneously. Among those who died were 6 Jews and 17 Muslims—each buried near the remains of the 22 victims killed in a 1986 bombing at Neve Shalom. Initial reports indicate that truck bombs were also used in the terrorist attacks against the British Consulate and London based HSBC Holdings, which killed at least 27 and wounded over 450 people.

Madam Speaker, approximately 30,000 Jews live in Turkey—a 99.8% Muslim nation. For years Jews have lived peacefully and freely and have in fact thrived in a predominately Muslim nation. Much of this is due to Turkey's historically good treatment of its Jewish residents—dating back to the early influx of Jews during the Spanish Inquisition and later to Turkey's refusal to deport and exterminate its Jewish population during the Holocaust despite its longstanding relationship with Germany. Today, a benevolent relationship has grown between the Turkish and Israeli governments who share close ties and hold joint military exercises.

The attacks in Turkey this week aim to undermine the relationship between Turkey, the U.S., and Britain, and highlight the growing resurgence of al Qaeda and its worldwide network. The attacks in Turkey follow the suspected hand of al Qaeda in incidents in Saudi Arabia, Indonesia, and Morocco. The attacks on Thursday also highlight the fact that Turkey is a secular Muslim country that leans West through its business dealings, culture, and government affairs. The terrorists are determined to undermine the links between Turkey and the Western world.

Madam Speaker, as fighting has flared up in Iraq and al Qaeda has again regrouped and gained strength, and as President Bush returns from his trip to England while Israel and the Palestinian Authority tentatively reach out to each other in hopes of a cease fire and peace, now is not the time to turn our backs on the War on Terror. Now is the time to stand together with our friends and allies around the world as we all mourn those who died in Turkey this past week and those we have lost to terror attacks in the past, while jointly taking a stand to continue to fight for our survival in our war of self-defense against these madmen. We must work to ensure that all our allies help us root out terror at its source by sharing intelligence, auditing finances and doing whatever else is necessary in the hopes that like the Jews and Muslims have done for years in Turkey: we can all live together in peace.

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

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

The SPEAKER pro tempore (Mrs. BIGGERT). The question is on the motion offered by the gentleman from New Jersey (Mr. SMITH) that the House suspend the rules and agree to the resolution, H. Res. 453, as amended.

The question was taken.

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

Mr. SMITH of New Jersey. Madam 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.

VETERANS HEALTH CARE, CAPITAL ASSET, AND BUSINESS IMPROVEMENT ACT OF 2003

Mr. SMITH of New Jersey. Madam Speaker, I move to suspend the rules and pass the Senate bill (S. 1156) to amend title 38, United States Code, to improve and enhance provision of health care for veterans, to authorize major construction projects and other facilities matters for the Department of Veterans Affairs, to enhance and improve authorities relating to the administration of personnel of the Department of Veterans Affairs, and for other purposes.

The Clerk read as follows:

S. 1156

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Veterans Health Care, Capital Asset, and Business 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.
Sec. 2. References to title 38, United States Code.

TITLE I—HEALTH CARE AUTHORITIES AND RELATED MATTERS

Sec. 101. Improved benefits for former prisoners of war.
Sec. 102. Provision of health care to veterans who participated in certain Department of Defense chemical and biological warfare testing.
Sec. 103. Eligibility for Department of Veterans Affairs health care for certain Filipino World War II veterans residing in the United States.
Sec. 104. Enhancement of rehabilitative services.
Sec. 105. Enhanced agreement authority for provision of nursing home care and adult day health care in contract facilities.
Sec. 106. Five-year extension of period for provision of noninstitutional extended-care services and required nursing home care.
Sec. 107. Expansion of Department of Veterans Affairs pilot program on assisted living for veterans.
Sec. 108. Improvement of program for provision of specialized mental health services to veterans.

TITLE II—CONSTRUCTION AND FACILITIES MATTERS

Subtitle A—Program Authorities

Sec. 201. Increase in threshold for major medical facility construction projects.
Sec. 202. Enhancements to enhanced-use lease authority.
Sec. 203. Simplification of annual report on long-range health planning.

Subtitle B—Project Authorizations

Sec. 211. Authorization of major medical facility projects.
Sec. 212. Authorization of major medical facility leases.
Sec. 213. Advance planning authorizations.
Sec. 214. Authorization of appropriations.

Subtitle C—Capital Asset Realignment for Enhanced Services Initiative

Sec. 221. Authorization of major construction projects in connection with Capital Asset Realignment Initiative.

Sec. 222. Advance notification of capital asset realignment actions.
Sec. 223. Sense of Congress and report on access to health care for veterans in rural areas.
Subtitle D—Plans for New Facilities
Sec. 231. Plans for facilities in specified areas.
Sec. 232. Study and report on feasibility of coordination of veterans health care services in South Carolina with new university medical center.
Subtitle E—Designation of Facilities
Sec. 241. Designation of Department of Veterans Affairs medical center, Prescott, Arizona, as the Bob Stump Department of Veterans Affairs Medical Center.
Sec. 242. Designation of Department of Veterans Affairs health care facility, Chicago, Illinois, as the Jesse Brown Department of Veterans Affairs Medical Center.
Sec. 243. Designation of Department of Veterans Affairs medical center, Houston, Texas, as the Michael E. DeBakey Department of Veterans Affairs Medical Center.
Sec. 244. Designation of Department of Veterans Affairs medical center, Salt Lake City, Utah, as the George E. Wahlen Department of Veterans Affairs Medical Center.
Sec. 245. Designation of Department of Veterans Affairs outpatient clinic, New London, Connecticut.
Sec. 246. Designation of Department of Veterans Affairs outpatient clinic, Horsham, Pennsylvania.
TITLE III—PERSONNEL MATTERS
Sec. 301. Modification of certain authorities on appointment and promotion of personnel in the Veterans Health Administration.
Sec. 302. Appointment of chiropractors in the Veterans Health Administration.
Sec. 303. Additional pay for Saturday tours of duty for additional health care workers in the Veterans Health Administration.
Sec. 304. Coverage of employees of Veterans' Canteen Service under additional employment laws.
TITLE IV—OTHER MATTERS
Sec. 401. Office of Research Oversight in Veterans Health Administration.
Sec. 402. Enhancement of authorities relating to nonprofit research corporations.
Sec. 403. Department of Defense participation in Revolving Supply Fund purchases.
Sec. 404. Five-year extension of housing assistance for homeless veterans.
Sec. 405. Report date changes.

SEC. 2. REFERENCES TO TITLE 38, UNITED STATES CODE.

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

TITLE I—HEALTH CARE AUTHORITIES AND RELATED MATTERS

SEC. 101. IMPROVED BENEFITS FOR FORMER PRISONERS OF WAR.

(a) OUTPATIENT DENTAL CARE FOR ALL FORMER PRISONERS OF WAR.—Section 1712(a)(1)(F) is amended by striking ''and who was detained or interned for a period of not less than 90 days''.

(b) EXEMPTION FROM PHARMACY COPAYMENT REQUIREMENT.—Section 1722A(a)(3) is amended—

(1) by striking ''or'' at the end of subparagraph (A);

(2) by redesignating subparagraph (B) as subparagraph (C); and

(3) by inserting after subparagraph (A) the following new subparagraph (B):

''(B) to a veteran who is a former prisoner of war; or''.

SEC. 102. PROVISION OF HEALTH CARE TO VETERANS WHO PARTICIPATED IN CERTAIN DEPARTMENT OF DEFENSE CHEMICAL AND BIOLOGICAL WARFARE TESTING.

Section 1710(e) is amended—

(1) in paragraph (1), by adding at the end the following new subparagraph:

''(E) Subject to paragraphs (2) and (3), a veteran who participated in a test conducted by the Department of Defense Deseret Test Center as part of a program for chemical and biological warfare testing from 1962 through 1973 (including the program designated as 'Project Shipboard Hazard and Defense (SHAD)' and related land-based tests) is eligible for hospital care, medical services, and nursing home care under subsection (a)(2)(F) for any illness, notwithstanding that there is insufficient medical evidence to conclude that such illness is attributable to such testing.'';

(2) in paragraph (2)(B)—

(i) by striking out ''paragraph (1)(C) or (1)(D)'' and inserting ''subparagraph (C), (D), or (E) of paragraph (1)''; and

(ii) by striking ''service described in that paragraph'' and inserting ''service or testing described in such subparagraph''; and

(3) in paragraph (3)—

(A) by striking ''and'' at the end of subparagraph (B);

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

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

''(D) in the case of care for a veteran described in paragraph (1)(E), after December 31, 2005.''.

SEC. 103. ELIGIBILITY FOR DEPARTMENT OF VETERANS AFFAIRS HEALTH CARE FOR CERTAIN FILIPINO WORLD WAR II VETERANS RESIDING IN THE UNITED STATES.

The text of section 1734 is amended to read as follows:

''(a) The Secretary shall furnish hospital and nursing home care and medical services to any individual described in subsection (b) in the same manner, and subject to the same terms and conditions, as apply to the furnishing of such care and services to individuals who are veterans as defined in section 101(2) of this title. Any disability of an individual described in subsection (b) that is a service-connected disability for purposes of this subchapter (as provided for under section 1735(2) of this title) shall be considered to be a service-connected disability for purposes of furnishing care and services under the preceding sentence.

''(b) Subsection (a) applies to any individual who is a Commonwealth Army veteran or new Philippine Scout and who—

''(1) is residing in the United States; and

''(2) is a citizen of the United States or an alien lawfully admitted to the United States for permanent residence.''.

SEC. 104. ENHANCEMENT OF REHABILITATIVE SERVICES.

(a) REHABILITATIVE SERVICES THROUGH MEDICAL CARE AUTHORITY.—Section 1701(8) is amended by striking ''(other than those types of vocational rehabilitation services provided under chapter 31 of this title)''.

(b) EXPANSION OF AUTHORIZED REHABILITATIVE SERVICES.—(1) Section 1718 is amended—

(A) by redesignating subsections (d), (e), and (f) as subsections (e), (f), and (g), respectively; and

(B) by inserting after subsection (c) the following new subsection (d):

''(d) In providing to a veteran rehabilitative services under this chapter, the Secretary may furnish the veteran with the following:

''(1) Work skills training and development services.

''(2) Employment support services.

''(3) Job development and placement services.''.

(2) Subsection (c) of such section is amended—

(A) in paragraph (1), by striking ''subsection (b) of this section'' and inserting ''subsection (b) or (d)''; and

(B) in paragraph (2)—

(i) by striking ''subsection (b) of this section'' and inserting ''subsection (b) or (d)''; and

(ii) by striking ''paragraph (2) of such subsection'' and inserting ''subsection (b)(2)''.

SEC. 105. ENHANCED AGREEMENT AUTHORITY FOR PROVISION OF NURSING HOME CARE AND ADULT DAY HEALTH CARE IN CONTRACT FACILITIES.

(a) ENHANCED AUTHORITY.—Subsection (c) of section 1720 is amended—

(1) by designating the existing text as paragraph (2); and

(2) by inserting before paragraph (2), as so designated, the following new paragraph (1):

''(1)(A) In furnishing nursing home care, adult day health care, or other extended care services under this section, the Secretary may enter into agreements for furnishing such care or services with—

''(i) in the case of the medicare program, a provider of services that has entered into a provider agreement under section 1866(a) of the Social Security Act (42 U.S.C. 1395cc(a)); and

''(ii) in the case of the medicaid program, a provider participating under a State plan under title XIX of such Act (42 U.S.C. 1396 et seq.).

''(B) In entering into an agreement under subparagraph (A) with a provider of services described in clause (i) of that subparagraph or a provider described in clause (ii) of that subparagraph, the Secretary may use the procedures available for entering into provider agreements under section 1866(a) of the Social Security Act.''.

(b) CONFORMING AMENDMENT.—Subsection (f)(1)(B) of such section is amended by inserting ''or agreement'' after ''contract'' each place it appears.

SEC. 106. FIVE-YEAR EXTENSION OF PERIOD FOR PROVISION OF NONINSTITUTIONAL EXTENDED-CARE SERVICES AND REQUIRED NURSING HOME CARE.

(a) NONINSTITUTIONAL EXTENDED CARE SERVICES.—Section 1701(10)(A) is amended by striking ''the date of the enactment of the Veterans Millennium Health Care and Benefits Act and ending on December 31, 2003,'' and inserting ''November 30, 1999, and ending on December 31, 2008,''.

(b) REQUIRED NURSING HOME CARE.—Section 1710A(c) is amended by striking ''December 31, 2003'' and inserting ''December 31, 2008''.

SEC. 107. EXPANSION OF DEPARTMENT OF VETERANS AFFAIRS PILOT PROGRAM ON ASSISTED LIVING FOR VETERANS.

Section 103(b) of the Veterans Millennium Health Care and Benefits Act (Public Law 106–117; 113 Stat. 1552; 38 U.S.C. 1710B note) is amended—

(1) by striking ''LOCATION OF PILOT PROGRAM.—'' and inserting ''LOCATIONS OF PILOT PROGRAM.—(1)''; and

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

''(2)(A) In addition to the health care region of the Department selected for the pilot program under paragraph (1), the Secretary may also carry out the pilot program in not more than one additional designated health care region of the Department selected by the Secretary for purposes of this section.

''(B) Notwithstanding subsection (f), the authority of the Secretary to provide services under the pilot program in a health care region of the Department selected under subparagraph (A) shall cease on the date that is three years after the commencement of the provision of services under the pilot program in the health care region.''.

SEC. 108. IMPROVEMENT OF PROGRAM FOR PROVISION OF SPECIALIZED MENTAL HEALTH SERVICES TO VETERANS.

(a) INCREASE IN FUNDING.—Subsection (c) of section 116 of the Veterans Millennium Health Care and Benefits Act (Public Law 106–117; 113 Stat. 1559; 38 U.S.C. 1712A note) is amended—

(1) in paragraph (1), by striking ''$15,000,000'' and inserting ''$25,000,000 in each of fiscal years 2004, 2005, and 2006'';

(2) in paragraph (2), by striking ''$15,000,000'' and inserting ''$25,000,000''; and

(3) in paragraph (3)—

(A) by inserting ''(A)'' after ''(3)''; and

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

''(B) For purposes of this paragraph, in fiscal years 2004, 2005, and 2006, the fiscal year used to determine the baseline amount shall be fiscal year 2003.''.

(b) ALLOCATION OF FUNDS.—Subsection (d) of that section is amended—

(1) by striking ''The Secretary'' and inserting ''(1) In each of fiscal years 2004, 2005, and 2006, the Secretary''; and

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

''(2) In allocating funds to facilities in a fiscal year under paragraph (1), the Secretary shall ensure that—

''(A) not less than $10,000,000 is allocated by direct grants to programs that are identified by the Mental Health Strategic Health Care Group and the Committee on Care of Severely Chronically Mentally Ill Veterans;

''(B) not less than $5,000,000 is allocated for programs on post-traumatic stress disorder; and

''(C) not less than $5,000,000 is allocated for programs on substance use disorder.

''(3) The Secretary shall provide that the funds to be allocated under this section during each of fiscal years 2004, 2005, and 2006 are funds for a special purpose program for which funds are not allocated through the Veterans Equitable Resource Allocation system.''.

TITLE II—CONSTRUCTION AND FACILITIES MATTERS

Subtitle A—Program Authorities

SEC. 201. INCREASE IN THRESHOLD FOR MAJOR MEDICAL FACILITY CONSTRUCTION PROJECTS.

Section 8104(a)(3)(A) is amended by striking ''$4,000,000'' and inserting ''$7,000,000''.

SEC. 202. ENHANCEMENTS TO ENHANCED-USE LEASE AUTHORITY.

(a) NOTIFICATION OF PROPERTY TO BE LEASED.—Section 8163 is amended—

(1) in the first sentence of subsection (a)—

(A) by striking ''designate a property to be leased under an enhanced-use lease'' and inserting ''enter into an enhanced-use lease with respect to certain property''; and

(B) by striking ''before making the designation'' and inserting ''before entering into the lease'';

(2) in subsection (b), by striking ''of the proposed designation'' and inserting ''to the congressional veterans' affairs committees and to the public of the proposed lease''; and

(3) in subsection (c)—

(A) in paragraph (1)—

(i) by striking ''designate the property involved'' and inserting ''enter into an enhanced-use lease of the property involved''; and

(ii) by striking ''to so designate the property'' and inserting ''to enter into such lease'';

(B) in paragraph (2), by striking ''90-day period'' and inserting ''45-day period'';

(C) in paragraph (3)—

(i) by striking ''general description'' in subparagraph (D) and inserting ''description of the provisions''; and

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

''(G) A summary of a cost-benefit analysis of the proposed lease.''; and

(D) by striking paragraph (4).

(b) DISPOSITION OF LEASED PROPERTY.—Section 8164 is amended—

(1) in subsection (a)—

(A) by striking ''by requesting the Administrator of General Services to dispose of the property pursuant to subsection (b)'' in the first sentence; and

(B) by striking the third sentence;

(2) in subsection (b)—

(A) by striking ''Secretary and the Administrator of General Services jointly determine'' and inserting ''Secretary determines''; and

(B) by striking ''Secretary and the Administrator consider'' and inserting ''Secretary considers''; and

(3) in subsection (c), by striking ''90 days'' and inserting ''45 days''.

(c) USE OF PROCEEDS.—Section 8165 is amended—

(1) in subsection (a)(2), by striking ''and remaining after any deduction from such funds under the laws referred to in subsection (c)'';

(2) in subsection (b), by adding at the end the following new sentence: ''The Secretary may use the proceeds from any enhanced-use lease to reimburse applicable appropriations of the Department for any expenses incurred in the development of additional enhanced-use leases.''; and

(3) by striking subsection (c).

(d) CLERICAL AMENDMENTS.—(1) The heading of section 8163 is amended to read as follows:

''§ 8163. Hearing and notice requirements regarding proposed leases''.

(2) The item relating to section 8163 in the table of sections at the beginning of chapter 81 is amended to read as follows:

''8163. Hearing and notice requirements regarding proposed leases.''.

SEC. 203. SIMPLIFICATION OF ANNUAL REPORT ON LONG-RANGE HEALTH PLANNING.

Section 8107(b) is amended by striking paragraphs (3) and (4).

Subtitle B—Project Authorizations

SEC. 211. AUTHORIZATION OF MAJOR MEDICAL FACILITY PROJECTS.

The Secretary of Veterans Affairs may carry out the following major medical facility projects, with each project to be carried out in an amount not to exceed the amount specified for that project:

(1) Construction of a long-term care facility in Lebanon, Pennsylvania, $14,500,000.

(2) Construction of a long-term care facility in Beckley, West Virginia, $20,000,000.

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

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

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

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

SEC. 212. AUTHORIZATION OF MAJOR MEDICAL FACILITY LEASES.

The Secretary of Veterans Affairs may enter into leases for medical facilities as follows:

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

(2) For an outpatient clinic extension, Boston, Massachusetts, in an amount not to exceed $2,879,000.

SEC. 213. ADVANCE PLANNING AUTHORIZATIONS.

The Secretary of Veterans Affairs may carry out advance planning for a major medical facility project at each of the following locations, with such planning to be carried out in an amount not to exceed the amount specified for that location:

(1) Denver, Colorado, in an amount not to exceed $30,000,000, of which $26,000,000 shall be provided by the Secretary of Veterans Affairs and $4,000,000 shall be provided by the Secretary of Defense.

(2) Pittsburgh, Pennsylvania, in an amount not to exceed $9,000,000.

(3) Las Vegas, Nevada, in an amount not to exceed $25,000,000.

(4) Columbus, Ohio, in an amount not to exceed $9,000,000.

(5) East Central, Florida, in an amount not to exceed $17,500,000.

SEC. 214. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated for the Secretary of Veterans Affairs for fiscal year 2004—

(1) for the Construction, Major Projects, account, a total of $363,100,000, of which—

(A) $276,600,000 is for the projects authorized in section 211; and

(B) $86,500,000 is for the advance planning authorized in section 213; and

(2) for the Medical Care account, $5,879,000 for the leases authorized in section 212.

(b) LIMITATION.—The projects authorized in section 211 may only be carried out using—

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

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

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

Subtitle C—Capital Asset Realignment for Enhanced Services Initiative

SEC. 221. AUTHORIZATION OF MAJOR CONSTRUCTION PROJECTS IN CONNECTION WITH CAPITAL ASSET REALIGNMENT INITIATIVE.

(a) AUTHORITY TO CARRY OUT MAJOR CONSTRUCTION PROJECTS.—Subject to subsection (b), the Secretary of Veterans Affairs may carry out major construction projects as specified in the final report of the Capital

Asset Realignment for Enhanced Services Commission and approved by the Secretary.

(b) LIMITATION.—The Secretary may not exercise the authority in subsection (a) until 45 days after the date of the submittal of the report required by subsection (c).

(c) REPORT ON PROPOSED MAJOR CONSTRUCTION PROJECTS.—(1) The Secretary shall submit to the Committees on Veterans' Affairs and the Committees on Appropriations of the Senate and House of Representatives not later than February 1, 2004, a report describing the major construction projects the Secretary proposes to carry out in connection with the Capital Asset Realignment for Enhanced Services initiative.

(2) The report shall list each proposed major construction project in order of priority, with such priority determined in the order as follows:

(A) The use of the facility to be constructed or altered as a replacement or enhancement facility necessitated by the loss, closure, or other divestment of major infrastructure or clinical space at a Department of Veterans Affairs medical facility currently in operation, as determined by the Secretary.

(B) The remedy of life and safety code deficiencies, including seismic, egress, and fire deficiencies at such facility.

(C) The use of such facility to provide health care services to a population that is determined under the Capital Asset Realignment for Enhanced Services initiative to be underserved or not currently served by such facility.

(D) The renovation or modernization of such facility, including the provision of barrier-free design, improvement of building systems and utilities, or enhancement of clinical support services.

(E) The need for such facility to further an enhanced-use lease or sharing agreement.

(F) Any other factor that the Secretary considers to be of importance in providing care to eligible veterans.

(3) In developing the list of projects and according a priority to each project, the Secretary should consider the importance of allocating available resources equitably among the geographic service areas of the Department and take into account recent shifts in populations of veterans among those geographic service areas.

(d) SUNSET.—The Secretary may not enter into a contract to carry out major construction projects under the authority in subsection (a) after September 30, 2006.

SEC. 222. ADVANCE NOTIFICATION OF CAPITAL ASSET REALIGNMENT ACTIONS.

(a) REQUIREMENT FOR ADVANCE NOTIFICATION.—If the Secretary of Veterans Affairs approves a recommendation resulting from the Capital Asset Realignment for Enhanced Services initiative, then before taking any action resulting from that recommendation that would result in—

(1) a medical facility closure;

(2) an administrative reorganization described in subsection (c) of section 510 of title 38, United States Code; or

(3) a medical facility consolidation,

the Secretary shall submit to Congress a written notification of the intent to take such action.

(b) LIMITATION.—Upon submitting a notification under subsection (a), the Secretary may not take any action described in the notification until the later of—

(1) the end of the 60-day period beginning on the date on which the notification is received by Congress; or

(2) the end of a period of 30 days of continuous session of Congress beginning on the date on which the notification is received by Congress or, if either House of Congress is not in session on such date, the first day after such date on which both Houses of Congress are in session.

(c) CONTINUOUS SESSION OF CONGRESS.—For the purposes of subsection (b)—

(1) the continuity of a session of Congress is broken only by an adjournment of Congress sine die; and

(2) any day on which either House is not in session because of an adjournment of more than three days to a day certain is excluded in the computation of any period of time in which Congress is in continuous session.

(d) MEDICAL FACILITY CONSOLIDATION.—For the purposes of subsection (a), the term ''medical facility consolidation'' means an action that closes one or more medical facilities for the purpose of relocating those activities to another medical facility or facilities within the same geographic service area.

SEC. 223. SENSE OF CONGRESS AND REPORT ON ACCESS TO HEALTH CARE FOR VETERANS IN RURAL AREAS.

(a) SENSE OF CONGRESS.—Recognizing the difficulties that veterans residing in rural areas encounter in gaining access to health care in facilities of the Department of Veterans Affairs, it is the sense of Congress that the Secretary of Veterans Affairs should take steps to ensure that an appropriate mix of facilities and clinical staff is available for health care for veterans residing in rural areas.

(b) REPORT.—Not later than 120 days after the date of the enactment of this Act, the Secretary of Veterans Affairs shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report describing the steps the Secretary is taking, and intends to take, to improve access to health care for veterans residing in rural areas.

Subtitle D—Plans for New Facilities

SEC. 231. PLANS FOR FACILITIES IN SPECIFIED AREAS.

(a) SOUTHERN NEW JERSEY.—(1) The Secretary of Veterans Affairs shall develop a plan for meeting the future hospital care needs of veterans who reside in southern New Jersey.

(2) For purposes of paragraph (1), the term ''southern New Jersey'' means the following counties of the State of New Jersey: Ocean, Burlington, Camden, Gloucester, Salem, Cumberland, Atlantic, and Cape May.

(b) FAR SOUTH TEXAS.—(1) The Secretary shall develop a plan for meeting the future hospital care needs of veterans who reside in far south Texas.

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

(c) NORTH CENTRAL WASHINGTON.—(1) The Secretary shall develop a plan for meeting the future hospital care needs of veterans who reside in north central Washington.

(2) For purposes of paragraph (1), the term ''north central Washington'' means the following counties of the State of Washington: Chelan, Douglas, Ferry, Grant, Kittitas, and Okanogan.

(d) PENSACOLA AREA.—(1) The Secretary shall develop a plan for meeting the future hospital care needs of veterans who reside in the Pensacola area.

(2) For purposes of paragraph (1), the term ''Pensacola area'' means—

(A) the counties of Escambia, Santa Rosa, Okaloosa, Walton, Holmes, Washington, Bay, Jackson, Calhoun, Liberty, Gulf, and Franklin of the State of Florida; and

(B) the counties of Covington, Geneva, Houston, and Escambia of the State of Alabama.

(e) CONSIDERATION OF USE OF CERTAIN EXISTING AUTHORITIES.—In developing the plans under this section, the Secretary shall, at a minimum, consider options using the existing authorities of sections 8111 and 8153 of title 38, United States Code, to—

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

(2) enter into contracts with existing Federal facilities, private facilities, and private providers for that care.

(f) REPORT.—The Secretary shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on each plan under this section not later than April 15, 2004.

SEC. 232. STUDY AND REPORT ON FEASIBILITY OF COORDINATION OF VETERANS HEALTH CARE SERVICES IN SOUTH CAROLINA WITH NEW UNIVERSITY MEDICAL CENTER.

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

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

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

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

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

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

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

(d) REPORT.—Not later than April 15, 2004, the Secretary shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the results of the study. The report shall include the Secretary's recommendations with respect to coordination described in subsection (a), including recommendations with respect to each of the matters referred to in subsection (b).

Subtitle E—Designation of Facilities

SEC. 241. DESIGNATION OF DEPARTMENT OF VETERANS AFFAIRS MEDICAL CENTER, PRESCOTT, ARIZONA, AS THE BOB STUMP DEPARTMENT OF VETERANS AFFAIRS MEDICAL CENTER.

The Department of Veterans Affairs Medical Center located in Prescott, Arizona,

shall after the date of the enactment of this Act be known and designated as the ''Bob Stump Department of Veterans Affairs Medical Center''. Any reference to such medical center in any law, regulation, map, document, or other paper of the United States shall be considered to be a reference to the Bob Stump Department of Veterans Affairs Medical Center.

SEC. 242. DESIGNATION OF DEPARTMENT OF VETERANS AFFAIRS HEALTH CARE FACILITY, CHICAGO, ILLINOIS, AS THE JESSE BROWN DEPARTMENT OF VETERANS AFFAIRS MEDICAL CENTER.

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

SEC. 243. DESIGNATION OF DEPARTMENT OF VETERANS AFFAIRS MEDICAL CENTER, HOUSTON, TEXAS, AS THE MICHAEL E. DEBAKEY DEPARTMENT OF VETERANS AFFAIRS MEDICAL CENTER.

The Department of Veterans Affairs Medical Center in Houston, Texas, shall after the date of the enactment of this Act be known and designated as the ''Michael E. DeBakey Department of Veterans Affairs Medical Center''. Any reference to such facility in any law, regulation, map, document, record, or other paper of the United States shall be considered to be a reference to the Michael E. DeBakey Department of Veterans Affairs Medical Center.

SEC. 244. DESIGNATION OF DEPARTMENT OF VETERANS AFFAIRS MEDICAL CENTER, SALT LAKE CITY, UTAH, AS THE GEORGE E. WAHLEN DEPARTMENT OF VETERANS AFFAIRS MEDICAL CENTER.

The Department of Veterans Affairs Medical Center in Salt Lake City, Utah, shall after the date of the enactment of this Act be known and designated as the ''George E. Wahlen Department of Veterans Affairs Medical Center''. Any references to such facility in any law, regulation, map, document, record, or other paper of the United States shall be considered to be a reference to the George E. Wahlen Department of Veterans Affairs Medical Center.

SEC. 245. DESIGNATION OF DEPARTMENT OF VETERANS AFFAIRS OUTPATIENT CLINIC, NEW LONDON, CONNECTICUT.

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

SEC. 246. DESIGNATION OF DEPARTMENT OF VETERANS AFFAIRS OUTPATIENT CLINIC, HORSHAM, PENNSYLVANIA.

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

TITLE III—PERSONNEL MATTERS

SEC. 301. MODIFICATION OF AUTHORITIES ON APPOINTMENT AND PROMOTION OF PERSONNEL IN THE VETERANS HEALTH ADMINISTRATION.

(a) POSITIONS TREATABLE AS HYBRID STATUS POSITIONS.—(1) Section 7401 is amended—

(A) by striking paragraph (2) and inserting the following new paragraph (2):

''(2) Scientific and professional personnel, such as microbiologists, chemists, and biostatisticians.''; and

(B) by striking paragraph (3) and inserting the following new paragraph (3):

''(3) Audiologists, speech pathologists, and audiologist-speech pathologists, biomedical engineers, certified or registered respiratory therapists, dietitians, licensed physical therapists, licensed practical or vocational nurses, medical instrument technicians, medical records administrators or specialists, medical records technicians, medical and dental technologists, nuclear medicine technologists, occupational therapists, occupational therapy assistants, kinesiotherapists, orthotist-prosthetists, pharmacists, pharmacy technicians, physical therapy assistants, prosthetic representatives, psychologists, diagnostic radiologic technicians, therapeutic radiologic technicians, and social workers.''.

(2) Personnel appointed to the Veterans Health Administration before the date of the enactment of this Act who are in an occupational category of employees specified in paragraph (3) of section 7401 of title 38, United States Code, by reason of the amendment made by paragraph (1)(B) of this subsection shall, as of such date, be deemed to have been appointed to the Administration under such paragraph (3).

(b) APPOINTMENTS AND PROMOTIONS.—Section 7403 of such title is amended—

(1) in subsection (f)(3)—

(A) by inserting ''reductions-in-force, the applicability of the principles of preference referred to in paragraph (2), rights of part-time employees,'' after ''adverse actions,'';

(B) by inserting '', whether appointed under this section or section 7405(a)(1)(B) of this title'' after ''such positions''; and

(C) by inserting a comma after ''status)''; and

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

''(h)(1) If the Secretary uses the authority provided in subsection (c) for the promotion and advancement of an occupational category of employees described in section 7401(3) of this title, as authorized by subsection (f)(1)(B), the Secretary shall do so through one or more systems prescribed by the Secretary. Each such system shall be planned, developed, and implemented in collaboration with, and with the participation of, exclusive employee representatives of such occupational category of employees.

''(2)(A) Before prescribing a system of promotion and advancement of an occupational category of employees under paragraph (1), the Secretary shall provide to exclusive employee representatives of such occupational category of employees a written description of the proposed system.

''(B) Not later than 30 days after receipt of the description of a proposed system under subparagraph (A), exclusive employee representatives may submit to the Secretary the recommendations, if any, of such exclusive employee representatives with respect to the proposed system.

''(C) The Secretary shall give full and fair consideration to any recommendations received under subparagraph (B) in deciding whether and how to proceed with a proposed system.

''(3) The Secretary shall implement immediately any part of a system of promotion and advancement under paragraph (1) that is proposed under paragraph (2) for which the Secretary receives no recommendations from exclusive employee representatives under paragraph (2).

''(4) If the Secretary receives recommendations under paragraph (2) from exclusive employee representatives on any part of a proposed system of promotion and advancement under that paragraph, the Secretary shall determine whether or not to accept the recommendations, either in whole or in part. If the Secretary determines not to accept all or part of the recommendations, the Secretary shall—

''(A) notify the congressional veterans' affairs committees of the recommendations and of the portion of the recommendations that the Secretary has determined not to accept;

''(B) meet and confer with such exclusive employee representatives, for a period not less than 30 days, for purposes of attempting to reach an agreement on whether and how to proceed with the portion of the recommendations that the Secretary has determined not to accept;

''(C) at the election of the Secretary, or of a majority of such exclusive employee representatives who are participating in negotiations on such matter, employ the services of the Federal Mediation and Conciliation Service during the period referred to in subparagraph (B) for purposes of reaching such agreement; and

''(D) if the Secretary determines that activities under subparagraph (B), (C), or both are unsuccessful at reaching such agreement and determines (in the sole and unreviewable discretion of the Secretary) that further meeting and conferral under subparagraph (B), mediation under subparagraph (C), or both are unlikely to reach such agreement—

''(i) notify the congressional veterans' affairs committees of such determinations, identify for such committees the portions of the recommendations that the Secretary has determined not to accept, and provide such committees an explanation and justification for determining to implement the part of the system subject to such portions of the recommendations without regard to such portions of the recommendations; and

''(ii) commencing not earlier than 30 days after notice under clause (i), implement the part of the system subject to the recommendations that the Secretary has determined not to accept without regard to those recommendations.

''(5) If the Secretary and exclusive employee representatives reach an agreement under paragraph (4) providing for the resolution of a disagreement on one or more portions of the recommendations that the Secretary had determined not to accept under that paragraph, the Secretary shall immediately implement such resolution.

''(6) In implementing a system of promotion and advancement under this subsection, the Secretary shall—

''(A) develop and implement mechanisms to permit exclusive employee representatives to participate in the periodic review and evaluation of the system, including peer review, and in any further planning or development required with respect to the system as a result of such review and evaluation; and

''(B) provide exclusive employee representatives appropriate access to information to ensure that the participation of such exclusive employee representative in activities under subparagraph (A) is productive.

''(7)(A) The Secretary may from time to time modify a system of promotion and advancement under this subsection.

''(B) In modifying a system, the Secretary shall take into account any recommendations made by the exclusive employee representatives concerned.

''(C) In modifying a system, the Secretary shall comply with paragraphs (2) through (5) and shall treat any proposal for the modification of a system as a proposal for a system for purposes of such paragraphs.

''(D) The Secretary shall promptly submit to the congressional veterans' affairs committees a report on any modification of a system. Each report shall include—

''(i) an explanation and justification of the modification; and

''(ii) a description of any recommendations of exclusive employee representatives with respect to the modification and a statement whether or not the modification was revised in light of such recommendations.

''(8) In the case of employees who are not within a unit with respect to which a labor organization is accorded exclusive recognition, the Secretary may develop procedures for input from representatives under this subsection from any appropriate organization that represents a substantial percentage of such employees or, if none, in such other manner as the Secretary considers appropriate, consistent with the purposes of this subsection.

''(9) In this subsection, the term 'congressional veterans' affairs committees' means the Committees on Veterans' Affairs of the Senate and the House of Representatives.''.

(c) TEMPORARY, PART-TIME, AND WITHOUT COMPENSATION APPOINTMENTS.—Section 7405 of such title is amended—

(1) in subsection (a)—

(A) in paragraph (1), by striking subparagraphs (B) and (C) and inserting the following new subparagraphs:

''(B) Positions listed in section 7401(3) of this title.

''(C) Librarians.''; and

(B) in paragraph (2), by striking subparagraph (B) and inserting the following new subparagraph (B):

''(B) Positions listed in section 7401(3) of this title.''; and

(2) in subsection (c)(1), by striking ''section 7401(1)'' and inserting ''paragraphs (1) and (3) of section 7401''.

(d) AUTHORITY FOR ADDITIONAL PAY FOR CERTAIN HEALTH CARE PROFESSIONALS.—Section 7454(b)(1) of such title is amended by striking ''certified or registered'' and all that follows through ''occupational therapists,'' and inserting ''individuals in positions listed in section 7401(3) of this title,''.

SEC. 302. APPOINTMENT OF CHIROPRACTORS IN THE VETERANS HEALTH ADMINISTRATION.

(a) APPOINTMENTS.—Section 7401 is amended—

(1) in the matter preceding paragraph (1), by striking ''medical'' and inserting ''health''; and

(2) in paragraph (1), by inserting ''chiropractors,'' after ''podiatrists,''.

(b) QUALIFICATIONS OF APPOINTEES.—Section 7402(b) is amended—

(1) by redesignating paragraph (10) as paragraph (11); and

(2) by inserting after paragraph (9) the following new paragraph (10):

''(10) CHIROPRACTOR.—To be eligible to be appointed to a chiropractor position, a person must—

''(A) hold the degree of doctor of chiropractic, or its equivalent, from a college of chiropractic approved by the Secretary; and

''(B) be licensed to practice chiropractic in a State.''.

(c) PERIOD OF APPOINTMENTS AND PROMOTIONS.—Section 7403(a)(2) is amended by adding at the end the following new subparagraph:

''(H) Chiropractors.''.

(d) GRADES AND PAY SCALES.—Section 7404(b)(1) is amended by striking the third center heading in the table and inserting the following:

''CLINICAL PODIATRIST, CHIROPRACTOR, AND OPTOMETRIST SCHEDULE''.

(e) MALPRACTICE AND NEGLIGENCE PROTECTION.—Section 7316(a) is amended—

(1) in paragraph (1), by striking ''medical'' each place it appears and inserting ''health''; and

(2) in paragraph (2)—

(A) by striking ''medical'' the first place it appears and inserting ''health''; and

(B) by inserting ''chiropractor,'' after ''podiatrist,''.

(f) TREATMENT AS SCARCE MEDICAL SPECIALISTS FOR CONTRACTING PURPOSES.—Section 7409(a) is amended by inserting ''chiropractors,'' in the second sentence after ''optometrists,''.

(g) COLLECTIVE BARGAINING EXEMPTION.—Section 7421(b) is amended by adding at the end the following new paragraph:

''(8) Chiropractors.''.

(h) EFFECTIVE DATE.—The amendments made by this section shall take effect at the end of the 180–day period beginning on the date of the enactment of this Act.

SEC. 303. ADDITIONAL PAY FOR SATURDAY TOURS OF DUTY FOR ADDITIONAL HEALTH CARE WORKERS IN THE VETERANS HEALTH ADMINISTRATION.

(a) IN GENERAL.—Section 7454(b) is amended by adding at the end the following new paragraph:

''(3) Employees appointed under section 7408 of this title shall be entitled to additional pay on the same basis as provided for nurses in section 7453(c) of this title.''.

(b) APPLICABILITY.—The amendment made by subsection (a) shall take effect with respect to the first pay period beginning on or after January 1, 2004.

SEC. 304. COVERAGE OF EMPLOYEES OF VETERANS' CANTEEN SERVICE UNDER ADDITIONAL EMPLOYMENT LAWS.

(a) COVERAGE.—Paragraph (5) of section 7802 is amended by inserting before the semicolon a period and the following: ''An employee appointed under this section may be considered for appointment to a Department position in the competitive service in the same manner that a Department employee in the competitive service is considered for transfer to such position. An employee of the Service who is appointed to a Department position in the competitive service under the authority of the preceding sentence may count toward the time-in-service requirement for a career appointment in such position any previous period of employment in the Service''.

(b) TECHNICAL AMENDMENTS.—Such section is further amended—

(1) by striking the semicolon at the end of each of paragraphs (1) through (10) and inserting a period;

(2) by striking ''The Secretary '' and all that follows through ''(1) establish,'' and inserting ''(a) LOCATIONS FOR CANTEENS.—The Secretary shall establish,'';

(3) by redesignating paragraphs (2) through (11) as subsections (b) through (k), respectively, and by realigning those subsections (as so redesignated) so as to be flush to the left margin;

(4) in subsection (b) (as so redesignated), by inserting ''WAREHOUSES AND STORAGE DEPOTS.—The Secretary shall'' before ''establish'';

(5) in subsection (c) (as so redesignated), by inserting ''SPACE, BUILDINGS, AND STRUCTURES.—The Secretary shall'' before ''furnish'';

(6) in subsection (d) (as so redesignated), by inserting ''EQUIPMENT, SERVICES, AND UTILITIES.—The Secretary shall'' before ''transfer'';

(7) in subsection (e) (as so redesignated and as amended by subsection (a)), by inserting ''PERSONNEL.—The Secretary shall'' before ''employ'';

(8) in subsection (f) (as so redesignated), by inserting ''CONTRACTS AND AGREEMENTS.—The Secretary shall'' before ''make all'';

(9) in subsection (g) (as so redesignated), by inserting ''PRICES.—The Secretary shall'' before ''fix the'';

(10) in subsection (h) (as so redesignated), by inserting ''GIFTS AND DONATIONS.—The Secretary may'' before ''accept'';

(11) in subsection (i) (as so redesignated), by inserting ''RULES AND REGULATIONS.—The Secretary shall'' before ''make such'';

(12) in subsection (j) (as so redesignated), by inserting ''DELEGATION.—The Secretary may'' before ''delegate such''; and

(13) in subsection (k) (as so redesignated), by inserting ''AUTHORITY TO CASH CHECKS, ETC.—The Secretary may'' before ''authorize''.

TITLE IV—OTHER MATTERS

SEC. 401. OFFICE OF RESEARCH OVERSIGHT IN VETERANS HEALTH ADMINISTRATION.

(a) STATUTORY CHARTER.—(1) Chapter 73 is amended by inserting after section 7306 the following new section:

''§ 7307. Office of Research Oversight

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

''(2) The Office shall—

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

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

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

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

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

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

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

''(2) The matters to be reported by the Director to the Under Secretary under paragraph (1) shall include allegations of research impropriety and misconduct by employees engaged in medical research programs of the Department.

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

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

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

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

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

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

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

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

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

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

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

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

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

''(g) MEDICAL RESEARCH.—For purposes of this section, the term 'medical research' means medical research described in section 7303(a)(2) of this title.''.

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

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

(b) CONFORMING AMENDMENT.—Section 7303 is amended by striking subsection (e).

SEC. 402. ENHANCEMENT OF AUTHORITIES RELATING TO NONPROFIT RESEARCH CORPORATIONS.

(a) COVERAGE OF PERSONNEL UNDER TORT CLAIMS LAWS.—(1) Subchapter IV of chapter 73 is amended by inserting after section 7364 the following new section:

''§ 7364A. Coverage of employees under certain Federal tort claims laws

''(a) An employee of a corporation established under this subchapter who is described by subsection (b) shall be considered an employee of the Government, or a medical care employee of the Veterans Health Administration, for purposes of the following provisions of law:

''(1) Section 1346(b) of title 28.

''(2) Chapter 171 of title 28.

''(3) Section 7316 of this title

''(b) An employee described in this subsection is an employee who—

''(1) has an appointment with the Department, whether with or without compensation;

''(2) is directly or indirectly involved or engaged in research or education and training that is approved in accordance with procedures established by the Under Secretary for Health for research or education and training; and

''(3) performs such duties under the supervision of Department personnel.''.

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 7364 the following new item:

''7364A. Coverage of employees under certain Federal tort claims laws.''.

(b) CLARIFICATION OF EXECUTIVE DIRECTOR'S ETHICS CERTIFICATION DUTIES.—Section 7366(c) is amended—

(1) by inserting ''(1)'' after ''(c)'';

(2) by striking ''any year—'' and all that follows through ''shall be subject'' and inserting ''any year shall be subject'';

(3) by striking ''functions; and'' and inserting ''functions.''; and

(4) by striking paragraph (2) and inserting the following:

''(2) Each corporation established under this subchapter shall each year submit to the Secretary a statement signed by the executive director of the corporation verifying that each director and employee has certified awareness of the laws and regulations referred to in paragraph (1) and of the consequences of violations of those laws and regulations in the same manner as Federal employees are required to so certify.''.

(c) FIVE-YEAR EXTENSION OF AUTHORITY TO ESTABLISH RESEARCH CORPORATIONS.—Section 7368 is amended by striking ''December 31, 2003'' and inserting ''December 31, 2008''.

SEC. 403. DEPARTMENT OF DEFENSE PARTICIPATION IN REVOLVING SUPPLY FUND PURCHASES.

(a) ENHANCEMENT OF DEPARTMENT OF DEFENSE PARTICIPATION.—Section 8121 is amended—

(1) by redesignating subsections (b) and (c) as subsections (d) and (e), respectively;

(2) by designating the last sentence of subsection (a) as subsection (c); and

(3) by inserting after paragraph (3) of subsection (a) the following new subsection (b):

''(b) The Secretary may authorize the Secretary of Defense to make purchases through the fund in the same manner as activities of the Department. When services, equipment, or supplies are furnished to the Secretary of Defense through the fund, the reimbursement required by paragraph (2) of subsection (a) shall be made from appropriations made to the Department of Defense, and when services or supplies are to be furnished to the Department of Defense, the fund may be credited, as provided in paragraph (3) of subsection (a), with advances from appropriations available to the Department of Defense.''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply only with respect to funds appropriated for a fiscal year after fiscal year 2003.

SEC. 404. FIVE-YEAR EXTENSION OF HOUSING ASSISTANCE FOR HOMELESS VETERANS.

Section 2041(c) is amended by striking ''December 31, 2003'' and inserting ''December 31, 2008''.

SEC. 405. REPORT DATE CHANGES.

(a) SENIOR MANAGERS QUARTERLY REPORT.—Section 516(e)(1)(A) is amended by striking ''30 days'' and inserting ''45 days''.

(b) ANNUAL REPORT ON ASSISTANCE TO HOMELESS VETERANS.—Section 2065(a) is amended by striking ''April 15 of each year'' and inserting ''June 15 of each year''.

(c) ANNUAL REPORT OF COMMITTEE ON CARE OF SEVERELY CHRONICALLY MENTALLY ILL VETERANS.—Section 7321(d)(2) is amended by striking ''February 1, 1998, and February 1 of each of the six following years'' and inserting ''June 1 of each year through 2008''.

(d) ANNUAL REPORT ON SHARING OF HEALTH CARE RESOURCES.—Section 8153(g) is amended—

(1) by striking ''not more than 60 days after the end of each fiscal year'' and inserting ''not later than February 1 of each year''; and

(2) by inserting ''during the preceding fiscal year'' after ''under this section''.

(e) ANNUAL REPORT OF SPECIAL COMMITTEE ON PTSD.—Section 110(e)(2) of the Veterans' Health Care Act of 1984 (38 U.S.C. 1712A note) is amended by striking ''February 1 of each of the three following years'' and inserting ''May 1 of each year through 2008''.

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

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

Mr. SMITH of New Jersey. Madam Speaker, I yield such time as he may consume to the gentleman from Connecticut (Mr. SIMMONS), the chairman of our Subcommittee on Health, who is the prime author of this legislation.

Mr. SIMMONS. Madam Speaker, I thank the gentleman from New Jersey (Mr. SMITH) the distinguished chairman of the Committee on Veterans' Affairs, for all the hard work that he has done over the course of this year, and in previous years, in an effort to bring this legislation to final passage today. He is truly a friend of America's veterans.

Madam Speaker, the bill before us combines substantial portions of seven House and Senate bills dealing with veterans health care matters. As the Subcommittee on Health chairman, I am pleased that we are proposing to rebuild substantial portions of the Department of Veterans Affairs aging capital infrastructure, which is a fancy way of saying their hospital and health care facilities.

Most Members know that America cares for her veterans more than any other country in the world and has provided health care facilities for her veterans for over 100 years. That is the good news. Regrettably, the bad news is that many of these facilities, which provide excellent health care services to our veterans, show signs of aging. They need upgrading or replacement, and that is one of the purposes of the bill before us today.

This legislation is the result of compromise between the House and the Senate. It is the product of many minds. And I am grateful to my ranking member, the gentleman from Texas (Mr. RODRIGUEZ) for all of his help in bringing us to this point here today.

In summary, the bill would authorize six new medical building probables at a total cost of $276.6 million in Chicago, San Diego, West Haven, Lebanon, Beckley, and Pensacola. It also authorizes advance planning of $86.5 million for the Veterans Administration to design five new projects in Denver, Colorado, Columbus, Ohio, Pittsburgh, Pennsylvania, Las Vegas, Nevada, and East Central, Florida. I am confident these projects will be funded once they are fully designed with the authorization provided in this bill.

The Denver project, for example, is a joint venture involving the Veterans Administration and the Air Force to establish a new Fitzsimmons Hospital Center. We believe this project will move forward with $26 million from the VA added to $4 million from the Air Force. And I thank my colleagues, the gentleman from Colorado (Mr. BEAUPREZ) and the gentleman from Colorado (Mr. HEFLEY) for all of their hard work on this project.

Another very important planning project in our bill is for Columbus, Ohio. It would relocate and expand an existing VA clinic to available Federal property. And while this committee wanted to provide the full authorization this year, and, in fact, this body did so, that was opposed by the other body. In the spirit of compromise the committees agreed to provide $9 million for advance planning for the new clinic in Columbus. I thank the gentleman from Ohio (Mr. HOBSON) for his leadership and help with this matter. I personally look forward to going out to Ohio, hopefully, in the company of Secretary Principi, to review the project.

In Pittsburgh, Pennsylvania, the VA needs a new health facility to replace two aging hospitals, both of which are over 50 years old. The committee has agreed to provide planning funds of $9 million for this project as well.

In addition to these projects, the bill with also delegate to Secretary Principi the ability to prioritize construction projects coming out of VA's so-called ''CARES'' process, provided appropriations to support these projects would be available. And we are confident this approach is a responsible way to proceed. With this delegation of authority to the Secretary, however, we also impose some limits on the VA in this bill. If, for example, as a result of CARES, the Secretary is closing VA medical facilities, or significantly reducing health care staff or consolidating two or more hospitals, we request that VA report these plans to Congress and wait 60 days before proceeding.

In closing, Madam Speaker, I would like to mention two hospital or facility naming pieces of this legislation. First of all, I had the honor as a member of the Committee on Armed Services to serve under Chairman Bob Stump, who also was a distinguished chairman of the Committee on Veterans' Affairs. There is no truer friend to America's veterans than Bob Stump. And we lost him earlier this year, unfortunately, to a long illness. But we wanted to memorialize his service to American veterans in an appropriate and respectful way, which is why our bill names the Prescott, Arizona, VA Medical Center the Bob Stump Department of Veterans Affairs Medical Center.

As well, I want to honor a very distinguished veteran from my own district, John McGuirk, a native of Connecticut, who enlisted in the United States Navy during World War II, serving as a salvage diver. He hazarded death and injury every day of his service, serving in the South Pacific from Pearl Harbor to Manila in the Philippines, including service aboard the salvage ship U.S.S. Laysan Island.

John McGuirk was instrumental in establishing a community-based outreach clinic in New London, Connecticut, on the grounds of the U.S. Coast Guard Academy. And this legislation will memorialize him by naming this clinic after him.

Madam Speaker, I urge all Members to vote in support of final passage of this legislation, the Veterans Health Care Capital Asset and Business Improvement Act of 2003.

□ 1230

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

Madam Speaker, I rise in support of S. 1156, as amended, the Veterans Health Care, Capital Assets and Business Improvement Act of 2003.

This legislation draws the best from provisions offered in this body and the Senate. I have worked closely on the bill with the chairman of the Subcommittee on Health, the gentleman from Connecticut (Mr. SIMMONS). I want to thank him for his graciousness and the hard work. I would also like to thank the gentleman from New Jersey (Mr. SMITH) and also the ranking member, the gentleman from Illinois (Mr. EVANS), for their assistance in finalizing this bill.

I am very pleased that the bill includes important provisions from H.R. 2433, as amended, a bill I introduced with the support of the gentleman from Connecticut (Mr. SIMMONS). I also appreciate the persistence of the gentleman from California (Mr. THOMPSON), who will be speaking, in ensuring that these tests were brought to light in the items that we would be bringing before in this piece of legislation.

This bill will take important steps to remedy the serious wrong done to some of our veterans during the Cold War era. The military conducted a series of about 50 tests over almost a decade to determine the effects of the number of biological and chemical exposures to military operations and whether such exposures could be adequately protected. Many of these veterans participated without their knowledge, and too often veterans who participated in these tests were not properly protected from exposure to the number of stimulants as well as, occasionally, live agents. These agents included sarin and VX nerve gas, as well as biological war agents including Q fever and rabbit fever.

The military has now completed a number of investigations into the operations of the Deseret Test Center and concluded that as many as 6,000 veterans may have been involved. Veteran participation is unacceptable, and we recognize this, and we are concerned; and we want to assure them that if they are suffering lasting health consequence that we will do something about this.

I am very pleased that this legislation does something about that. This bill provides high-priority eligibility for the next 2 years to allow them to seek and receive VA treatment for the health problems including those that may be related to the problems, especially to the exposure of these hazardous agents.

This authority will allow them, and it will not adequately compensate them for what they have gone through, but we are at least beginning to try to correct the situation that we find ourselves in. Allowing them to have their health care concerns addressed may begin to give them the peace of mind this Nation owes them.

I am also pleased the final bill includes many provisions on the bill H.R. 1720, as amended. Madam Speaker, this bill authorizes many worthy construction projects to which the VA has given high priority. Unfortunately, the VA major medical construction has suffered for years as Congress has waited for the results of the CARES program, which is Capital Assets Realignment for Enhanced Services. I hope now that VA is about to approve a final plan, Congress will see fit to provide the appropriations VA requires to invest in its outdated infrastructure that we know is lacking. So we are hoping that we can do more as the report comes out.

A provision in our bill is designed to assure Congress that we are also adequately informed of some less positive developments that may result from this process, facility closures, staff realignments, as well as consolidations that may affect many veterans.

I am also pleased that this bill would give us both the assurance of this notification and the time to respond to these developments. Regardless of its outcome, CARES gave us at least one thing of value and that is the information that it has provided us. Last fall, the VA came forward with data that confirmed the ongoing concerns. I, along with my good friend, the gentleman from Texas (Mr. ORTIZ), have talked about the veterans of south

Texas. I know the gentleman from Texas (Mr. ORTIZ) will be speaking today. They suffered long, miserable journeys, up to 6 hours one way, to receive hospital care and some specialized services. And I do not think that anyone knew many of our veterans had the worst access to acute hospital care in the Nation like in south Texas.

I am pleased this bill will require the VA to report to us on the steps it intends to take to resolve this long-lasting problem in south Texas.

This bill will also provide new benefits to former prisoners of war. Under the current law, neither Jessica Lynch nor her comrades who suffered internment in Iraq would be eligible to receive outpatient dental care from the VA. Why? Because they were in captivity for fewer than 90 days. Veterans who have experienced the trauma associated with being prisoners of war deserve dental care regardless of the time of the captivity.

This bill will also do away with these veterans medication co-payments. Surely we can all agree that these veterans have paid enough. This bill will extend and enhance long-term care and mental health programs. The VA continues to study how it will provide care in the future. Congress must remain vigilant about the programs that are needed by some of the most vulnerable veterans in the system.

I am pleased we have continued to support two internal watchdogs to monitor and report to Congress on the methods of improving mental health programs within the VA for the seriously mentally ill and for victims of post-traumatic stress disorder.

With troops who have seen the consequences of combat still in the field, we need the VA permanent programs to be available to both men and women who have trouble readjusting to civilian life.

Madam Speaker, there are numerous additional provisions in the bill that will allow the VA to provide better care to our veterans. I would like to thank the committee leadership and the staff for their hard work on this bill.

Madam Speaker, I rise in support of S. 1156, as amended, the Veterans Health Care, Capital Asset And Business Improvement Act of 2003. The bill draws the best from provisions offered in this body and in the Senate. I have worked closely on this bill with the Chairman of the Health Subcommittee, Mr. SIMMONS. I would also like to thank Chairman SMITH and Ranking Member EVANS for their assistance in finalizing this bill.

I am most pleased that the bill includes important provisions from H.R. 2433, as amended, a bill I introduced with the support of my Chairman, Mr. SIMMONS. I also appreciate the persistence of the gentleman from California, MIKE THOMPSON in ensuring that these tests were brought to light. This bill will take important steps to remedy a serious wrong done to some veterans during the Cold War era. The military conducted a series of about 50 tests over almost a decade to determine the effect of a number of biological and chemical exposures on military operations and whether such exposures could be adequately detected. Too often veterans who participated, sometimes unwittingly, in these tests were not properly protected from exposures to a number of stimulants and, occasionally, live agents. These agents included Sarin and VX nerve gas as well as biological war agents including Q fever and rabbit fever.

The military has now completed a number of investigations into the operations of the Deseret Test Center and concluded that as many as 6000 veterans may have been involved. Veteran participants are understandably concerned and want assurances that they are not suffering lasting health consequences related to these tests. This bill provides high-priority health care eligibility to these veterans for the next two years to allow them to seek and receive VA treatment for any health problems, including those they believe may be related to exposures to these hazardous agents. This authority will never adequately compensate veterans for their participation in dangerous tests, but allowing them to have their health care concerns addressed may begin to give them the peace-of-mind the nation owes them.

I am also pleased that the final bill includes many of the provisions from H.R. 1720, as amended. Madam Speaker, this bill authorizes many worthy construction projects to which VA has given high priority. Unfortunately, VA's major medical construction has languished for years as Congress has waited for the results of the Capital Assets Realignment for Enhanced Services (CARES) study. I hope now that VA is about to approve a final plan, Congress will see fit to provide the appropriations VA requires to invest in its outdated infrastructure. If so, this will be a positive outcome of CARES. A provision of our bill is designed to ensure Congress that we are also adequately informed of some less positive developments that may result from this process—facility closures, staff reassignments and consolidations that may affect many veterans. I am pleased that this bill will give us both the assurance of this notification and the time to respond to these developments.

Regardless of its outcomes, CARES gave us at least one thing of value—information. Last fall, VA came forward with data that confirm ongoing concerns I, along with my good friend Solomon Ortiz, have had about the veterans of South Texas. We knew they often suffered long, miserable journeys—up to 6 hours one way—to receive hospital care and some specialized services, but I don't think anyone knew many of our veterans had the worst access to acute hospital care in the nation! I am pleased this bill will require VA to report to us on steps it intends to take to resolve this longstanding problem.

This bill will provide new benefits to former prisoners-of-war. Under current law, neither Jessica Lynch nor her comrades who suffered internment in Iraq would be eligible to receive outpatient dental care from the VA. Why? Because they were in captivity for fewer than 90 days. While this limitation on eligibility was based on a rationale, it now seems capricious. Veterans who have experienced the trauma associated with being a prisoner of war deserve dental care regardless of their time in captivity. This bill will also do away with these veterans' medication copayments. Surely we can all agree that these veterans have paid enough.

This bill will extend and enhance long-term care and mental health problems. As VA continues to study how it will provide health care in the future Congress must remain vigilant about these programs that consume many resources but are needed by some of the most vulnerable veterans in the system. I am pleased we will also require two internal watchdogs that have made solid recommendations for improving mental health programs to continue to report to Congress on the VA's services for the seriously mentally ill and for veterans with Post-Traumatic Stress Disorder. With troops who have seen the consequences of combat still in the field we will need VA's pre-eminent programs to be available to the men and women who have trouble readjusting to civilian life.

Madam Speaker, there are a number of additional provisions in this bill that will allow VA to provide better care to our veterans. I thank the Committee leadership and the staff for their hard work on the bill and want to commend it to all of my colleagues.

Madam Speaker, I reserve the balance of my time.

Mr. SMITH of New Jersey. Madam Speaker, I yield 3 minutes to the gentleman from Indiana (Mr. BUYER), the distinguished chairman of our Subcommittee on Oversight and Investigations.

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

Mr. BUYER. Madam Speaker, this is excellent bipartisan legislation, not only between the Members of this body but also between the House and the Senate. This is a good compromise, not only with regard to major facility construction, whether it is to improve, renovate, replace, update and establish new health care facilities around the country. That is an excellent portion of this bill.

I would like to bring to my colleagues' attention that included in this compromise package is some legislation I authored to ensure the ethical treatment and safety of veterans who participate in VA medical research. We spend a lot of money on VA medical research, and there have been some incidents over the years whereby veterans have been harmed. And just the title of what it is called, Human Subject Protection, by calling humans subjects, it even sort of desensitizes the issue that there is a human being here at stake.

The VA medical research human subject protections section of this bill does the following:

We will establish an independent office to oversee research and compliance and assurance.

This bill will also provide that the new office counsels the Under Secretary for Health on all matters related to the protection of human research subjects, research misconduct and impropriety, and also the ethical conduct of research, and research safety.

That office shall investigate allegations of research, misconduct and impropriety; suspend or restrict research

to ensure the safety and ethical treatment of human subjects; and assure compliance in the conduct of research.

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

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

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

Finally, the bill mandates that the Comptroller General of the United States conduct a study of the effectiveness of this new office and submit a report to Congress by January 1, 2006.

I want to thank all Members of the House Committee on Veterans' Affairs and the Senate for including this language in section IV of the bill. In particular, I want to thank the gentleman from New Jersey (Mr. SMITH) and the ranking member, the gentleman from Illinois (Mr. EVANS), and the ranking member of the Subcommittee on Oversight and Investigations, the gentlewoman from Oregon (Ms. HOOLEY), for co-sponsoring the legislation. Also, in particular, the gentleman from Connecticut (Mr. SIMMONS) and the ranking member, the gentleman from Texas (Mr. RODRIGUEZ), for this bill at the subcommittee level, for bringing this to the attention of all of our colleagues. This is good legislation and good work, and I thank everyone for their efforts.

Mr. RODRIGUEZ. Madam Speaker, I yield 2 minutes to the gentleman from Illinois (Mr. EVANS), the ranking Democrat.

Mr. EVANS. Madam Speaker, I rise to support the Veterans Health Care, Capital Asset and Business Improvement Act of 2003. I want to start out by thanking the gentleman from New Jersey (Mr. SMITH) again for his willingness to work closely with me and the Democratic members of the committee to develop this as a final package. Credit goes to the gentleman from Connecticut (Mr. SIMMONS) and the ranking member, the gentleman from Texas (Mr. RODRIGUEZ), for moving these measures to the floor today.

The bill anticipates the final approval of the CARES plan, identifying Congress's priorities requiring notification of major initiatives that come before the plan. I will continue to work behind the curtain and in front of the public to get this legislation passed.

The bill memorializes two great friends of mine: Bob Stump, who was an advocate for veterans throughout his career. We truly miss him not being on the committee anymore. He was a great American, and we salute his courage in standing up for what he believed in. Also, Jesse Brown, a veterans advocate as well, the former Secretary of Veterans Affairs for veterans. And we recognize these contributions of these two veterans with the passage of this bill.

This is a laudable effort for improving services for elderly and mentally-ill veterans. It strives to make VA the first choice. I am proud of the committee's work.

Madam Speaker, I rise to support the Veterans Health Care, Capital Asset and Business Improvement Act of 2003. I want to thank Chairman SMITH for his ongoing commitment to veterans and his willingness to work closely with us on the development of this final package.

There are many important provisions in this bill. I appreciate the good bipartisan work of Chairman SIMMONS and Ranking Member RODRIGUEZ in shepherding these measures from the Health Subcommittee to our consideration of a final conference package on the floor today.

This bill anticipates the final approval of the National Capital Asset Realignment for Enhanced Services (CARES) Plan. This Plan may set the framework for the first significant investment in the VA medical care system's infrastructure in several years. We are now way behind in making the needed investments—some estimate that the deficit is as high as $6 billion in delayed VA projects. VA's Phase I Study in VISN 12 has offered interested parties a view to the future under a CARES-like process. I had to look no further than upstate Illinois to see how the administration might handle the hundreds of new proposals it has on tap if most of the recommendations in the Draft CARES Plan are adopted.

The answers I received about the plan for VISN 12 were unsettling. This is particularly true since this Phase I study is the prototype for the larger National plan. VA planned to close one of the divisions of VA Chicago without sure funding for a modern new bed tower at the other division. This replacement facility was, in my view and many others, the linchpin to a successful integration. There are still no plans to develop the on-site multispecialty outpatient clinic veterans were promised.

This spring I introduced H.R. 2349 which authorized funds to construct the new bed tower at the West Side division of VA in Chicago. It also attempted to hold VA's feet to the fire to fund and build the new bed tower by prohibiting VA from disposing of the closed facility until it began construction on its replacement. Instead of the restrictions I put on VA in my bill, I have agreed to establish priorities for spending appropriations designated for CARES projects. This conference package gives the highest priority to facilities, such as West Side, that are needed to replace capacity at facilities that CARES will recommend closing, consolidating or converting in some fashion. It also gives high priorities to projects that remedy life safety and seismic deficiencies.

My bill contained additional projects that are worthy of our appropriators' consideration. It authorizes $48,600,000 for the correction of seismic deficiencies in San Diego, California, and $50,000,000 for medical care and research renovations in West Haven, Connecticut. My bill included lease authority for Las Vegas. We have since learned that VA's needs there may be evolving and settled on appropriating advance planning funds in the amount of $25,000,000 for a major medical facility project there.

The bill also adopts language inspired by a provision introduced by my friend from Kansas, DENNIS MOORE. His bill has tremendous and broad-based support in this body. The provision requires VA to notify Congress in writing of actions proposed under the CARES initiative that would result in medical facility closures, significant staff realignments or medical facility consolidations and prohibits VA from taking these actions before 45 days following the notification or 30 days of continuous session of Congress.

I plan to continue to look behind the CARES process to ensure that VA is making its decisions in the best interest of veterans—not the bottom line.

In addition to honoring my friend, the late Jesse Brown, the former Secretary ''for'' Veterans Affairs by naming the VA Medical Center (West Side Division) in Chicago for him, this final package will name the Prescott VA Medical Center for our Committee's former Chairman, and my personal friend, the late Bob Stump. We honor two true veterans' advocates with the passage of this bill, and I am pleased to be associated with it.

Madam Speaker, I am pleased that we are finally able to authorize VA to provide health care to certain Filipino World War II veterans of the Philippines Commonwealth Army and former Philippines ''New Scouts'' who permanently reside in the United States, in the same manner as provided to U.S. veterans. I commend my colleague, Mr. FILNER, for his persistence in seeing this to fruition.

Several years ago, my friend from California, MIKE THOMPSON, discovered that many veterans had participated in a series of dangerous tests to identify the military's ability to detect and protect itself from biological and chemical attacks. His doggedness led the military to admit responsibility for conducting these tests which involved spraying American troops with agents that were, in some cases, extremely potent. The ranking member of the Health Subcommittee, CIRO RODRIGUEZ, saw an opportunity to do some justice for these veterans by giving them access to VA health care for any condition for two years. This will allow these veterans to seek care for conditions they believe may be related to their exposures. I am pleased to support this provision.

This bill is laudable for improving services for elderly and mentally ill veterans. One provision allows VA authority to provide work skills training and development services, employment support services and job development and placement services as part of a more comprehensive rehabilitation package. This is likely to improve the therapeutic outcomes for seriously mentally ill veterans, homeless veterans and veterans with substance use disorders—those who can truly benefit from hands-on job coaching services. It extends authority for VA to provide properties foreclosed under its home loan program to nonprofit homeless service providers. VA has made extensive use of this authority and nonprofits have provided many nights of care to homeless veterans as a result.

The bill extend VA's authority to provide a range of non-institutional extended care services and a mandate to provide medically necessary, institutional nursing care services to severely service-connected disabled veterans through December 31, 2008. It allows VA to extend and add a site to its important pilot program on assisted living for veterans. It provides earmarked funding for specialized mental health services for veterans in each of the next three fiscal years. It also continues the reports of two important VA advisory groups who have made a series of solid recommendations to the Under Secretary for Health and the Congress about programs for seriously mentally ill veterans and veterans with post-traumatic stress disorder.

Finally, this bill strives to make VA an employer of choice. We have reached one of those rare compromises that seem to offer something to everyone by creating a new appointment and promotion authority for certain clinical personnel, such as clinical psychologists, social workers, audiologists, kinesiologists, and others in the Veterans Health Administration (VHA). This authority will allow these employees to enjoy some of the same protections other Federal workers have, but will also provide VA with greater hiring and promotion flexibility. Some health care workers, mostly nursing assistants, will enjoy Saturday premium pay under this bill. It will allow VA to appoint employees of the Veterans' Canteen Service taking into consideration their time in service in that capacity. We have offered VHA the authority to hire chiropractors to enhance the types of health care services it routinely offers veterans.

Madam Speaker, I am proud of the Committee's work on this bill and encourage all of my colleagues to approve it.

Mr. SMITH of New Jersey. Madam Speaker, I yield 2 minutes to the distinguished gentleman from Arizona (Mr. RENZI), a member of the committee, and a very active one at that.

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

Mr. RENZI. Madam Speaker, I want to begin by commending the chairman, the gentleman from New Jersey (Mr. SMITH), and the gentleman from Illinois (Mr. EVANS), the gentleman from Connecticut (Mr. SIMMONS), and the gentleman from Texas (Mr. RODRIGUEZ) for their hard work in crafting a comprehensive bill that gives great improvements to veterans health care programs.

It is imperative at this time especially that we honor the service of veterans and provide for the quality of life they have helped foster for their years of service to us and this Nation.

This bill ensures the VA health care system will continue to provide the highest quality health care services to our Nation's patriots.

I would like to take a minute to highlight a provision in this bill that honors the memory of a veteran that served in this body. Congressman Bob Stump dedicated his life to the service of this country, first in World War II as a Navy medic, then as an elected official in the State of Arizona, and also in the House of Representatives here in Washington.

Throughout his career, he devoted his efforts to taking care of men and women in uniform on and off the battlefield who committed themselves to defend this Nation and our Constitution. As the previous chairman of the House Committee on Veterans' Affairs, he worked for over 20 years in support of increased health care benefits for veterans and in strengthening the Montgomery GI Bill to allow veterans to have greater access to education and training.

This bill honors the legacy of Bob Stump and his steadfast commitment to veterans by renaming the Prescott Veterans Affairs Medical Center in Prescott, Arizona, the Bob Stump Veterans Affairs Medical Center.

I would like to thank members of his staff, Delores Dunn, Joanne Keeane, and Susan Hosinpellar, who continue to carry on the tradition of his service. It is they who brought forward this idea, along with the Arizona delegation who helped make it happen. It is a fitting tribute to one of our Nation's greatest heroes.

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

Mr. FILNER. Madam Speaker, I also rise in support of S. 1156 as it comes to the House.

As I said yesterday on the floor of the House and I will say again to the chairman of the Committee on Veterans' Affairs and the ranking member, the gentleman from New Jersey (Mr. SMITH) and the gentleman from Illinois (Mr. EVANS), if we take the benefits package that we passed yesterday and the health package that we will pass today, the sum together of these make this year one of the most productive years ever for benefits and health care for our Nation's veterans.

□ 1245

I want to congratulate our leadership on that.

Let me just speak quickly to two of the provisions in this bill. One of them provides access to the veterans medical facilities to all Filipino World War II veterans who legally reside in the United States. This is a benefit that comes from my bill, H.R. 664, and for which I have been fighting for many years, and I thank all the folks involved, the gentleman from Connecticut (Chairman SIMMONS), the gentleman from Texas (Ranking Member RODRIGUEZ), as well as Veterans' Affairs Secretary Principi for bringing this to the floor today.

The Filipino soldiers during World War II helped us win the war in the Pacific, and their brave, courageous stands in the epic battles of Bataan and Corregidor, their critical participation in guerrilla warfare that slowed up the Japanese advance, caused them to suffer greatly after the war when the Congress of 1946 deprived them of the very benefits in both health and benefits that they had been promised.

These veterans are now in their seventies and eighties. Their most urgent need is health care. So it is with great joy that I urge my colleagues to vote for this bill. It will restore dignity and honor to these brave veterans where over 50 years of injustice burns in their hearts. Their sons and daughters and they themselves, I know, are watching this floor today and are going to have great celebration when we pass this bill later on.

What we are saying here today is that these veterans are indeed United States veterans, and we are going to begin remedying the historical injustice that we inflicted upon them. We will make good on the promise of America for these brave veterans.

In addition, as has been mentioned, this bill contains major medical investments in many areas of this country, including San Diego, California. The average health care facility in the VA is more than 50 years old. So we have to update these buildings. The building in San Diego is in dire need of seismic correction, and it is one of 60 projects that the VA has identified that need these seismic corrections. So we cannot turn our heads away without acting any longer. We cannot continue to leave VA patients and employees in harm's way.

For all these reasons and more, I urge passage of Senate bill 1156.

Mr. SMITH of New Jersey. Mr. Speaker, because there have been so many requests for time on our side, as well as on the Democratic side, I ask unanimous consent that we extend this debate by 10 minutes equally divided between the minority and majority.

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

There was no objection.

Mr. SMITH of New Jersey. Mr. Speaker, I yield 2 minutes to the gentleman from Colorado (Mr. HEFLEY), the distinguished chairman of the Committee on Standards of Official Conduct.

Mr. HEFLEY. Mr. Speaker, let me tell my colleagues this is a good bill. This recognizes needs that have gone unmet for in some cases seems like generations, and I am not going to go through and describe the bill in its totality because other speakers have done it better than I can, but let me just say an area that I am particularly interested in is the authorization for the Secretary of Veterans' Affairs to enter into a contract in the amount of $26 million for the advance planning and engineering for the VA medical facility project at the former Fitzsimons Army Medical Center site in Aurora, Colorado.

As the gentleman from Connecticut (Mr. SIMMONS) said, the University of Colorado Hospital is moving to this new medical campus, which is really going to be something to see when it is completed, and they have cooperated with the veterans hospital over the years, and now to bring the veterans hospital out there with the savings

that goes with that, it is going to be a magnificent medical facility.

The VA Medical Center at Fitzsimons, with this co-location with the Colorado Health Sciences Center and University of Colorado Hospital will be a veteran-friendly, state-of-the-art medical campus providing veterans with highly specialized medical needs with easy access to the best diagnostic and treatment programs that America can provide for veterans anywhere in America.

The Denver Veterans Medical Center's relocation is a unique opportunity to provide solid and constructive solutions to the challenges of aging facilities issues and new facilities costs while providing enhanced quality of medical care for veterans.

I believe that co-locating the Denver Veterans Medical Center with the University of Colorado Hospital will achieve the goals of providing the most modern, comprehensive and cost-effective medical care that our Nation can provide our veterans.

Congress has a duty to provide the best medical care it can to our Nation's veterans, and we must always strive for the very best health care services it can by utilizing the most cost-effective measures available, and for this reason, I am very much in support of Senate bill 1156 and encourage my colleagues to vote for it.

I have said it before, and so I am being redundant, but I will say it again, no one cares more about the veterans of this Nation than the gentleman from New Jersey (Mr. SMITH) and the gentleman from Connecticut (Mr. SIMMONS), and they have just done a magnificent job of putting this bill together with the limitations we have. It is a wonderful bill.

Mr. RODRIGUEZ. Mr. Speaker, I yield 3½ minutes to the gentlewoman from Nevada (Ms. BERKLEY), a member of the committee.

Ms. BERKLEY. Mr. Speaker, I thank the gentleman from Texas for his leadership in this issue.

Mr. Speaker, I rise today in support of this legislation which contains so many worthwhile VA medical construction projects across the country, including a medical complex in southern Nevada. I would like to thank the gentleman from New Jersey (Mr. SMITH), the Committee on Veterans' Affairs chairman, and the gentleman from Illinois (Mr. EVANS), the ranking member, for working closely with me and other members on this important measure.

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

The VA is already struggling to address and meet the current demands on the VA health care structure in the Las Vegas valley. Last year, 1,500 southern Nevada veterans were sent to neighboring States because we could not provide the needed services locally. This is a terrible burden on those veterans and their families. They should not have to travel hundreds of miles across the country for needed care.

In addition, due to the decrepit conditions and structural deficiencies, the VA evacuated the Addelier D. Guy VA Clinic in Las Vegas after only 5 years in operation, forcing veterans to rely on a string of temporary clinics scattered across the Las Vegas Valley. I cannot tell my colleagues what a travesty it is when I see 80-year-old veterans waiting for a shuttle in 110 degree temperature in the middle of Las Vegas summers, waiting for a shuttle to pick them up to take them from one location to another for their health care needs. It is a horrible sight to see and must be corrected as quickly as possible.

In short, southern Nevada is facing a veterans health care crisis. Recently, the Department of Veterans' Affairs released the CARES document which proposes $4.6 billion worth of VA construction projects across the country. The CARES initiative directs funding to construct new facilities in areas where veterans populations are growing such as the Las Vegas Valley. Because of the explosive growth in the number of veterans living in and around Las Vegas, the CARES initiative calls for the construction of a full-scale medical facility, including a full-service patient care hospital and outpatient clinic and a comprehensive long-term care nursing facility of which we have none of those.

To fully understand the current health and medical care needs of the 5 million veterans and veteran services that will be needed in the next 20 years, the CARES Commission evaluated the plan and heard testimony in 38 public hearings across the country, including Las Vegas, from veterans, Members of Congress, VA employees, local government officials and veteran service groups. I commend the work of the CARES Commission. This process was done with our veterans squarely in mind, focused not only on those areas that have multiple facilities but also on the fastest growing regions, like southern Nevada, which lack the facilities needed to keep pace with the sudden influx of veterans from other areas of the country. Any plan to address shortcomings in veterans' care must reflect the need to expand services in areas where our veterans live.

This bill that I speak of, and that we are here today to discuss, authorizes the Secretary of the VA to provide $25 million to carry out the advance planning of a full-scale VA medical complex in Las Vegas, Nevada, as outlined through the draft of the CARES plan. This authorization is the first step in addressing the health care crisis of the veterans in southern Nevada.

I urge my colleagues to support this legislation. I cannot tell my colleagues how important it is to the veterans across the country.

Mr. SMITH of New Jersey. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Colorado (Mr. BEAUPREZ), who along with the gentleman from Colorado (Mr. HEFLEY) worked very, very hard for the Fitzsimons Hospital, and I am very grateful for their help.

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

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

Mr. Speaker, I am proud to speak today in support of the Veterans Health Care Capital Asset and Business Improvement Act of 2003.

Like many systems in the VA, the Denver Medical Veterans Center in Colorado was constructed about 50 years ago primarily to provide low-volume inpatient care to our veteran population in Colorado. Today, we have an opportunity to provide health care in a much more efficient manner.

This legislation, as has already been mentioned, will allow for the relocation of the VA hospital to the new Fitzsimons campus. Such relocation would allow for a modern facility to deliver modern health care on a state-of-the-art medical campus. The VA would be able to continue the synergistic University of Colorado partnership which will provide numerous operational efficiencies, as well as access to an extensive staff of doctors, technicians and specialists. S. 1156 would authorize this critical relocation.

It is my belief that the savings in operational efficiencies at Fitzsimons in itself will pay for the construction of the new hospital. Construction of a new hospital at Fitzsimons also allows for the ability to build a much-needed spinal cord injury center.

This new hospital and the strengthened partnership holds potential for cutting edge enhancements in veteran health care through collaborative research with the university. The unparalleled quality of health care that will be afforded to our veterans with this unique partnership is not something that we should deny our veterans. In addition to the university and the VA, this legislation authorizes the DOD to join the Fitzsimons VA partnership to provide health care to the nearby Buckley Air Force Base. Many of us believe that the new Fitzsimons VA Hospital may become a new model for delivery of health care for our veteran population.

Regardless of where our veterans happen to live, they deserve the best care possible, and as the House votes today on this measure, I ask that we all keep in mind the long-term planning mission of the VA, which is to improve access to and the quality and

cost-effectiveness of veteran health care.

I want to particularly thank and commend my colleagues, the gentleman from Colorado (Mr. HEFLEY), especially the gentleman from New Jersey (Mr. SMITH), the chairman; and the gentleman from Connecticut (Mr. SIMMONS), subcommittee chairman; the gentleman from Texas (Mr. RODRIGUEZ), the subcommittee ranking member, and the gentleman from Illinois (Mr. EVANS), the ranking member, for their passionate, unrelenting service on behalf of our veterans and for bringing this legislation to the floor. I commend them, and I also thank my colleagues in the other body for looking favorably on this critical project. I strongly support the passage of S. 1156.

Mr. Speaker, I am proud to speak today in support of S. 1156, the Veterans Health Care Capital Asset and Business Improvement Act of 2003. Many facilities in the VA healthcare system are run-down, decrepit buildings that are not conducive to providing quality healthcare to our veterans.

The Denver Veterans Medical Center in Colorado was constructed about 50 years ago primarily to provide low-volume inpatient care to our veteran population. In Colorado today, we have an opportunity to provide health care in a much more efficient manner.

The Denver Veterans Medical Center in its decaying state is faced with two main alternatives with regard to their facility. The first alternative is to invest in the renovation of this facility to make it capable of handling the medical needs of our current veteran population, and the changing needs of that population over the next 20 years. After such a renovation, not only would the VA still be left with a 50-year old buildings, but it would also be an orphaned medical center, as the University of Colorado Health Science Center—the VA partner for 50 years—is relocating to the redeveloping Fitzsimons Army Base.

The second alternative is to relocate the VA Hospital to the new Fitzsimons campus, as well. Such relocation would allow for a modern facility to deliver modern health care on a state of the art medical campus. The VA would be able to continue the synergistic University of Colorado partnership, which will provide numerous operational efficiencies as well as access to an extensive staff of doctors, technicians, and specialists. S. 1156 would authorize this critical relocation.

It is my belief that the savings in operational efficiencies at Fitzsimons in itself will pay for the construction of the new hospital. Construction of a new hospital at Fitzsimons also allows for the ability to build a much-needed Spinal Cord Injury center.

One final reason construction of a new VA hospital at Fitzsimons is a better option, lies in the hospital's potential for cutting-edge enhancements in veteran health care through collaborative research with the university. The unparallel quality of healthcare that will be afforded to veterans with this unique partnership is not something we can deny to our veterans. Additionally, this legislation authorizes the DOD to join in the Fitzsimons VA partnership to provide healthcare to the nearby Buckley Air Force Base. Many of us believe that the new Fitzsimons VA Hospital may become a new model for delivery of healthcare for our military veterans.

Regardless of where our veterans happen to live, they deserve the best care possible. As the House votes on this measure today, I ask that we all keep in mind the long-term planning mission of the VA: "to improve access to, and the quality and cost effectiveness of, veterans health care." I would like to thank my colleagues Mr. HEFLEY, Chairman SMITH and Chairman SIMMONS for their leadership on their efforts to bring this measure to the floor. I also thank my colleagues in the other body for looking favorably on this critical project. I strongly support S. 1156 and hope my colleagues will join me in passing this important legislation.

Mr. RODRIGUEZ. Mr. Speaker, I yield 3 minutes to the gentlewoman from California (Ms. MILLENDER-MCDONALD).

Ms. MILLENDER-MCDONALD. Mr. Speaker, I rise in strong support of the Department of Veterans Affairs Long-Term Care and Personnel Authorities Enhancement Act of 2003. I would like to thank the gentleman from New Jersey (Chairman SMITH) and the gentleman from Illinois (Ranking Member EVANS) for their commitment to veterans issues and their steadfast leadership and dedication to those men and women who have served us admirably in this country and throughout the world.

I want to also thank the gentleman from Connecticut (Mr. SIMMONS), subcommittee chair, and the gentleman from Texas (Mr. RODRIGUEZ), the ranking member, for their dedication and leadership. They are all steadfast in ensuring that veterans have their proper stay in terms of care.

Another person who has worked tirelessly for the committee and for Filipino veterans is my colleague and friend from California (Mr. FILNER). His commitment and resolve has been stellar on behalf of these veterans whom we both serve.

□ 1300

This bill, Mr. Speaker, is a long time coming. There are many, many good measures in this bill. I applaud the committee for doing good and timely work.

Mr. Speaker, addressing the current and future needs of our veterans must continue to be a national top priority. There is one important measure in this bill, though, that has been particularly close to me for the past several years. I want to applaud and thank members of the Committee on Veterans' Affairs for including the authorization to provide hospital and nursing home care and medical services to Filipino World War II veterans of the Philippines Commonwealth Army and former Philippines New Scouts in the same manner that is provided for other U.S. veterans and who reside permanently in the United States.

Currently, there are 11,000 World War II Filipino veterans who are citizens or legal residents of the United States. Many of these brave veterans are in their seventies and eighties and in desperate need of health benefits, and I am proud to represent many of them in my district. Passage of this language provides health benefits to these brave men, as well as benefiting our communities across the country.

I represent a district with approximately 35,000 Filipinos, the largest population of Filipino veterans in America. And for several years now, I have put my heart and soul into the welfare of many Filipino veterans who have asked me to help them in their struggle for recognition and equity in acquiring benefits.

I have witnessed firsthand how providing these long overdue health benefits will affect our families, our neighborhoods, our friends and, ultimately, our communities. I urge my colleagues to support this very important legislation on behalf of all of our veterans, and especially these Filipino veterans who have waited long enough.

Finally, I want to commend the committee on H.R. 2297, the Veterans Benefit Act of 2003, which passed the floor last night. This legislation addressed many issues that are also very important to the Filipino community. H.R. 2297 included language that extended eligibility for burial in the National Cemeteries to new Filipino scouts.

For this, Mr. Speaker, and for all other reasons and the great provisions of this bill, I want to thank the committee, and especially thank the Secretary of Veterans Affairs, Secretary Principi, for his leadership and guidance.

Mr. SMITH of New Jersey. Mr. Speaker, I yield 1 minute to my good friend, the gentleman from Nevada (Mr. GIBBONS).

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

Mr. GIBBONS. Mr. Speaker, in honor of our former friend and colleague, a World War II veteran, the veterans' great friend across this country, the late Bob Stump, I rise in strong support of this legislation, S. 1156, the Department of Veterans Affairs Long-Term Care and Personnel Authorities Enhancement Act of 2003. I want to add my voice in support of those who have already spoken in support of this legislation.

This bill goes a long way in providing our Nation's veterans with the medical care that they have earned and deserve. The long-term health care that this bill provides communities across the country, including southern Nevada, is desperately needed. Southern Nevada, as you have already heard, has one of the highest, fastest-growing veterans populations in the country; and their needs have far outstrip the current care capacity of the current VA facilities in the area.

Fulfilling the current and future health care needs of our veterans must remain a high priority. I applaud the commitment of our colleagues in the House, especially the Nevada delegation, in meeting the needs of Nevada's veterans. I also applaud the work of my

colleagues in the other Chamber on this bill.

I urge my colleagues in the House to support S. 1156. The assistance it provides to Nevada's veterans and veterans across this country is long overdue.

Mr. RODRIGUEZ. Mr. Speaker, I yield 3 minutes to the gentleman from California (Mr. THOMPSON), who has been in the forefront of the issue of Project SHAD and Project 112.

Mr. THOMPSON of California. Mr. Speaker, I thank the ranking member for yielding me time.

Mr. Speaker, I rise today in support of this bill. It includes a number of provisions that are of critical importance to our veterans community. One such inclusion is based on the bill authored by the gentleman from Texas (Mr. RODRIGUEZ) that would provide health care free of charge to veterans who participated in what are known as Project 112 and Project SHAD. These projects were a series of over 100 tests that subjected our servicemen and our servicewomen to harmful chemical and biological agents and possibly to decontaminates now believed to be harmful. While we still have a long way to go in getting to the bottom of this issue, this bill provides important care to our veterans who, in many cases, unknowingly participated in these trials. I commend the gentleman from Texas (Mr. RODRIGUEZ) and the other members of the committee for working to provide for this critical health care provision.

My own experience with this came when a constituent of mine called and said that he had participated in Project SHAD. He and a number of his shipmates now have cancer, and he wanted help.

After 3 years of investigation, the Department of Defense revealed last year that these tests involved live agents, in some cases, VX nerve gas, sarin nerve gas, and E. coli. The Department of Defense describes VX as one of the most lethal substances ever synthesized, and sarin, as we all know, was used in that tragic terrorist attack, not only tragic, but deadly terrorist attack, on the Tokyo subway a few years ago. We put at least 5,000 of our servicemembers at risk by exposing them to these hazardous agents.

We have a duty to rectify this disgraceful conduct on the part of the Department of Defense. Project 112 and Project SHAD and similar cases of chemical and biological testing involving servicemembers are issues of trust and integrity. Our military personnel put their trust in our government to protect them, and our integrity has been compromised because, nearly 40 years later, we are still not protecting them.

I urge all Members of this House to vote for this bill and take one step towards renewing this trust in our veterans, whom we so respect and so depend upon.

Mr. SMITH of New Jersey. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Nebraska (Mr. OSBORNE).

Mr. OSBORNE. Mr. Speaker, I would like to especially thank the gentleman from New Jersey (Chairman SMITH), the gentleman from Connecticut (Chairman SIMMONS), and the gentleman from Texas (Mr. RODRIGUEZ) for their work on this bill. It is an excellent piece of legislation.

Mr. Speaker, the biggest veterans health care issue in my district, which is largely rural, is access. We have a great many veterans who are driving hundreds of miles and sometimes many hours to a clinic; and as a result, many of them, particularly the oldest and the sickest, simply cannot get there. They do not have access. Also, of course, they are facing waiting lists sometimes of several months.

Mr. Speaker, what I did was I submitted legislation to provide vouchers for health care to local hospitals. That legislation is not in this particular bill. However, this legislation expresses the sense of Congress that the Secretary of Veterans Affairs should take steps to ensure that an appropriate mix of facilities and clinical staff is available for health care for veterans residing in rural areas. I really applaud members for getting that in there, because I think that is badly needed.

In addition, the legislation also contains a requirement that 120 days after the date of enactment of this legislation, the Secretary of Veterans Affairs shall submit to the Committee on Veterans' Affairs of the Senate and the House a report describing the steps the Secretary is taking to improve access to health care for veterans residing in rural areas.

So I applaud Members for getting that in there and also requiring at least a 120-day report. We appreciate this. I would like to thank my colleagues for including these important provisions, and thank them for this bill. I urge support.

Mr. RODRIGUEZ. Mr. Speaker, I yield 2 minutes to the gentleman from Texas (Mr. ORTIZ), whom we consider our dean, who is also responsible for some of this legislation.

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

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

Mr. Speaker, this bill requires a plan for in-patient services for veterans in south Texas by January 31, 2004, either through VA or through contracts with private hospitals.

Of course, I would like to thank my good friend, the gentleman from Ohio (Mr. HOBSON), for his help in finding more health services for our veterans; and also my good friend, the gentleman from New Jersey (Chairman SMITH); the gentleman from Illinois (Chairman SIMMONS), my good friend; the gentleman from Illinois (Mr. EVANS); and, of course, the gentleman from Texas (Mr. RODRIGUEZ), who intervened at a critical point to ensure south Texas was kept in this bill.

In my district I have four military installations. Through the years, we know what happens when a veteran gets ready to retire. What he does is he moves close to a military installation. Well, in this case the hospital that we had was shut down several years ago. But now under this bill and with this contract that they are talking about, opening up for in-patient care, it gives hope to the veterans who live in the area.

Mr. Speaker, we have veterans from the Second World War and the Korean War. Some of them are bed-ridden, and it takes 6 to 7 hours for them to go to the nearest VA hospital, which happens to be in San Antonio. I think that part of the healing process is the idea of being close to your family. But when you are removed from your family and have to travel and take that patient away from his family to a point that is 200 to 300 miles away, it does not work.

They deserve no less than this. The Lord knows that these VA patients and veterans have waited for a long, long time.

I am glad that this bill is also honoring my good friend that I got to know for a long time, Bob Stump from Arizona. I am glad that we are honoring his memory.

Please, I ask my friends to vote for this bill.

Mr. SMITH of New Jersey. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Florida (Mr. MILLER), and thank him for the great work he did on the Pensacola Outpatient Clinic, the $45 million that he was instrumental in putting in there.

Mr. MILLER of Florida. Mr. Speaker, I will not say many of the things that a lot of my colleagues have already said on the floor today, but I do want to say thank you to our chairman, the gentleman from New Jersey (Mr. SMITH), our subcommittee chairman, the gentleman from Illinois (Mr. SIMMONS), and certainly the ranking member. In fact, I thank all the members of the Committee on Veterans' Affairs on both sides of the aisle.

I want to say that the first district of Florida probably includes some of the most striking examples of access to care challenges that this country ever had. I have almost 100,000 veterans that live in the Panhandle. All of them are eligible to receive health care through the VA. Pensacola ranks in the top 10 in veteran populations in the Nation, and Fort Walton Beach tops that list.

Despite these numbers, our community-based outpatient clinic in Pensacola treats twice the number of Panhandle veterans than it was designed to do. Veterans in Fort Walton and farther east must travel to the other side of Eglin Air Force Base, which spans over 700 square miles in the middle of my district, in order to even reach the Pensacola clinic. For VA in-patient care, all of my patients must go to Biloxi, Mississippi, a trip upwards of 200 miles for some of my residents.

I would say in VA's budget submission for this fiscal year, the Pensacola facility was described as ''obsolete.'' This description does not even come close to painting an accurate picture of the crowded and totally inadequate facility. The time to move forward on providing a new facility is now, and this bill sets the pace.

I am proud that the Naval Hospital Pensacola has been ahead of the bell curve on the implementation of co-sharing agreements, as has the 96th Medical Group at Eglin Air Force Base. Whereas both facilities have the potential to set the pace for the rest of the Nation in regards to issues of VA and DOD resource-sharing, the CARES Commission report acknowledges this in its ''highest priority project request'' for land to build a replacement Pensacola clinic at the Naval Hospital Pensacola, with the Navy to provide contract hospitalization for medicine and surgical care.

This bill, Mr. Speaker, underscores the solidarity amongst all stakeholders in this endeavor. I would say that nothing makes me prouder than to represent the veterans of northwest Florida, and I urge my colleagues to support S. 1156.

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

Mr. Speaker, let me take this opportunity, first of all, to thank the gentleman from New Jersey (Chairman SMITH) and the gentleman from Illinois (Chairman SIMMONS) for their hard work on this particular bill.

I also want to take time to also recognize our leading Democrat, the gentleman from Illinois (Mr. EVANS), for his hard work on this specific bill. I also want to take this opportunity to thank all the Members who participated to make this happen, such as the gentleman from Texas (Mr. ORTIZ) and the gentleman from California (Mr. THOMPSON), as well as those on the Republican side.

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

□ 1315

Mr. SMITH of New Jersey. Mr. Speaker, I yield 1 minute to the gentleman from Ohio (Mr. TIBERI), and thank the gentleman for his work on the Columbus, Ohio project which has advance planning funds to the tune of $9 million in this bill.

Mr. TIBERI. Mr. Speaker, I am very disappointed that this final bill does not fully authorize a new veterans health care facility in central Ohio, as was done in the House bill we approved earlier this year, thanks to the hard work by the gentleman from Ohio (Chairman HOBSON), my central Ohio colleague; but as importantly, the gentleman from New Jersey (Chairman SMITH) and the subcommittee chairman, the gentleman from Connecticut (Mr. SIMMONS), who worked extremely hard to get that commitment in the bill that we passed here, a facility badly in need of expansion. That $90 million represented a beginning-to-end commitment that this House made. This bill before us includes only $9 million for planning purposes. That cut was made by the other body, and is something that we in the House knew nothing about, were not consulted with, and we are stuck with the version before us today.

The money included in this bill for the new central Ohio veterans' facility is a start for an area long underserved by the veterans administration, but it is only a start. I want to assure the veterans community in central Ohio that I am committed to finishing the job and making a new expanded health care facility a reality in the years to come.

Mr. SMITH of New Jersey. Mr. Speaker, I yield 1 minute to the gentleman from Connecticut (Mr. SIMMONS).

Mr. SIMMONS. Mr. Speaker, I would like to briefly respond to the gentleman from Ohio (Mr. TIBERI) to say that it is a start, it is a good start, and we are going to be with the gentleman all the way. I look forward to coming to Ohio with Secretary Principi to visit the facility.

I would also like to thank the subcommittee staff director, John Bradley, and the minority staff director, Susan Edgerton for their hard work, and I would like to make a comment. Over 100 years ago, the U.S. Marine Corps was dispatched to China to relieve the diplomatic legations in that country that were under great pressure from the Boxer Rebellion, and when they came back, they adopted the term ''gung-ho.'' To be gung-ho, to be enthusiastic, to be filled with vigor for something. But the term ''gung-ho'' comes from the Chinese. I see the gentleman from Illinois (Mr. EVANS) is smiling, he probably knows, which means work together.

Under the leadership of the chairman and the ranking member, we have worked together on this legislation, and we have accomplished something that we have not accomplished for 5 years, which is an authorization bill, hopefully, heading to the White House for the President's signature.

Mr. SMITH of New Jersey. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, first of all, I thank the gentleman from Illinois (Mr. EVANS). Again, we have collaborated on a bill working with the subcommittee chairman, the gentleman from Connecticut (Mr. SIMMONS), and the ranking member, the gentleman from Texas (Mr. RODRIGUEZ), and we have produced an extraordinarily good piece of legislation.

We worked with the other body, and I want to thank Senator ARLEN SPECTER, the chairman, and the ranking member, Senator GRAHAM. There was give and take, obviously. We began working on this very comprehensive product last spring. Again, this is a combination of a number of bills rolled and packaged into one bill. Project Shad was mentioned earlier by my colleague from California, and the gentleman from Texas (Mr. RODRIGUEZ) mentioned it as well. This bill is not everything we would like. The next time I find a bill on this floor that is will be the first time.

We did pass over to the other body the full money for the Columbus project, and we got back advance planning funding from the other body. While it is not everything we wanted, it certainly will ensure that that project goes forward. The $9 million is not chump change and will be sufficient to get the job done. I want to assure my colleagues we have done our due diligence. This is a very good piece of veterans legislation.

I want to thank our staff, Pat Ryan; John Bradley, who is the staff director for the subcommittee; Kingston Smith, our deputy chief counsel; Jeannie McNally; Mary McDermott; Peter Dickinson; Steve Kirkland; Bernie Dotson; Summer Larson; Kathleen Greve; Delores Dunn; Paige McManus; Devon Seibert; and Veronica Crowe. As my colleague mentioned, we have had great cooperation with our friends on the other side of the aisle.

Again, this is a quintessential bipartisan piece of legislation, something that this entire body can be proud of, and it will advance the ball significantly when it comes to veterans health care as well as the construction project.

Let me also remind my colleagues that we have passed over to the other body H.R. 11 and another bill that I sponsored and a bill that the gentleman from Kansas (Mr. MORAN) sponsored in the last Congress, and they never came back. They listed a number of projects that should have but did not get funded and were not authorized. Now, finally in this Congress, under the great leadership of the gentleman from Connecticut (Mr. SIMMONS), we have gotten that product back from the Senate, and it will go to President Bush for his signature. This is a great day for veterans. Again, I thank all of my colleagues for their cooperation and leadership.

Mr. Speaker, I include for the RECORD a joint explanatory statement.

EXPLANATORY STATEMENT ON S. 1156, AS AMENDED, VETERANS HEALTH CARE, CAPITAL ASSET, AND BUSINESS IMPROVEMENT ACT OF 2003

S. 1156, as amended, the Veterans Health Care, Capital Asset, and Business Improvement Act of 2003 (''Compromise Agreement'') reflects a negotiated agreement reached by the Senate and House of Representatives Committees on Veterans' Affairs concerning provisions in a number of bills considered by the House and Senate during the 1st session of the 108th Congress. The measures considered in this compromise are: S. 1156, as amended, as reported by the Senate Committee on Veterans' Affairs on November 10, 2003; S. 1815 introduced on November 4, 2003 (''Senate Bill''); H.R. 2357, as amended, passed the House on July 21, 2003; H.R. 2433,

as amended, passed the House on September 10, 2003; H.R. 1720, as amended, passed the House on October 29, 2003; H.R. 3260, as introduced in the House on October 8, 2003; and H.R. 3387, as introduced in the House on October 29, 2003 (''House Bill'').

The House and Senate Committees on Veterans' Affairs have prepared the following explanation of the Compromise Agreement. Differences between the provisions contained in the Compromise Agreement and the related provisions of the Senate bill and the House bills are noted, except for clerical corrections, conforming changes made necessary by the Compromise Agreement, and minor drafting, technical, and clarifying changes.

TITLE I—HEALTH CARE AUTHORITIES AND RELATED MATTERS

IMPROVED BENEFITS FOR FORMER PRISONERS OF WAR

Current Law

Section 1712 of title 38, United States Code, authorizes outpatient dental services and related dental appliances to veterans who are former prisoners of war (POWs) if they were detained or interned for a period of at least 90 days.

Section 1722A of title 38, United States Code, requires veterans who are not service-connected with a disability rated at more than 50 percent or eligible for pensions under section 1521 of title 38, United States Code, to make copayments for medications.

Senate Bill

The Senate Bill contains no comparable provision.

House Bill

Section 3 of H.R. 3260 would authorize veterans who are former POWs to receive outpatient dental care, irrespective of the number of days held captive, and would exempt former POWs from the requirement to make copayments on outpatient prescription medications.

Compromise Agreement

Section 101 of the Compromise Agreement follows the House language.

PROVISION OF HEALTH CARE TO VETERANS WHO PARTICIPATED IN CERTAIN DEPARTMENT OF DEFENSE CHEMICAL AND BIOLOGICAL WARFARE TESTING

Current Law

There is no comparable provision in current law.

Senate Bill

The Senate Bill contains no comparable provision.

House Bill

Section 2 of H.R. 2433, as amended, would authorize the Department of Veterans Affairs (''VA'' or ''Department'') to provide higher priority health care to veterans who participated in Project Shipboard Hazard and Defense (SHAD), Project 112 or related land-based tests conducted by the Department of Defense Deseret Test Center, from 1962 through 1973, without those veterans needing an adjudicated service-connected disability to establish their priority for care.

Compromise Agreement

Section 102 of the Compromise Agreement follows the House language.

ELIGIBILITY FOR DEPARTMENT OF VETERANS AFFAIRS HEALTH CARE FOR CERTAIN FILIPINO WORLD WAR II VETERANS RESIDING IN THE UNITED STATES

Current Law

Section 1734 of title 38, United States Code, establishes that veterans of the Commonwealth Army and New Philippine Scouts residing legally in the United States are eligible for VA health care services for the treatment of service-connected disabilities and, in the case of Commonwealth Army veterans, for non-service-connected conditions if they are in receipt of disability compensation.

Senate Bill

Section 421 of S. 1156 contains a similar provision.

House Bill

Section 3 of H.R. 2357, as amended, would authorize VA health care for additional World War II Filipino veterans who reside legally in the United States. These veterans of the Commonwealth Army and new Philippine Scouts, would be subject to the same eligibility and means test requirements as U.S. veterans. The House bill would require the Secretary of Veterans Affairs (''Secretary'') to certify each fiscal year that sufficient resources are available at the VA health care facilities where the majority of these veterans would seek care.

Compromise Agreement

Section 103 of the Compromise Agreement follows the House language, except the Compromise Agreement does not include the resource availability certification requirement.

ENHANCEMENT OF REHABILITATIVE SERVICES

Current Law

Chapter 31 of title 38, United States Code, authorizes VA to provide vocational rehabilitation services. VA is authorized under chapter 17 of title 38 to offer medical care and compensated work therapy to certain veterans.

Senate Bill

The Senate Bill contains no comparable provision.

House Bill

Section 3 of H.R. 3387 would authorize the Secretary to provide therapeutic employment support services (i.e., skills training and development services, employment support services, and job development and placement services) to patients in need of rehabilitation for mental health disorders, including serious mental illness and substance use disorders.

Section 3 of H.R. 3387 would also authorize VA to use funds in the Special Therapeutic and Rehabilitation Activities Fund (STRAF) authorized under section 1718(c) of title 38, United States Code, to furnish such therapeutic employment support services.

Compromise Agreement

Section 104 of the Compromise Agreement follows the House language.

ENHANCED AGREEMENT AUTHORITY FOR PROVISION OF NURSING HOME CARE AND ADULT DAY HEALTH CARE IN CONTRACT FACILITIES

Current Law

Section 1720 of title 38, United States Code, authorizes VA to contract for the provision of nursing home care and adult day health care for certain veterans and members of the Armed Forces.

Senate Bill

Section 102 of S. 1156 would expand VA's authority to enter into relationships based upon ''provider agreements'' with Centers for Medicare and Medicaid Services (CMS)-certified, small, community-based nursing homes and non-institutional extended care providers, by permitting VA to use provider agreements similar to those used by CMS.

House Bill

The House Bill contains no comparable provision.

Compromise Agreement

Section 105 of the Compromise Agreement generally follows the Senate language.

FIVE-YEAR EXTENSION OF PERIOD FOR PROVISION OF NONINSTITUTIONAL EXTENDED-CARE SERVICES AND REQUIRED NURSING HOME CARE

Current Law

Section 1701(10)(A) of title 38, United States Code, requires VA to provide noninstitutional extended care services to enrolled veterans. In addition, section 1710A(c) of title 38, United States Code, requires VA to provide nursing home care to high-priority veterans in need of care.

Senate Bill

Section 101 of S. 1156 would extend the authorities for noninstitutional extended care and required nursing home care through December 31, 2008.

House Bill

Section 2 of H.R. 3260 would extend the authorities for the noninstitutional extended care services and required nursing home care to December 31, 2008. The report required under section 101 of Public Law 106–117 would be extended until January 1, 2008.

Compromise Agreement

Section 106 of the Compromise Agreement follows the House language from subsection 2(a) and (b) of H.R. 3260.

EXPANSION OF DEPARTMENT OF VETERANS AFFAIRS PILOT PROGRAM ON ASSISTED LIVING FOR VETERANS

Current Law

Section 103(b) of Public Law 106–117 authorizes the establishment of a pilot program in one VA geographic health care region to provide assisted living services to veterans.

Senate Bill

Section 103 of S. 1156 would authorize the establishment of one additional assisted living pilot program for three years from the commencement of the provision of assisted living services under the program.

House Bill

The House Bill contains no comparable provision.

Compromise Agreement

Section 107 of the Compromise Agreement follows the Senate language.

IMPROVEMENT OF PROGRAM FOR PROVISION OF SPECIALIZED MENTAL HEALTH SERVICES TO VETERANS

Current Law

Section 116(c) of Public Law 106–117 provides funding in the amount of $15,000,000 for specialized mental health services in fiscal years 2004, 2005 and 2006.

Senate Bill

Section 104 of S. 1156 would increase the funding authorization for these specialized mental health services from $15,000,000 to $25,000,000, and would specify allocation of these funds outside the Veterans Equitable Resource Allocation system.

House Bill

The House Bill contains no comparable provision.

Compromise Agreement

Section 108 of the Compromise Agreement follows the Senate language.

TITLE II—CONSTRUCTION AND FACILITIES MATTERS

Subtitle A—Program Authorities

INCREASE IN THRESHOLD FOR MAJOR MEDICAL FACILITY CONSTRUCTION PROJECTS

Current Law

Section 8104(a)(3) of title 38, United States Code, defines a major medical facility project as a project for construction, alteration, or acquisition of a medical facility involving a total expenditure of more than $4,000,000.

Senate Bill

Section 201 of S. 1156 would raise the threshold for major medical facility projects from $4,000,000 to $9,000,000.

House Bill

Section 7 of H.R. 1720, as amended, would raise the threshold for major medical facility projects from $4,000,000 to $6,000,000.

Compromise Agreement

Section 201 of the Compromise Agreement would raise the threshold for major medical facility projects from $4,000,000 to $7,000,000.

ENHANCEMENTS TO ENHANCED-USE LEASE AUTHORITY

Current Law

Section 8162 of title 38, United States Code, authorizes the Secretary to enter into enhanced-use leases of Veterans Health Administration (VHA) real property under the jurisdiction of the Secretary.

Senate Bill

The Senate Bill contains no comparable provision.

House Bill

Section 4 of H.R. 3260 would extend the jurisdiction of this authority to the Veterans Benefits Administration (VBA) and National Cemetery Administration (NCA), for properties of these Administrations under the control of the Secretary. Further, the bill would streamline the process and notification requirements and allow proceeds from an enhanced-use lease to be credited to accounts for use by VHA, VBA or NCA as appropriate. The bill would allow individual VA facilities to be reimbursed for the expenses incurred by the development and execution of enhanced-use leases.

Compromise Agreement

Section 202 of the Compromise Agreement adopts the provisions of the House bill which streamline the approval process for enhanced use leases in VHA. The provisions concerning the expansion of this authority to properties of NCA and VBA have been omitted due to mandatory spending concerns.

SIMPLIFICATION OF ANNUAL REPORT ON LONG-RANGE HEALTH PLANNING

Current Law

Section 8107 of title 38, United States Code, requires VA to submit annually a report regarding the long-range health planning of the Department. Included in that report is a five-year strategic plan for the provision of health care services to veterans, a plan for the coordination of care among the geographic health care regions of the Department, a profile of each such region, any planned changes to the mission of any medical facility of the Department, and a listing of the 20 VA major medical facility projects with the highest priority.

Senate Bill

The Senate Bill contains no comparable provision.

House Bill

Section 7(d) of H.R. 3260 would change the report date on the Annual Report on Long-Range Health Planning to June 1 of each year.

Compromise Agreement

Section 203 of the Compromise Agreement rescinds section 8107(b)(3) and (4) of title 38, United States Code, to simplify the required report by removing the detailed prescription of its content.

Subtitle B—Project Authorizations

AUTHORIZATION OF MAJOR MEDICAL FACILITY PROJECTS

Current Law

Section 8104(2) of title 38, United States Code, requires Congressional authorization of any VA major medical facility construction project.

Senate Bill

Section 211 of S. 1156 would authorize the following major construction projects:

Location	Purpose	Cost
Lebanon, PA	New Long-Term Care Facility	$14,500,000
Beckley, WV	New Long-Term Care Facility	20,000,000

House Bill

Section 3 of H.R. 1720, as amended, would authorize the following major construction projects:

Location	Purpose	Cost
Chicago, IL	New Inpatient Bed Tower	$98,500,000
San Diego, CA	Seismic Corrections, Building 1.	48,600,000
West Haven, CT	Renovate Inpatient Wards & Consolidate Research Facilities.	50,000,000
Columbus, OH	New Medical Facility	90,000,000
Pensacola, FL	New VA-Navy Joint Venture Outpatient Clinic.	45,000,000

Compromise Agreement

Section 211 of the Compromise Agreement authorizes the major construction projects for Lebanon, Pennsylvania; Beckley, West Virginia; Chicago, Illinois; San Diego, California; West Haven, Connecticut; and Pensacola, Florida.

AUTHORIZATION OF MAJOR MEDICAL FACILITY LEASES

Current Law

Section 8104 of title 38, United States Code, requires Congressional authorization of any VA medical facility lease with an annual lease payment of more than $600,000.

Senate Bill

Section 212 of S. 1156 would authorize the following leases:

Location	Purpose	Cost
Denver, CO	Relocate Health Administration Center.	$4,080,000
Pensacola, FL	Relocate Outpatient Clinic	3,800,000
Boston, MA	Extend Outpatient Clinic	2,879,000
Charlotte, NC	Relocate Outpatient Clinic	2,626,000

House Bill

Section 3 of H.R. 1720, as amended, would authorize the following leases:

Location	Purpose	Cost
Charlotte, NC	Outpatient Clinic	$3,000,000
Clark County, NV	Multi-specialty Outpatient Clinic.	6,500,000
Aurora, CO	Regional Federal Medical Center.	30,000,000

Compromise Agreement

Section 212 of the Compromise Agreement authorizes the leases for Charlotte, North Carolina; and Boston, Massachusetts.

The Compromise Agreement contains the provision of Section 211 of H.R. 1720, as amended, to authorize a major construction project for Pensacola, Florida. It was determined that no lease authority for the Pensacola site was necessary. Further, the Compromise Agreement would not authorize a lease supporting relocation and expansion of the Health Administration Center (HAC) in Denver, Colorado. The Committees believe the Department has not justified the continuing expansion of activities at the HAC. The Committees are concerned that this administrative function, originally authorized to process reimbursement claims for the Civilian Health and Medical Program for the VA (CHAMPVA), has inflated its activities well beyond its original responsibilities. The Committees urge VA to reconsider whether the long-term obligation of leased space and the significant growth of staff at the HAC, as opposed to other methods of accomplishing these various tasks, are warranted.

The Compromise Agreement generally follows the Senate language on the Regional Federal Medical Center lease at the former Fitzsimons Army Medical Center in Aurora, Colorado, pending a decision by the Secretaries of Veterans Affairs and Defense on the nature of any joint venture undertaking at the site. However, advance planning is authorized for this project under section 213 of the Compromise Agreement.

ADVANCE PLANNING AUTHORIZATIONS

Current Law

Section 8104(2) of title 38, United States Code, requires Congressional authorization of all VA major medical facility construction project.

Senate Bill

The Senate Bill contains no comparable provision.

House Bill

Section 3 of H.R. 1720, as amended, would authorize major construction projects in Columbus, Ohio; Denver (Aurora), Colorado; and the lease of a Multi-specialty Outpatient Clinic in Clark County (Las Vegas), Nevada.

Compromise Agreement

Section 213 of the Compromise Agreement authorizes advance planning funds for fiscal year 2004 for purposes of developing new medical facilities at the following locations:

Location	Purpose	Cost
Columbus, OH	Advance Planning	$9,000,000
Las Vegas, NV	Advance Planning	25,000,000
Pittsburgh, PA	Advance Planning	9,000,000
Denver (Aurora), CO	Advance Planning	26,000,000
East Central Florida	Advance Planning	17,500,000

The Committees concluded these projects, while warranted, require further development. The Committees believe these projects should be considered high priorities from VA's ongoing review of future health care infrastructure needs, the Capital Asset Realignment for Enhanced Services (CARES) initiative.

Given VA's documented plan to pursue significant capital investments and improvements in health care infrastructure and the Committees' understanding that the Appropriations Committees of the House and Senate are hesitant to provide funds for new VA medical facility construction prior to the completion of the CARES process, the Compromise agreement authorizes $86,500,000 to allow for planning of projects at these sites.

AUTHORIZATION OF APPROPRIATIONS

Current Law

Section 8104(2) of title 38, United States Code, requires Congressional authorization of appropriations for VA major medical facility projects.

Senate Bill

Section 213 of S. 1156 would authorize $34,500,000 for fiscal year 2004 for projects authorized and $4,984,000 for the leases authorized by this bill.

House Bill

Section 3 of H.R. 1720, as amended, would authorize $332,100,000 to be appropriated in fiscal year 2004 for the projects authorized by this bill.

Compromise Agreement

Section 214 of the Compromise Agreement would authorize $276,600,000 for fiscal year 2004 for the major construction projects authorized in section 211 of the Compromise Agreement. In addition, section 214 of the Compromise Agreement authorizes the appropriation of $86,500,000 for advanced planning projects identified in section 213 of the Compromise Agreement.

Subtitle C—Capital Asset Realignment for Enhanced Services Initiative

AUTHORIZATION OF MAJOR CONSTRUCTION PROJECTS IN CONNECTION WITH CAPITAL ASSET REALIGNMENT INITIATIVE

Current Law

Section 8104(2) of title 38, United States Code, requires Congressional authorization of all VA major medical facility projects.

Senate Bill

Section 402 of S. 1156 would authorize the Secretary to carry out major construction projects outlined in the final report on the CARES initiative. This authority would be subject to a 60-day advance notification to Congress. The Secretary would be required to submit a list containing each major project in order of priority, based on the criteria specified in the bill. The bill also would add a provision authorizing multi-year contract authority for major construction projects.

House Bill

The House Bill contains no comparable provision.

Compromise Agreement

Section 221 of the Compromise Agreement follows the Senate language with modifications. The Compromise Agreement would require a 45-day advance notification to Congress prior to carrying out major medical facility construction projects selected by the Secretary. The Secretary would be required to submit a one-time report to Congress by February 1, 2004, that lists each proposed major construction project in order of priority. The Compromise Agreement establishes these priorities as follows: (a) to replace or enhance a facility necessitated by the loss, closure or other divestment of a VA medical facility currently in operation; (b) to remedy life-safety deficiencies, including seismic, egress, and fire deficiencies; (c) to provide health care services to an underserved population; (d) to renovate or modernize facilities, including providing barrier free design, improving building systems and utilities, or enhancing clinical support services; (e) to further an enhanced-use lease or sharing agreement; and (f) to give the Secretary discretion to select other projects of importance in providing care to veterans.

The authority to enter into any major medical facility construction contracts for projects selected under the authority of section 221 of the Compromise Agreement would expire on September 30, 2006.

ADVANCE NOTIFICATION OF CAPITAL ASSET REALIGNMENT ACTIONS

Current Law

There is no comparable provision in current law.

Senate Bill

Section 401 of S. 1156 would require the Secretary to provide Congress a 60–day advance notification of any actions proposed by the Department under the CARES initiative.

House Bill

The House Bill contains no comparable provision.

Compromise Agreement

Section 222 of the Compromise Agreement follows the Senate language with modifications. VA would be required to notify Congress in writing of actions under the CARES initiative that would result in medical facility closures, significant staff realignments or medical facility consolidations. The Compromise Agreement would prohibit such actions for 60 days (or 30 days of continuous session of Congress) after such notifications are made.

SENSE OF CONGRESS AND REPORT ON ACCESS TO HEALTH CARE FOR VETERANS IN RURAL AREAS.

Current Law

There is no comparable provision in current law.

Compromise Agreement

Section 223 of the Compromise Agreement would express the sense of Congress recognizing the difficulties in access to VA health care faced by veterans residing in rural areas and require VA to report to the Committees on Veterans' Affairs with a plan of action to improve access to health care for veterans residing in rural areas. A report of VA's plan to improve access to health care for these veterans would be due not later than 120 days after the date of enactment of this Act.

Subtitle D—Plans for New Facilities

PLANS FOR HOSPITAL CARE FACILITIES IN SPECIFIED AREAS

Current Law

There is no comparable provision in current law.

Senate Bill

The Senate Bill contains no comparable provision.

House Bill

Section 6 of H.R. 1720, as amended, would require the Secretary to develop plans for meeting the future hospital care needs of veterans who reside in a number of counties of southern New Jersey and far southern counties of Texas, with a report to the Committees by January 31, 2004.

Compromise Agreement

Section 231 of the Compromise Agreement follows the House language and would add a requirement for plans for the Florida Panhandle and North Central Washington. The due date of the report required would be adjusted in section 231 of the Compromise Agreement to April 15, 2004.

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

Current Law

There is no comparable provision in current law.

Senate Bill

The Senate Bill contains no comparable provision.

House Bill

Section 8 of H.R. 1720, as amended, would require the Secretary to conduct a feasibility study in coordination with the Medical University of South Carolina and in consultation with the Secretary of Defense, to consider establishing a joint health-care venture to deliver inpatient, outpatient and/or long-term care to veterans, military personnel, and other beneficiaries who reside in Charleston, South Carolina, with a report to the Committees by March 31, 2004.

Compromise Agreement

Section 232 of the Compromise Agreement follows the House language and adjusts the due date of the report to April 15, 2004.

Subtitle E—Designation of Facilities

DESIGNATION OF DEPARTMENT OF VETERANS AFFAIRS MEDICAL CENTER, PRESCOTT, ARIZONA, AS THE BOB STUMP DEPARTMENT OF VETERANS AFFAIRS MEDICAL CENTER

Current Law

Section 531 of title 38, United States Code, requires a Department facility, structure or real property to be named after the geographic area in which the facility, structure or real property is located, except as expressly provided by law.

Senate Bill

The Senate Bill contains no comparable provision.

House Bill

Section 8 of H.R. 3260 would name the VA Medical Center in Prescott, Arizona, the ''Bob Stump Department of Veterans Affairs Medical Center.''

Compromise Agreement

Section 241 of the Compromise Agreement follows the House language.

DESIGNATION OF DEPARTMENT OF VETERANS AFFAIRS HEALTH CARE FACILITY, CHICAGO, ILLINOIS, AS THE JESSE BROWN DEPARTMENT OF VETERANS AFFAIRS MEDICAL CENTER

Current Law

Section 531 of title 38, United States Code, requires a Department facility, structure or real property to be named after the geographic area in which the facility, structure or real property is located, except as expressly provided by law.

Senate Bill

Section 222 of S. 1156 contains a similar provision.

House Bill

Section 9 of H.R. 1720, as amended, would name the VA Chicago Health Care System, West Side Division, the ''Jesse Brown Department of Veterans Affairs Medical Center.''

Compromise Agreement

Section 242 of the Compromise Agreement contains this provision.

DESIGNATION OF DEPARTMENT OF VETERANS AFFAIRS MEDICAL CENTER, HOUSTON, TEXAS, AS THE MICHAEL E. DEBAKEY DEPARTMENT OF VETERANS AFFAIRS MEDICAL CENTER

Current Law

Section 531 of title 38, United States Code, requires a Department facility, structure or real property to be named after the geographic area in which the facility, structure or real property is located, except as expressly provided by law.

Senate Bill

Section 223 of S. 1156 would name the VA Medical Center located in Houston, Texas, the ''Michael E. DeBakey Department of Veterans Affairs Medical Center.''

House Bill

The House Bill contains no comparable provision.

Compromise Agreement

Section 243 of the Compromise Agreement follows the Senate language.

DESIGNATION OF THE DEPARTMENT OF VETERANS AFFAIRS MEDICAL CENTER, SALT LAKE CITY, UTAH, AS THE GEORGE E. WAHLEN DEPARTMENT OF VETERANS AFFAIRS MEDICAL CENTER

Current Law

Section 531 of title 38, United States Code, requires a Department facility, structure or real property to be named after the geographic area in which the facility, structure or real property is located, except as expressly provided by law.

Senate Bill

S. 1815 would name the VA Medical Center located in Salt Lake City, Utah, the ''George E. Wahlen Department of Veterans Affairs Medical Center.''

House Bill

The House Bill contains no comparable provision.

Compromise Agreement

Section 244 of the Compromise Agreement follows the Senate language.

DESIGNATION OF DEPARTMENT OF VETERANS AFFAIRS OUTPATIENT CLINIC, NEW LONDON, CONNECTICUT

Current Law

Section 531 of title 38, United States Code, requires a Department facility, structure or

real property to be named after the geographic area in which the facility, structure or real property is located, except as expressly provided by law.

Senate Bill

The Senate Bill contains no comparable provision.

House Bill

Section 10 of H.R. 1720, as amended, would name the outpatient clinic located in New London, Connecticut, the ''John J. McGuirk Department of Veterans Affairs Outpatient Clinic.''

Compromise Agreement

Section 245 of the Compromise Agreement follows the House language.

DESIGNATION OF DEPARTMENT OF VETERANS AFFAIRS OUTPATIENT CLINIC, HORSHAM, PENNSYLVANIA

Current Law

Section 531 of title 38, United States Code, requires a Department facility, structure or real property to be named after the geographic area in which the facility, structure or real property is located, except as expressly provided by law.

Senate Bill

Section 221 of S. 1156 would name the VA Outpatient Clinic located in Horsham, Pennsylvania, the ''Victor J. Saracini Department of Veterans Affairs Outpatient Clinic.''

House Bill

The House Bill contains no comparable provision.

Compromise Agreement

Section 246 of the Compromise Agreement follows the Senate language.

TITLE III—PERSONNEL MATTERS

MODIFICATION OF CERTAIN AUTHORITIES ON APPOINTMENT AND PROMOTION OF PERSONNEL IN THE VETERANS HEALTH ADMINISTRATION

Current Law

Section 7401 of title 38, United States Code, authorizes VA to appoint medical care personnel, under title 5, United States Code, or title 38, United States Code, depending on the duties of such personnel.

Senate Bill

Section 301 of S. 1156 would modify title 38, United States Code, to authorize the appointment of psychologists, kinesiologists and social workers, under title 38 provisions as opposed to title 5, United States Code, provisions.

House Bill

The House Bill contains no comparable provision.

Compromise Agreement

Section 301 of the Compromise Agreement follows the Senate language with modifications. The Compromise Agreement reflects two important policy goals: first, VA will be permitted to hire clinical staff in a timely fashion through use of the direct appointment authority provided in title 38, United State Code; second, employee representatives will be afforded an opportunity to participate in a dialogue and process with VA management to determine the best system under which to promote the clinicians appointed under this section.

The Committees believe that VA management and the promotion policy for clinical staff can benefit from interactions with employee representatives. The Committees would allow the Secretary the discretion to develop a system for judging the merits of an individual's advancement in VA, provided that the Secretary reports to the Committees the actions taken under this authority.

APPOINTMENT OF CHIROPRACTORS IN THE VETERANS HEALTH ADMINISTRATION

Current Law

Public Law 107–135 requires VA to establish a Veterans Health Administration-wide program for chiropractic care.

Senate Bill

The Senate Bill contains no comparable provision.

House Bill

Section 2 of H.R. 2357, as amended, would authorize VA appointment of chiropractors under title 38, United States Code. The House bill would establish the qualifications of appointees, the period of appointments and promotions, set grades and pay scales, provide temporary and part-time appointments, authorize residencies and internships, extend malpractice and negligence protection coverage, define chiropractors as scarce medical specialists for contracting purposes, authorize reimbursement of continuing professional education expenses, and exempt chiropractors from collective bargaining, consistent with the provisions in chapter 74 of title 38, the United States Code. The bill would provide for an effective date of 180 days from enactment.

Compromise Agreement

Section 302 of the Compromise Agreement follows the House language with modifications that would redefine ''medical care'' occupations as ''health care'' occupations and eliminate provisions that would provide for residencies and internships and reimbursement of continuing professional education expenses.

ADDITIONAL PAY FOR SATURDAY TOURS OF DUTY FOR ADDITIONAL HEALTH CARE WORKERS IN THE VETERANS HEALTH ADMINISTRATION

Current Law

Title 38, United States Code, specifies in sections 7453 and 7454 that nurses, physician assistants, and expanded-function dental auxiliaries are entitled to additional pay for working regular tours of duty of Saturdays. Under this authority, respiratory therapists, physical therapists, practical or vocational nurses, pharmacists and occupational therapists are also entitled to additional pay for Saturday tours, if the Secretary determines it is necessary in order to hire and retain these health care professionals.

Senate Bill

The Senate Bill contains no comparable provision.

House Bill

Section 4 of H.R. 2433, as amended, would amend section 7454(b) of title 38, United States Code, to authorize premium pay for Saturday tours of duty for additional VHA health care workers.

Compromise Agreement

Section 303 of the Compromise Agreement follows the House language.

COVERAGE OF EMPLOYEES OF VETERANS' CANTEEN SERVICE UNDER ADDITIONAL EMPLOYMENT LAWS

Current Law

Section 7802 of title 38, United States Code, authorizes appointment of Veterans' Canteen Service (VCS) employees.

Senate Bill

Section 302 of S. 1156 contains a similar provision.

House Bill

Section 5 of H.R. 2433, as amended, would authorize hourly workers of VCS to be qualified for competitive title 5, United States Code, appointments in VA in recognition of time-in service obtained in the VCS.

Compromise Agreement

Section 304 of the Compromise Agreement contains this provision.

TITLE IV—OTHER MATTERS

OFFICE OF RESEARCH OVERSIGHT IN VETERANS HEALTH ADMINISTRATION

Current Law

There is no comparable provision in current law.

Senate Bill

The Senate Bill contains no comparable provision.

House Bill

Section 11 of H.R. 1720, as amended, would add a new section 7307 to title 38, United States Code, to establish an Office of Research Oversight within the Veterans Health Administration to monitor, review and investigate matters of medical research compliance and assurance in VA, including matters relating to the protection and safety of human subjects, research animals and VA employees participating in VA medical research programs. The bill would require an annual report to the Committees on Veterans' Affairs of the Senate and House of Representatives on the activities of the Office of Research Oversight during the preceding calendar year and require that the activities of the Office of Research Oversight be funded from amounts appropriated for VA medical care.

Further, under the bill, the General Accounting Office (GAO) would be required to submit a report to Congress not later than January 1, 2006, on the results of the establishment of the Office of Research Oversight and any recommendations for other legislative and administrative actions. Finally, the Secretary would be required to submit a report to Congress setting forth the Department's implementation of the requirement to establish an Office of Research Oversight, and related provisions, not later than 180 days after the date of enactment.

Compromise Agreement

Section 401 of the Compromise Agreement follows the House language with modifications that would not include references to animal welfare, research animals and laboratory animals. Section 7307(c)(2)(A) of title 38, United States Code, referencing peer review responsibilities would also not be included in the Compromise Agreement, along with the required reports from GAO and the Secretary.

ENHANCEMENT OF AUTHORITIES RELATING TO NONPROFIT RESEARCH CORPORATIONS

Current Law

Sections 7361 through 7366 of title 38, United States Code, establish the authority for VA's Nonprofit Research Corporations. Section 7368 of title 38, United States Code, provides that no such corporations may be established after December 31, 2003.

Senate Bill

The Senate Bill contains no comparable provision.

House Bill

Section 6 of H.R. 3260 would cover employees of Nonprofit Research Corporations under the Federal Tort Claims Act and would extend the authority to create new Nonprofit Research Corporations through December 31, 2008.

Compromise Agreement

Section 402 of the Compromise Agreement follows the House language.

DEPARTMENT OF DEFENSE PARTICIPATION IN REVOLVING SUPPLY FUND PURCHASES

Current Law

Section 8121 of title 38, United States Code, establishes authority for VA to use a revolving supply fund to operate and maintain its supply system.

Senate Bill

The Senate Bill contains no comparable provision.

House Bill

Section 5 of H.R. 3260 would extend authority to the Secretary of Defense to purchase medical equipment, services and supplies through VA's revolving supply fund beginning in fiscal year 2004. The Department of Defense (DOD) would be required to reimburse VA's revolving supply fund using DOD appropriations.

Compromise Agreement

Section 403 of the Compromise Agreement follows the House language.

FIVE-YEAR EXTENSION OF HOUSING ASSISTANCE FOR HOMELESS VETERANS

Current Law

Section 2041(c) of title 38, United States Code, authorizes the Secretary to enter into housing assistance agreements for homeless veterans until December 31, 2003.

Senate Bill

Section 411 of S. 1156 would extend the authority of the Secretary to enter into housing assistance agreements through December 31, 2006.

House Bill

Section 6 of H.R. 3387 would extend the authority of the Secretary to enter into housing assistance agreements until December 31, 2008.

Compromise Agreement

Section 404 of the Compromise Agreement follows the House language.

REPORT DATE CHANGES

Current Law

Title 38, United States Code, requires:

(a) in section 516(e)(1)(A), a quarterly report summarizing the employment discrimination complaints filed against senior managers; the report is due no later than 30 days after the end of each quarter;

(b) in section 2065(a), an annual report on assistance to homeless veterans; the report is due no later than April 15 each year;

(c) in section 7321(d)(2), an annual report of the Committee on Care of Severely Chronically Mentally Ill Veterans; the report is due no later than February 1 each year through 2004;

(d) in section 8107, an annual report on long-range health planning; due June 1 of each year;

(e) in section 8153(g), an annual report on sharing of health care resources; the report is due no later than 60 days after the end of each fiscal year;

(f) in section 1712A note and enacted in section 110(e)(2) of Public Law 106–117, an annual report of the Special Committee on PTSD; the report is due February 1 of each of the three following years.

Senate Bill

The Senate Bill contains no comparable provision.

House Bill

Section 7 of H.R. 3260, subsection (a) would extend the Senior Managers Quarterly Report from 30 days to 45 days following each quarter; subsection (b) would change the report due date from April 15 to June 15 of each year for the annual report on Assistance to Homeless Veterans; subsection (c) would change the report due date from February 1 to June 1 of each year for the annual report of the Committee on Care of Severely Chronically Mentally Ill Veterans through 2004; subsection (d) would change the report date on the Annual Reports on Long-Range Health Planning to June 1 of each year; subsection (e) would change the report due dates on the Annual Report on Sharing of Health Care Resources to February 1 of each year; and subsection (f) would change the report due date on the Annual Report of the Special Committee on PTSD to May 1 of each year through 2004.

Section 7(a) of H.R. 3387 would extend the annual reporting requirement for the Committee on Care of Severely Chronically Mentally Ill Veterans in Section 7321(d)(2) to February 1, 2009. Section 7(b) of H.R. 3387 would extend the annual report of the Special Committee on PTSD to February 1, 2009.

Compromise Agreement

Section 405 of the Compromise Agreement follows the House language on the provisions in subsections (a), (b), and (e) of the House bill and would extend the reports in subsections (c) and (f) of the House bill through 2008. Section 405 of the Compromise Agreement would simplify the reporting requirements in subsection (d) of the House bill without altering the report due date.

LEGISLATIVE PROVISIONS NOT ADOPTED

DEMOLITION OF OBSOLETE, DILAPATED, AND HAZARDOUS STRUCTURES ON DEPARTMENT OF VETERANS AFFAIRS PROPERTY

Current Law

There is no similar provision in current law.

Senate Bill

Section 202 of S. 1156 would add section 8171 to title 38, United States Code, to authorize the demolition of obsolete, dilapidated, and hazardous structures; would establish a specific fund in the Treasury designated as the Department of Veterans Affairs Facilities Demolition Fund; and would authorize an appropriation of $25,000,000 for fiscal year 2004 for this Demolition Fund.

House Bill

The House Bill contains no comparable provision.

SUPPLEMENTARY MATTERS

SAN JUAN, PUERTO RICO VA MEDICAL CENTER

In 1999, Congress provided $50,000,000 to the VA Medical Center in San Juan, Puerto Rico, to assist that facility in correcting numerous structural safety issues. Since then, VA has spent $4,000,000 of those funds on the design and planning of a bed tower that will alleviate the strain on the older bed tower currently in use. The remaining $46,000,000 will be used for the tower's construction, with a projected Spring 2004 groundbreaking. The Committees understand that the Secretary has pledged at least an additional $25,000,000 to enhance this project and minimize any reduction of total beds at this facility. Even with the completion of this construction, the Committees are advised that additional seismic and utility upgrades are needed at the San Juan VA. The Committees encourage the Secretary to honor this pledge and continue the practice of providing high quality services to the veterans of Puerto Rico.

Mr. ACEVEDO-VILÁ. Mr. Speaker, I rise today to urge my colleagues to vote in favor of S. 1156—Department of Veterans Affairs Long-Term Personnel Authorities Act of 2003. This bill represents a step in the right direction for many of our veteran communities.

In the interest of my constituents, this bill and the language contained within brings to the forefront the problems at the San Juan VA Medical Center and opens opportunities to provide immediate relief for the Veterans in Puerto Rico to receive the care they need and deserve.

Through the actions of these two committees, the Democrats and Republicans alike, they have sent a clear message of appreciation to the over 140,000 Puerto Rican veterans for their service in defense of our shared values. Puerto Ricans have served proudly in every armed conflict since the First World War. The language in this bill acknowledges the value of their service.

Currently, there are over 5,000 Puerto Rican men and women who are serving in the armed forces in Iraq, Afghanistan, Guantanamo and many other regions throughout the world. The language in this bill sends the right message to these young men and women that when they serve their Nation well, the United States Congress will serve them well.

I congratulate my colleagues on a job well done. Through long hours of deliberation and patient listening and understanding, both chambers of this Congress have come to what I believe is an impressive piece of bipartisan work. Now, it is my hope that the Secretary will move swiftly to reprogram the necessary funds to build a new bed tower at the San Juan VA Medical Center. Without the additional dollars mentioned in this bill, the San Juan VA Medical Center would have been forced to provide services with a bed loss of 120. This would have put additional burdens on a facility, which the C.A.R.E.S. Committee has deemed to be spatially deficient. The Committees understood this and worked to include language to encourage the Secretary to move forward.

The construction of the new bed tower will allow the San Juan VA Medical Center to provide safer and more modern services for the immediate future to the veterans and the service people returning from Iraq and Afghanistan.

I would like to personally thank Chairman SMITH, the Ranking Member, Mr. FILNER, Ms. CORRINE BROWN and the other members of the committee for working with me on these vital projects. The report language is more than a listing of projects—it is sending the right message to the 140,000 veterans in Puerto Rico; it sends the right message to the 5,000 Puerto Ricans who have been called to active service in Iraq, and it certainly sends the right message to the families of the 13 Puerto Ricans who have sacrificed their lives this year in service of the United States against the war on terror.

I look forward to continually working with my colleagues in both chambers to provide for the veterans in Puerto Rico. Again, I thank my colleagues for working so diligently on these first steps to improve healthcare for our veterans and urge my colleagues to vote ''yes'' to approve this bill.

Mr. MATHESON. Mr. Speaker, as a strong supporter of the military, I am pleased to support this legislation, which enhances veterans health care.

I am especially pleased that this bill also honors George E. Wahlen, Utah's only living Medal of Honor winner. George Wahlen is a dedicated American and Utah is proud to pay tribute to his service by renaming the Salt Lake Veterans Affairs Medical Center in his honor.

George Wahlen's twenty-year service to this nation as a soldier was not his only contribution. Even now, he continues to serve as an advocate for both active troops and veterans. I am proud to honor this patriot, just as I am proud of all Americans who serve their country.

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

The SPEAKER pro tempore (Mr. BURGESS). The question is on the motion offered by the gentleman from New Jersey (Mr. SMITH) that the House suspend the rules and pass the Senate bill, S. 1156.

The question was taken.

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

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

The yeas and nays were ordered.

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

A FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Monahan, one of its clerks, announced that the Senate 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. 2417) ''An Act to authorize appropriations for fiscal year 2004 for intelligence and intelligence-related activities of the United States Government, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System, and for other purposes.''

SUPPORTING NATIONAL MARROW DONOR PROGRAM AND OTHER BONE MARROW DONOR PROGRAMS

Mr. WALDEN of Oregon. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 206) supporting the National Marrow Donor Program and other bone marrow donor programs and encouraging Americans to learn about the importance of bone marrow donation.

The Clerk read as follows:

H. CON. RES. 206

Whereas up to 30,000 people each year are diagnosed with leukemia or other blood diseases and approximately 20,000 will not find a marrow donor match within their family and must rely upon strangers;

Whereas diseases such as leukemia, aplastic anemia, and defective immune systems can lead to a rapid deterioration in an individual's health and ultimately the individual's death if potential marrow donors are not identified;

Whereas volunteers in donor programs provide a life-saving service to those that are afflicted with leukemia or other blood diseases;

Whereas since the founding of the National Marrow Donor Program in 1986, it has facilitated more than 15,000 unrelated transplants for patients with leukemia or other blood diseases;

Whereas the National Marrow Donor Program provides potential donors with information on how to become a bone marrow donor;

Whereas the National Marrow Donor Program has a worldwide reach and a large database of potential donors;

Whereas the National Marrow Donor Program currently facilitates more than 160 transplants each month; and

Whereas the National Marrow Donor Program makes a positive impact on the lives of thousands of Americans: Now, therefore, be it

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

(1) supports the goals and ideals of the National Marrow Donor Program and other bone marrow donor programs; and

(2) encourages all Americans to learn about the importance of bone marrow donation and to discuss such donation with their families and friends.

The SPEAKER pro tempore (Mr. SIMMONS). Pursuant to the rule, the gentleman from Oregon (Mr. WALDEN) and the gentleman from Ohio (Mr. BROWN) each will control 20 minutes.

The Chair recognizes the gentleman from Oregon (Mr. WALDEN).

GENERAL LEAVE

Mr. WALDEN of Oregon. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and to insert extraneous material on the bill.

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

There was no objection.

Mr. WALDEN of Oregon. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am pleased that the House is considering House Concurrent Resolution 206 introduced by the gentleman from Texas (Mr. BURGESS) to recognize the important work that the National Marrow Donor Program and other bone marrow donor programs do to save lives.

Bone marrow transplants are often one of the last options available to patients struggling to fight debilitating and often terminal illnesses. Unfortunately, finding a bone marrow match is very difficult. In fact, every year nearly two-thirds of patients in need of a bone marrow transplant will not find a marrow donor match within their family and, therefore, must rely on the help of strangers.

Each month the National Bone Marrow Registry coordinates more than 150 transplants. With a diverse registry of more than 4 million potential bone marrow and cord blood donors, the National Bone Marrow Registry offers hope to thousands of patients. Just last month, the House approved H.R. 3034, the National Bone Marrow Donor Registry Reauthorization Act, to reauthorize the national bone marrow registry for an additional 5-year period.

Since 1986, the National Bone Marrow Donor Program has facilitated more than 15,000 transplants for patients. I hope the Senate will join us soon in extending this program to guarantee that thousands more will benefit. This resolution will raise awareness about the bone marrow donor programs, and will encourage more Americans to donate, and I urge all of my colleagues to support this resolution today.

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

Mr. BROWN of Ohio. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I commend the gentleman from Texas (Mr. BURGESS) for raising awareness regarding the importance of bone marrow donation. There are at least 20,000 Americans today who need a bone marrow transplant but cannot find a compatible donor within their own family.

National Marrow Awareness Month is a vehicle for encouraging more people to join the bone marrow registry, a noble goal, and it is right that Congress acknowledge the importance of this month.

But, Mr. Speaker, the timing is unfortunate. The Republican majority today is giving this body fewer than 24 hours to consider legislation which will have a dramatic impact on the financial security of 39 million retirees and disabled Americans, as well as their families. This bill takes $400 billion out of taxpayers' pockets and puts much of that money in the pockets of the drug industry and the insurance industry, the two industries that sat in back rooms with Republican leaders and wrote this bill. Every American has a stake in the outcome of this. Less than 24 hours to review, debate and vote on an 1,100-page bill that erects a brand new private insurance system for stand-alone drug coverage which replaces tried and true Medicare. The bill features such a meager drug benefit that seniors will still be unable to afford the medicines they need, a bill that creates a fast-track process to expedite reductions in Medicare benefits, a bill that makes different seniors pay different premiums for the exact same coverage, and a bill that launches a private insurance experiment, privatizing Medicare, forcing millions of seniors in this country to pay more or join an HMO. We received that bill yesterday, that 1,100-page Medicare bill, and are being forced to vote on that bill today.

With all due respect, I support this Burgess legislation and applaud the gentleman's efforts, but we need every minute we can get to try to get a handle on just how dramatically this Medicare privatization bill will turn our world upside down.

Mr. Speaker, we all know what is going to happen tonight. We have seen this same scenario play out month after month this year. In April, it started where in the middle of the night Congress passed contentious, important tax legislation by a handful of votes. Every single month during the summer, Congress voted on important, controversial legislation: Head Start, budget reconciliation, the tax cut, Medicare, last year the trade promotion bill authority, always between

12 midnight and four in the morning, always in the dead of night, always on Thursday night so the papers did not pick it up until Saturday, always when the media had gone to bed and the American public had turned off their television sets, and never appearing in the paper the next day, always held over to Saturday's paper because of that.

I hope, Mr. Speaker that does not happen with this Medicare bill tonight. I hope we can actually debate it during the late afternoon and early evening so people in this country can see what in fact is in it.

On this legislation we are considering today, I appreciate the efforts of the gentleman from Texas (Mr. BURGESS), but on a day when this body is asked to participate in such remarkably irresponsible decisionmaking on the most important health care vote of this session, no Member right now can devote to this Burgess resolution the attention it deserves.

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

Mr. WALDEN of Oregon. Mr. Speaker, I yield such time as he may consume to the gentleman from Texas (Mr. BURGESS), the author of this measure.

Mr. BURGESS. Mr. Speaker, I thank the gentleman from Louisiana (Mr. TAUZIN) and the gentleman from Oregon (Mr. WALDEN) for bringing this resolution to the floor. I would like to thank the leadership for allowing this resolution to come to the floor late in the session; and I would disagree that the timing is unfortunate, I think the timing is perfect. I would also like to thank the staff of the Committee on Energy and Commerce for their hard work on this issue.

Bone marrow donation is critical to millions of cancer patients. Every year, nearly 30,000 people are diagnosed with leukemia or other treatable blood diseases. Oftentimes, the only course of treatment is donation of bone marrow from one person to another.

The House Concurrent Resolution 206 urges Americans to register with the National Marrow Donor Registry. Since the National Donor Registry was founded some 16 years ago, it has facilitated the more than 15,000 donations for patients with blood disorders. The registry now has 5 million volunteers. I am one of those volunteers, having joined the registry in 1999. The 15,000 volunteers that have been called on to donate marrow to sick and dying patients have saved thousands of lives, but they have impacted even thousands more by saving the lives of a mother, a father, a brother, a sister, a son or a daughter, keeping loving families whole and communities intact.

□ 1330

On June 7 of this year, I had the opportunity to celebrate the life of one of my constituents who had been diagnosed with non-Hodgkin's lymphoma, Mr. Cliff Ackerman. A donor to the national marrow donor registry program saved Mr. Ackerman's life. Mr. Ackerman was diagnosed with cancer in March of 1998 and did not have a stem cell match in his family. He was forced to find a match through the National Bone Marrow Registry. A match was found from a donor in Washington, D.C., Mr. Perry Apelbaum. Perry is a member of the House Judiciary Committee staff. Mr. Apelbaum joined the registry in 1990. As fate would have it when Mr. Ackerman got sick, Mr. Apelbaum turned out to be a perfect match. This example underscores how important the program is: a congressional staffer here in Washington, D.C. turned out to save the life of a man in my district in Lewisville, Texas.

The marrow donor program has helped thousands of families who will experience a second chance to enjoy life with a child, with a husband or wife, or with a brother or sister. I thank the countless number of heroes who have given the gift of life or who are waiting on the donor list to provide a lifesaving service to those who are afflicted with leukemia or other blood disorders.

The House has already reauthorized the marrow donor program this year in a bipartisan manner. It is now up to the other body to complete this work. We hope that they will. But in the meantime, we must continue to raise the profile of this important program, and this resolution does just that.

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

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

I urge my colleagues to support this resolution. I think it is critically important that we do that to move this program forward.

Mr. YOUNG of Florida. Mr. Speaker, I rise in strong support of H. Con. Res. 206, legislation expressing Congressional support for the National Marrow Donor Program during this National Marrow Awareness Month.

At the outset, let me thank my colleague from Texas, Mr. BURGESS, for sponsoring this legislation, and Chairman TAUZIN of the Energy and Commerce Committee, and the Chairman of the Subcommittee on Health, my colleague and neighbor from Florida Mr. BILIRAKIS, for helping expedite consideration of this legislation.

Mr. Speaker, the National Marrow Donor Program is a true modern medical miracle that saves lives here and throughout the world every single day of the year. Since its establishment more than 16 years ago, the registry has grown to more than 5,000,000 volunteers. These are true volunteers in every sense of the word. They have given of their time to take a simple blood test to be listed in the national registry. For the more than 17,000 volunteers who have been called upon to donate marrow, they have undergone a relatively simple surgical procedure to donate their bone marrow to save the life of a man, woman or child with leukemia or one of 60 otherwise fatal blood disorders.

Earlier this year in a sign of strong Congressional support, the House unanimously approved my legislation, H.R. 3034, the National Bone Marrow Donor Registry Reauthorization Act, to continue the work of registry's work for another five years. We look forward to its passage in the other body.

The National Marrow Donor Program is a precious national resource, and I want to pay tribute to the men and women there who work tirelessly to ensure that Americans in need of life-saving transplants receive the bone marrow, peripheral blood steam cells, or umbilical cord blood they need.

Recognizing the need for a single source of information, Congress endorsed by request in 1986 for a small appropriation to the United States Navy to establish the National Bone Marrow Donor Registry. Our goal was to improve the facilitation of bone marrow transplants by coordinating adult, volunteer marrow donors as well as a full range of supporting services to donors, patients and physicians. With the funded I have provided every year since through appropriations bills for the Navy and the Department of Health and Human Services, The National Marrow Donor Program has operated the Registry first under contract with the Navy and now under a competitively awarded contract with the Department of Health and Human Services. During that time, I have watched proudly as the Registry has developed into the international leader in marrow, blood stem cell, and umbilical cord blood transplantation.

Having had the great pleasure to meet with hundreds of donors and patients, I can tell you that donating bone marrow is a true life-changing experience. The experience of giving life to another human being is beyond mere words. Today, the National Marrow Donor Program remains the single source for physicians and patients searching for marrow to treat a variety of diseases. Through a network of 91 Donor Centers, 11 Cord Blood Banks, 150 Transplant Centers, and 19 International Cooperative Registries, it allows physicians to select for the best matched source of adult stem cells whether it be from volunteer marrow or blood donors or umbilical cord blood units. This large network has made marrow donation a world-changing experience. On any given day, bone marrow from our registry is being flown around the world at the same time bone marrow is being flown to a U.S. hospital through our formal relationship with the international registries.

A diverse Registry of volunteer bone marrow donors has been recruited. And now the Registry also lists more than 28,000 units of umbilical cord blood for potential transfer. Additionally, the National Marrow Donor Program has helped more than 250 patients receive cord blood transplants since the inclusion of umbilical cord blood units in the Registry began in 1999. Working with the National Marrow Donor Program and individually, the NMDP network of 11 cord blood banks have provided more than 881 cord blood units for transplantation since 1997. This network represents the single largest number of cord blood donations in the U.S.—232—in the past year.

The National Marrow Donor Program also recognizes the importance of maintaining an infrastructure that supports the Registry. To help physicians maximize the time they spend with their patients and minimize the time it takes to search the Registry, the Program has developed a real-time, electronic searching

database that links more than 400 partnering organizations. The resulting transplants are made possible through the efforts of millions of volunteers and professionals, connected through an award-winning integrated information system that quickly records, analyzes, and electronically transmits millions of pieces of critical medical data every day to and from hundreds of medical organizations.

There is more to providing marrow and other sources of blood stem cells than simply helping physicians search the Registry. Patients also need assistance. Therefore, the Program provides support services for individual patients to help them through the transplant process. The Patient Advocacy program provides patients with services such as information about transplants, assistance in intervening with insurers to determine coverage, and financial assistance. These efforts include patients assistance funds, case management services, referring physician education, consultation on the best match sources, and accelerated searching to facilitate transplants with an urgent need. The Program also provides support to patients after the transplant occurs to ensure that they can return to a normal, healthy life. Without this support, many patients would not be able to obtain life-saving transplants.

Even with these wonderful successes, we all recognize that the number of donors is not sufficient to meet the needs of every American. Each year more than 30,000 children and adults are diagnosed with life-threatening blood diseases, such as leukemia and plastic anemia, as well as certain immune system and genetic disorders for which a marrow or blood stem cell transplant can be a cure. These transplants require matching certain tissue traits of the donor and patient. Because these traits are inherited, a patient's most likely match is someone of the same heritage. Thus, men and women of the National Marrow Donor Program work continuously to recruit more donors, especially minorities who historically have difficulty finding matches. Since 1995, the Program has more than tripled the number of minority donors.

Mr. Speaker, at a time when our nation seeks to bring the nations and the people of the world closer together, to live in peace, and better understand each other, we can look to the National Marrow Donor Program as one important way to achieve these goals. There is no greater cause than to save a life, and with the ongoing support of every member of this House we can adopt this Resolution today to support the many heroes who have contributed to the work and vision of this program.

From the early days when we sought a home for the program, and had a few doors slammed in our faces, there was Admiral Elmo Zumwalt, Jr. and Dr. Bob Graves. There was Captain Bob Hartzman of the United States Navy who connected us with the Navy Medical Command where we appropriated the first small amount of funding to give birth to the program. There were the early medical pioneers such as Dr. Robert Good, Dr. John Hansen, Dr. Donnell Thomas, and Dr. Jerry Barbosa, all of whom helped perfect the science of marrow transplantation and who assisted us in our legislative quest to establish a federal registry.

There were the members of Congress, past and present, who stood by me as I sought funding to start up the program, to recruit marrow donors, and to perfect the marrow transplant procedures. There were my colleagues on the Appropriations and Energy and Commerce Committees who helped expedite these funding requests and the consideration of several authorization bills.

There were the members of the board of the National Marrow Donor Program and the Marrow Foundation, who have volunteered their time to establish a finely tuned international registry that quickly and efficiently matches marrow donors and patients to give them the best chance of a successful transplant. There is the staff of the NMDP, based in Minneapolis, Minnesota but with operations throughout our nation, who manage the flow of information, marrow and cord blood around the world. And there is the staff and medical teams at the transplant and donor centers who use their medical expertise to complete the transplantation procedures.

Finally, there are the true heroes of the program, the patients and donors. Every patient that has sought a transplant has helped the doctors and researchers perfect the marrow or cord blood transplant procedure to improve the outcome for every future patient. And every donor who has signed up for the national registry has given the ultimate gift of life. They are the heroes without whom we would not have this tremendously successful national and international life-saving program.

Mr. Speaker, in closing, let me again thank the sponsors of this Resolution. Let me thank every member of this House for their partnership in helping us continue the work of the National Marrow Donor Program. With your support, we are giving hope to thousands of patients here and throughout the world today and into the future.

I call on my colleagues to continue their support for the National Marrow Donor Program and its important mission. Whether it is working with physicians and patients to find the best source for a transplant, helping a patient navigate the complexities of the health care system and insurance, or encouraging more Americans to become part of the life-saving Registry, the Program has proven itself a critical part of our Nation's health care infrastructure. Today, we proudly support the work of the National Marrow Donor Program during National Marrow Awareness Month and share in the celebration of the program's successes. However, our work is not finished. We must continue to help all Americans in need of umbilical cord blood, bone marrow, or peripheral blood stem cells to have access to the life saving services and the patient advocacy programs of the National Marrow Donor Program.

Ms. BORDALLO. Mr. Speaker, I wholeheartedly support House Concurrent Resolution 206 supporting the National Marrow Donor Program and other bone marrow donor programs and encouraging Americans to learn about the importance of bone marrow donation. I commend Mr. BURGESS for introducing this legislation.

The importance of National Marrow Donor Program (NMDP) and other bone marrow donor programs cannot be overstated. Each year thousands of people are diagnosed with leukemia or other blood diseases which may be cured through a blood stem cell transplant may be a cure. Some will find a matched donor, but many others will have to rely on the kindness of strangers. For those of African-American, Asian, Pacific Islander, Hispanic, Native American, Native Alaskan descent, this is especially challenging.

I commend NMDP and other on their education and outreach initiatives particularly those programs aimed at recruiting donors from minority populations. In 1993, the NMDP Registry included 37,601 donors of African-American, Asian, Pacific Islander, Hispanic, Native American, Native Alaskan heritage. As of August 2003, the number is now 1,145,000 donors. This an increase of approximately 3,000 percent. But there is still a critical need for donors from minority populations.

Her name was Justice Taitague, She was one of the 70 percent who could not find a matched donor from among her family members. Sadly, the donor registry at the time could not provide a match. Through the efforts of Dr. Thomas Shieh, the Guam Medical Society, and the National and Hawaiian Marrow Donor Programs, the first ever marrow drive on Guam was held on her behalf. This ''Drive for Justice'' registered thirty-four hundred volunteers in just three days. But it was too late for Justice, who passed away a few days after the drive.

Justice will never know the impact her life, her story has had on others. She has given us a gift—the gift of understanding of the importance of the National Marrow Donor Program and other bone marrow donor programs and she has given hope to others of Asian/Pacific Island descent searching for a donor.

Mr. Speaker, I fully support House Concurrent Resolution 206 supporting the National Marrow Donor Program and other bone marrow donor programs and encouraging Americans to learn about the importance of bone marrow donation. For me and the people of Guam, it's a matter of Justice.

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

The SPEAKER pro tempore (Mr. SIMMONS). The question is on the motion offered by the gentleman from Oregon (Mr. WALDEN) that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 206.

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. WALDEN of Oregon. 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.

CONFERENCE REPORT ON H.R. 1904, HEALTHY FORESTS RESTORATION ACT OF 2003

Mr. GOODLATTE. Mr. Speaker, pursuant to House Resolution 457, I call up the conference report on the bill (H.R. 1904) to improve the capacity of the Secretary of Agriculture and the Secretary of the Interior to plan and conduct hazardous fuels reduction projects on National Forest System lands and Bureau of Land Management lands aimed at protecting communities, watersheds, and certain other at-risk lands from catastrophic wildfire, to enhance efforts to protect watersheds and

address threats to forest and rangeland health, including catastrophic wildfire, across the landscape, and for other purposes.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Pursuant to House Resolution 457, the conference report is considered as having been read.

(For conference report and statement, see proceedings of the House of November 20, 2003, at page H11686.)

The SPEAKER pro tempore. The gentleman from Virginia (Mr. GOODLATTE) and the gentleman from Texas (Mr. STENHOLM) each will control 30 minutes.

Mr. INSLEE. Mr. Speaker, I respectfully demand one-third of the time under clause 8 of rule XXII.

The SPEAKER pro tempore. Is the gentleman from Texas opposed to the conference report?

Mr. STENHOLM. No, Mr. Speaker, I am in favor of the conference report.

The SPEAKER pro tempore. Under clause 8(d) of rule XXII, the Chair will divide the hour of debate on the conference report as follows: the gentleman from Virginia (Mr. GOODLATTE), the gentleman from Texas (Mr. STENHOLM), and the gentleman from Washington (Mr. INSLEE) each will control 20 minutes.

The Chair recognizes the gentleman from Virginia (Mr. GOODLATTE).

Mr. GOODLATTE. Mr. Speaker, I ask unanimous consent that the gentleman from California (Mr. POMBO), chairman of the Committee on Resources, be recognized for 10 minutes for the purposes of controlling debate.

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

There was no objection.

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

Today, we are finally able to bring the Healthy Forests Restoration Act, H.R. 1904, for a vote. In spite of a severely flawed process to arrive at this point, we have driven a hard bargain, and we have got a bill that the President will sign. I believe it will make a difference on the ground, but it is only a first step towards fixing what is wrong with the management of our public lands.

I worked with two other distinguished full committee chairmen, the gentleman from California (Mr. POMBO) of the Committee on Resources and the gentleman from Wisconsin (Mr. SENSENBRENNER) of the Committee on the Judiciary, to craft a bipartisan bill that passed earlier this year by an overwhelming, and bipartisan, majority. I also want to note the outstanding efforts of my counterpart in the other Chamber, Agriculture Committee Chairman COCHRAN, and our distinguished ranking member, the gentleman from Texas (Mr. STENHOLM), for their efforts.

This bill seeks to address the issues that have tied the hands of our forest managers: National Environmental Policy Act analysis that drags on for months, administrative appeals that spring up at the last minute, and court actions that stall projects for so long that areas proposed for treatment frequently are destroyed by fires long before the judicial process concludes. The conference process has produced a bill that does not do as much as I would like to address on these issues. I understand there are many in both Chambers who would like to have seen a stronger product. But this bill creates the first real relief from bureaucratic gridlock after over 8 years of legislative effort. It sends a clear signal that the Congress favors results over process and that protecting our communities, our watersheds, and our people is more important than producing mountains of paperwork.

There are over 190 million acres of forests and rangelands which remain at risk of catastrophic wildfires, insect and disease, a landmass larger than New England. Our bill takes the modest step of addressing the hazardous conditions on only 20 million acres of this total. This bill also takes an innovative approach to forest health on private lands, creating new nonregulatory, incentive-based approaches to promote conservation on private lands. In short, it takes a national approach to a national problem.

H.R. 1904 has enjoyed broad support from groups such as the Society of American Foresters, the National Volunteer Fire Council, the International Association of Fire Chiefs and others. Professional wildlife managers, sportsmen, and serious conservation groups all support this bill.

We as a Congress have more work to do to perfect our forest management laws. Forest fires are a symptom of a land management system that suffers from procedural, managerial, and practical gridlock. Our forest management laws, environmental laws, and procedural laws do not work well together. They create a process that only highly trained legal minds can comprehend; and while claiming to encourage citizen participation, they often achieve just the opposite. So we need to do more, but we should be proud of what we are doing today. We are taking a bipartisan step toward better management of our forests. We are saying that protecting our communities, our watersheds, and our people comes before protecting the dilatory tactics of those who oppose any type of sensible land management.

I applaud President Bush for helping to bring this about. We would not be on the verge of passing this bill without his leadership. I hope he continues to exert leadership in this field to ensure that the Federal land managers act aggressively to implement this program as quickly as possible. I will do my utmost to ensure that bureaucratic inaction does not delay implementation. I urge my colleagues to support this conference report.

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

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

Mr. Speaker, I rise in strong support of the Healthy Forests Restoration Act conference report, and I am pleased to be here on the verge of completing legislation that will give us a chance to return America's cherished forests back to a healthy landscape. For the last century, public land managers have suppressed all forms of wildfire, including natural small-scale fires that restore forest ecosystems.

The unintended result of this policy is a decades-long buildup of forest fuel, woody biomass, and dense underbrush that is as close as the next lightning strike or escaped campfire from exploding into a massive fire. In some areas, tree density has increased from 50 trees per acre to as many as 500 trees per acre, according to the Forest Service and fire ecologists. These unnaturally dense forests are a small-scale ignition away from a large-scale wildfire. These natural small-scale fires burn at the ground level and at relatively low temperatures, allowing some trees to survive and, in the process, renewing the forest.

The suppression of these natural small-scale fires, however, has resulted in an accumulation of fuel that supports catastrophic wildfires of unnatural intensity that burn hotter, spread faster and cause long-term severe environmental damage, sometimes even sterilizing the soil. America's forest ecosystems are being decimated at an alarming rate by large-scale catastrophic wildfire and massive outbreaks of disease, insect infestation, and invasive species. Federal foresters estimate that an astounding 190 million acres of land managed by the Secretary of Agriculture and the Secretary of the Interior are at unnatural risk to catastrophic wildfire. Of that, over 70 million acres are at extreme risk to catastrophic wildfire in the immediate future.

During the second year of the National Fire Plan implementation, we witnessed the second largest fire season this Nation has seen in half a century. An early widespread drought, unparalleled since the Dust Bowl of the 1930s, affected 45 percent of the country. On June 21, 2002, the national level of readiness rose to the highest level possible, 5 weeks earlier than ever before, and remained at that level for a record-setting 62 days. In fact, wildland fires burned 7.2 million acres, or nearly double the 10-year average. Colorado, Arizona and Oregon recently recorded their largest timber fires of the century. And then we saw the devastation in Southern California.

Forest ecologists, professional land managers, and many environmental groups agree, the exploding incidence of catastrophic wildfire and disease and insect infestation pose a massive threat to the health, diversity, and sustainability of America's national forests. The Nature Conservancy, one of

the world's largest and most acclaimed environmental groups, has been a leader in the environmental community in building public awareness about the environmental calamities that catastrophic wildfires cause.

Of the three factors that most influence wildland fire behavior, weather, topography and fuel, land managers can effectively affect only fuel. Unless we take a proactive approach to fuel reduction, the remaining components of the National Fire Plan, which include firefighting, rehabilitation, community assistance and research, will only continue to increase in cost. Local governments, volunteer firefighters, professional foresters, conservationists, and labor organizations agree, it is time to act to protect our forests.

Fortunately, the Healthy Forests Restoration Act addresses these concerns by giving Federal land managers the opportunity to restore our forests to a more natural balance while maintaining important environmental requirements. The conference report before us allows for authorized hazardous fuel reduction projects on Federal lands, helps communities in the wildland-urban interface prepare for wildfires, improves the NEPA analysis process, and augments public involvement and review. Additionally, the report includes titles allowing grants to use biomass, providing watershed forestry assistance, addressing insect infestation research, and establishing private forest reserves.

In closing, let me remind Members that this is not a new issue to come before the United States Congress. We have been talking about this issue for years. I remember the tremendous work done by former House Agriculture Committee chairman Bob Smith and his efforts to reach out and find a compromise, only to go down in flames because of the inability of extreme sides of this question to come together.

I am disappointed that certain Members of the House were excluded from the process that got us here today. That certainly has not been the case with the House Committee on Agriculture. I commend Chairman GOODLATTE for his bipartisanship and leadership on this important issue. We all have differing opinions about the various components of the legislation before us; but in passing this legislation, we will restore America's treasured landscapes by reducing the risks of catastrophic wildfires and insect and disease infestations.

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

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

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

Mr. INSLEE. Mr. Speaker, it is abundantly clear to all of us of all political persuasions and parts of the country that we need a vigorous, well-funded, well-prioritized hazardous fuels reduction program in our national forests.

□ 1345

The Nation needs that because of a ''perfect storm,'' if I may use that term, of enormous changes in our climate which have led to drought, particularly in the western United States, leaving the most explosive conditions due to the lack of moisture in over 100 years and because of our misguided and mutually ignorant policy over the last several decades, if not century, of suppressing all fire, thereby allowing certain additional density to increase. All of us know we need a well-prioritized, well-funded, well-defined hazardous fuels reduction program.

But I, regretfully, cannot support this bill because it fails in several fundamental ways. It fails to prioritize the taxpayers' dollars where they ought to be prioritized which is the protect of human health and property first. It fails to protect our most treasured crown jewels in our Forest Service of our roadless areas, which I have to tell the Members in the part of the world where I come from, we treasure the roadless areas on our weekends and afternoons. It is part of our culture and our families, and they are unprotected in this bill. Third, it fails to adequately solve the problem as to why we cannot get these programs completed, which is money, and I will come back to that. We today change the law, but not the appropriations that we need to get this job done.

Let me start with a failure to prioritize in this bill. If I may, this ought to be job one for the U.S. Congress when it comes to hazardous fuels reduction. Job one for the U.S. Congress ought to be protecting, with a protective buffer, the homes and towns and cabins and barns in our thousands of acres from voracious forest fire, and this bill does not follow a fundamental precept that when we have got job one and when we have got limited dollars, we prioritize. To govern is to choose, and this bill consciously chose not to give the majority of funds in this program to protect these areas with moats, if I may, to protect them from this horrendous fire. And we have seen what happens in California when that occurs. And it ought to be a totally unanimous agreement here that the majority of our funds in our program ought to be directed to the areas around our towns and cities rather than spent up in Timbuktu harvesting commercial lumber.

We have seen that they split the baby 50/50, but spliting the baby 50/50 is not always right nor is it fair, and I will tell my colleagues why. This conference report says 50 percent of this money will go to the Wildland-Urban Interface. It will not do to tell people in this community that we have saved half their houses, and we have sacrificed the other half to the demands of those who want to continue commercial logging in our roadless areas. We failed in our duty to prioritize our precious dollars where they belong, and we have offered a modest amendment to improve that in the conference committee which were rejected out of hand.

And let me tell the Members why this prioritization is so important. Of the dollars we have spent next year, if we double the amount that has been appropriated by the majority party, whom I respect, and I respect their positions on this bill, but if we even double the amount that was spent in the last 3 years, we will still only do 2 to 3, maybe 4 percent of the acreage of the millions of acres that need to be treated. We have to prioritize. This bill did not do it.

The second thing this bill did not do, it did not protect our roadless areas. We have 58 million acres of roadless areas which are the crown jewels of our national forest, which are pristine, and everyone loves the trees in our roadless areas. The problem is some of them love them vertically and some of them like them horizontally. This bill does not protect our roadless areas from the ones who want to do commercial logging so that they will be horizontal. It does not protect them one wit in those roadless areas, and that is most discomforting, and I will tell the Members why. We should have been able to fashion a unanimous way to protect those roadless areas. Let me just suggest one way to do it. I offered an amendment in the conference committee that would simply say that if we have to, if there is some terrible disease-ridden patch in the roadless area that we have to build a road to get to it, to do an emergency program that would be allowed under this bill, okay; but let us at least restore the road after the project is completed to its original topography. How can anyone object to that? How could anyone object to that precept? If we are building a road in a roadless area to do a hazardous fuels reduction program, when we are done with the program, why not put the road back in its natural topography. Who could object to it? I will tell the Members who does object to it. The timber industry who wants to use these roads to punch them into the heart of our most virginal forests and then make them available for commercial harvest, and we do not need to do that to accomplish our ends here, and it is regrettable we did not solve that problem.

The third thing that this bill does not do, it does not cut to the heart of the problem. This bill, its whole fundamental idea is if we just cut off those pesky environmentalists, by gum there will not be any more forest fires. I will give the Members bad news. We can outlaw environmentalists if we want to, and I see some nods. My friend over on this side of the aisle would like to do that. I take a different view. They are my constituents. They are people who like to go up and have clean water out of the roadless areas. They are people who like to go on a picnic in the roadless areas, and they know, as I do, that if all we try to do to fix this program is to cut off citizen participation,

we will not solve the problem of getting these fuels reduction programs in line, and I will tell the Members why we will not. The reason we have we are not getting the job done and giving therapy to our forests is that we have not appropriated one tenth of the money that is necessary to get this job done. It is not appeals. Come on. The GAO, in their last study, after four rounds to make sure they got it right, said that 92 percent of all of these fuels reduction projects go lickity-split right through the process without any problems and only 3 percent of them were litigated. Ninety-seven percent of these projects go through without litigation. So why have we not cut the mustard? Why have we not done enough therapy on these forests? It is because we have not invested the money to do it. We have only invested enough money to do 2 to 3 percent, and that is not going to significantly improve in this bill. Doubling does not even cut it, even if we got the appropriation. So we are united, I think, unanimously on this floor in the belief that we need to have a strong fuels reduction program, but we cannot say that this bill will provide what the American people need to get this job done in a reasonable fashion.

The fourth, if I can, problem with this bill: It is clear that we have got to cut down a whole bunch of trees to solve this problem because they are dense, they have grown up because of our misguided fuels suppression program, and now we have got this cataclysmic fire situation. But the question is what do we cut and where? That is really the issue we need to resolve on the floor of this House. And here is a tree, a mature tree. I wish I could tell the age, marked for cutting in the fuels reduction program. There is no reason to cut that tree except for commercial purposes. We needed to develop a firm definition, so that the Forest Service can use it to determine what trees to cut, and it would have been easier if we provided them adequate money to do it, so they do not have an incentive to log bigger trees to generate money for this program. But we did not do it, because the appropriations process did not cut the mustard. So we have a problem that we have not given adequate definition of what to cut and where.

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

Mr. POMBO. Mr. Speaker, I yield myself 2 minutes.

I am glad that the gentleman from Washington (Mr. INSLEE) claimed the time in opposition to this because I think it is important for everyone to see just how difficult this bill has been to finally arrive at this point of developing a bill and a conference report that is so widely supported in both this Chamber and the Chamber across the Capitol, that we have brought together such divergent interests, so many people who may have initially opposed this bill that are now on board because of the great compromise that was reached to bring this bill to the floor.

The history behind the Healthy Forests initiative, it has been, I think, 8 years now since the very first bill was introduced and the work began to finally get to this point, and we have gone through, I believe, close to 75 hearings in Committee on Resources alone on this legislation. There has been a countless number of people that have testified, and we have gone back and forth. And these past 3 years, we actually have to give a lot of credit to two of my colleagues in the House, the gentleman from Colorado (Mr. MCINNIS), subcommittee chairman, and the gentleman from Oregon (Mr. WALDEN) for the work that they did in pulling together with all of the different interests to bring something together, the gentleman from California (Mr. GEORGE MILLER), former ranking member on the committee, and the gentleman from Oregon (Mr. DEFAZIO) and others to put together a bill that was really a great balance between so many different interests. And I found with interest the gentleman from Washington's (Mr. INSLEE) talk about a particular tree and saying that we need to resolve on the floor of the House whether or not that should be cut down. I have got to tell him, we do not know. That is the job of the professional foresters. The focus of this bill is to go out into the forests and let the professionals, the scientists, the people who really do understand what is going on out there, have them decide where the best place to do thinning projects is, not on the floor of the House. That is ridiculous to think that we on the floor of the House should be doing that.

But this is a grand compromise. It is a great bill, and I urge my colleague to support it.

Mr. GOODLATTE. Mr. Speaker, I yield 2 minutes to the gentleman from Minnesota (Mr. GUTKNECHT), chairman of the Department Operations, Oversight, Nutrition, and Forestry Subcommittee of the House Committee on Agriculture.

Mr. GUTKNECHT. Mr. Speaker, I thank the chairman for yielding me this time.

And I want to especially thank all those who have been involved, the gentleman from Virginia (Chairman GOODLATTE), the gentleman from California (Chairman POMBO), and the gentleman from Texas (Mr. STENHOLM), ranking member, for all of their work on this legislation. And in addition, I think we should thank President Bush because of his leadership on this issue.

Nearly half of the 190 million acres managed by the Secretaries of Agriculture and Interior are at extreme risk to wildfire. Millions of acres across the South, the East, and in my home State of Minnesota are facing disease and insect epidemics. And yet Federal land managers will treat only about 2.5 million of those acres each year because of the extraordinarily lengthy procedural and documentation requirements.

Time and again, we have seen the destruction that forest mismanagement and drought can cause to our landscape and to our families. This year alone 4.3 million acre of our Nation's forests have burned and 29 firefighters have lost their lives. Recently, more than 750,000 acres have been burned in southern California, and 22 Californians died trying to escape those fires.

Many see the fires on TV and think this is only an issue for ''out West.'' Unfortunately, poor forest health is a national problem. The lack of forest management of our national forests in States across our country, including my home State of Minnesota, has placed private forests and communities at risk of fires, insects, and disease. Almost 3 million acres of the National Forest System lands in Minnesota are at high risk. Standing by and doing nothing to protect this precious resource is tantamount to criminal neglect. Congress has an obligation to ensure that we do not neglect our national forest lands and ensure that they are available for generations to come. Too often, excessive regulation and what I call ''paralysis by analysis'' has made even the simplest management project an ordeal of years instead of weeks. H.R. 1904 is critical to begin to solve the problems of proper management of our forests.

I urge all Members to support this important legislation.

□ 1400

Mr. STENHOLM. Mr. Speaker, I yield 3 minutes to the gentleman from Oregon (Mr. DEFAZIO).

Mr. DEFAZIO. Mr. Speaker, I thank the gentleman from Texas for yielding me this time, and I thank all of the members of the Committee on Agriculture and the Committee on Resources who have put so much time and effort into this. Yes, it was a long process, but I believe that a good result is worth the work. I wish we had got it done a year ago; but, hey, we are now finally going to get something in place long ahead of next year's fire season.

This bill, if properly implemented, will begin to carefully undo 100 years of mismanagement of our national forests. It recognizes that this is going to be a long and expensive process. It recognizes that it cannot be done for nothing. This bill includes a $760 million-a-year authorization. I think we could even go higher. Mr. Speaker, $1 billion a year could be productively spent in the West, given the magnitude of the problem; but it is a significant increase over the commitments we are currently making.

It will bring jobs to hard-hit rural areas in the forests. It sets a priority that half the funds should be spent in proximity to high-risk communities in the West, and it also sets priorities for protection of other high-value resources in high-risk areas.

If properly implemented and fully funded, I believe that we can begin to step incrementally away from the catastrophic, or potentially catastrophic,

conditions that exist throughout the West today.

It contains old-growth language that clearly reflects the intent of Congress that the objective is to return the forests to presettlement conditions, which means there will be large, fire-resistant trees more widely spaced, particularly in the inter-mountain areas; that we would leave native stands intact, but we would aggressively thin from below. We would remove ladder fuels, we would remove trees that are growing into the crowns of the larger trees.

I mentioned earlier the Davis fire in Oregon and the lodgepole that carried the fire into the crowns of the Ponderosa, that would have survived the fire otherwise, had we gotten in there and removed those lodgepoles, which have little commercial value. That is why this program will be expensive. In many areas, what needs to be removed has little or no commercial value. Where it has commercial value, we will use that to offset the costs and to amplify the program.

It does not unduly restrict the right of appeal. It does require that people participate meaningfully in the process if they are going to appeal, and that is the way it should be. I want people to be involved from the beginning in communities, meaningfully commenting on the plans and proposals of the Forest Service. It allows judicial review if the bill is misapplied by this or any future administration.

But it will move the process along, and we will begin to chip away at the backlog. But make no mistake, even if we get the $760 million a year, this is going to take a long time to return our forests to their natural state.

Mr. INSLEE. Mr. Speaker, I yield 3 minutes to the gentleman from New York (Mr. HINCHEY).

Mr. HINCHEY. Mr. Speaker, this is an example of not just an act that will destroy good policy, but it also destroys the language; and it is consistent with the kind of thing that has been happening here recently, particularly with regard to environmental policy.

What is the name of this bill? The Healthy Forest Restoration Act. It reminds me very much of the Clear Skies Initiative that the President was pushing and the majority in this House was solidly behind. What did we get from the Clear Skies Initiative? Increased greenhouse gases, increased acid rain, a big gift to the polluters so that they do not have to upgrade their equipment. The same kind of thing occurs here.

The rationale behind this legislation as it is stated is that we need this act in order to carry out thinning processes in places where fires are likely to occur. Now, one would have the idea, based upon that, that these thinning processes are being held up. That is what they want us to believe, these thinning processes are being held up by litigation and things of that nature.

Well, what does the General Accounting Office say? The General Accounting Office has a lot of credibility around here. The General Accounting Office tells us that the appeals and litigation are not slowing thinning projects at all. In fact, 92 percent of the thinning projects are being completed without delay.

Now, why, then, are we engaged in this?

Well, the real reason is, just like under the Clear Skies Initiative, we were not interested in cleaning up the skies, and here we are not interested in healthy forests. What we are interested in is a big giveaway to the people who want to go out and cut down the trees that are on public land. That is what this is all about.

Now, another interesting aspect of it to me is a lot of people in this House who are dead set against any activity by the Federal Government, they want the Federal Government out of everything. Now, however, under this piece of legislation it is, no problem, just give them this authority, trust the administration, trust the Federal Government. They will do everything right. Totally inconsistent, obviously.

So what else does this bad bill do? It fails to focus on projects in communities that are actually in need of protection. It undercuts NEPA by eliminating the requirement to consider a full range of reasonable alternatives. It fails to treat or provide assistance to State, tribal, and private lands. It throws up unprecedented roadblocks to citizens across the country and their access to the courts, and it is a direct threat to the independence of the judiciary in this country on this specific issue. It curtails the rights to appeal bad projects and authorizes a new appeals process with no sideboards to be created by the Secretary.

This is an example of a bad bill and specious arguments driving bad policy.

Mr. POMBO. Mr. Speaker, I yield 1 minute to the gentleman from California (Mr. LEWIS).

Mr. LEWIS of California. Mr. Speaker, I thank the gentleman for yielding me this time. While I am doing so, I want to express my deep appreciation to the leadership on both sides of the aisle who have gone about the compromises necessary to bring this bill to the floor in the first place.

It is important to know that we have been mismanaging our forests for all too long now; and if there is a need for a demonstration project relative to that, all one has to do is look at the recent devastating fires in Southern California.

My territory is directly impacted. We have lost thousands and thousands of homes. We have lost dozens of lives as a direct result of mismanagement of our forests. And as of this moment, the most pristine areas of Southern California are in jeopardy of total loss because of mismanagement by this body and by the Federal Government of their forestlands.

This bill is a good step in the right direction. It is going to cost some money, but not nearly the billions and billions of losses that we have already suffered in Southern California.

Mr. GOODLATTE. Mr. Speaker, I yield 1 minute to the gentleman from Montana (Mr. REHBERG).

Mr. REHBERG. Mr. Speaker, I would like to add my voice to the chorus of accolades thanking the various chairmen and subcommittee chairmen and Members who have worked so hard on this piece of legislation.

It is ironic in this country when something like September 11 occurs, or a tornado or a flood that creates massive destruction quickly, we roll up our sleeves and we get to work rebuilding. Yet the cancer that is caused by drought and insect infestation, disease and such that is occurring within our forests somehow is treated differently.

What have we seen over the years? In 1988 we burned a large area of Montana, the Yellowstone ecosystem. We assumed that something would be done, but it was not. It got stuck back in Washington, D.C., and what did they do? They talked and talked and talked. And over the years, while we talked about solutions, what have we done? We have talked our forests to death. And eventually we go to the corners, and then we sue our ways back out. It is stupid. It is ridiculous. That is not the way to present a better forest. This piece of legislation in fact will now manage the lawsuits.

Please support this compromise. It is a good one.

Mr. STENHOLM. Mr. Speaker, I yield 2 minutes to the gentleman from Michigan (Mr. STUPAK).

Mr. STUPAK. Mr. Speaker, as cosponsor of H.R. 1904, the Healthy Forest Restoration Act of 2003, I rise in support of this legislation because of the relief it provides to combat the challenges facing our forest system today. From hazardous fuel reduction to insect and disease infestation research, this bill gives our forest managers and our private citizens the money and the technical assistance they need to help bring our forests back to health.

Mr. Speaker, H.R. 1904 will work to alleviate the fire hazards that currently plague our forests. As evident by the rampant spread of the wildfires that recently ravaged Southern California, our Nation's forest system is overwhelmed with excess brush and foliage which could fuel catastrophic wildfires.

This bill provides thinning programs for up to 20 million acres of at-risk lands near communities and their water supplies, at-risk lands that serve as habitat for threatened and endangered species, and at-risk land that is particularly susceptible to disease or insect infestation.

Mr. Speaker, H.R. 1904 also provides money and technical assistance to stop the growing problem of insect and disease infestation. In southeastern Michigan, for example, Forest Service managers are battling the emerald ash

borer. This insect has decimated the population of ash trees located in a 6-county area. Luckily, officials have responded quickly, and we are in the process of containing this threat. H.R. 1904 will assist in our fight against invasive species like the emerald ash borer and others around our country by promoting new research and quick action to reduce the impacts on these forest pests.

I strongly urge my colleagues to pass this conference agreement on H.R. 1904. I want to thank the ranking member, the chair, and all of the staff for their hard work on this. It is time we reduce the threat of wildfires to our communities and our environment. Support H.R. 1904.

Mr. POMBO. Mr. Speaker, I yield 1 minute to the gentleman from Arizona (Mr. HAYWORTH).

Mr. HAYWORTH. Mr. Speaker, I thank the chairman of the committee, my friend from California, and I thank him for yielding me this time. I rise in strong support of this conference report, which at once is an important first step and, at the same time, is long overdue.

It has been interesting to listen to the conflicting philosophies on the floor. There is one point of view represented that true environmentalism means therapy for the forests.

Mr. Speaker, I think the questions are accurate to be asked. Is it therapeutic to have such destruction in the forests that the number of particulates in the air eclipses rush hour in many of our major metropolitan areas? Is it therapeutic in the forests to see watersheds destroyed? Is it therapeutic in the forests to see land burned so badly that, as the gentleman from Texas pointed out, the land is sterilized?

No, the sound environmental position is to have sound scientific principles embracing healthy forest management. And to the effort of protecting homes and property and people like the 20-plus who perished in California, this job is long overdue. We must pass this bill; and, quite frankly, we should do more, not only for rural America, but for suburbanites who perished in the recent fires in California.

Mr. STENHOLM. Mr. Speaker, I yield 2 minutes to the gentlewoman from Oregon (Ms. HOOLEY).

Ms. HOOLEY of Oregon. Mr. Speaker, I thank the gentleman for yielding me this time and for all the hard work he has put in on this particular piece of legislation. I also want to especially thank my two colleagues, the gentlemen from Oregon (Mr. WALDEN) and (Mr. DEFAZIO), for their enormous work on this piece of legislation.

Mr. Speaker, this is an issue that is very important to my home State and to my congressional district. Reduction of hazardous fuels. Oregon has been hit hard by wildfires in recent years, and I am very happy that we are finally taking steps in this House to make up for years of neglect of our Federal forests. Forests and timber are vitally important to the citizens of Oregon. The economic costs of forest fires in Oregon have been astronomical and the human costs have been even higher. It is essential we do something about it, and something sooner rather than later.

Prior to coming to Congress, I served as a county commissioner in Clackamas County, which owned thousands of acres of forest land. I was responsible for management of those forests. I know from experience that it is possible to manage and protect a forest and that in many cases, it is necessary to manage a forest in order to protect it.

This legislation before us will have a positive impact. Not only will it help save people's homes and people's lives, it will focus money on lands that need it most and provide environmental protections.

□ 1415

At the same time it allows local communities and citizens to remain involved in the process. What I am most pleased about, however, is that this legislation provides funding for fuel reduction. The $760 million authorized in this bill is a great start and will help protect our forest and our communities.

The House and the Senate have reached an important compromise that is balanced, and provides money to get the job done. Mr. Speaker, I urge my colleagues to join with me in supporting this legislation that fosters a healthy management and protection of our national forests.

Mr. INSLEE. Mr. Speaker, I yield 2 minutes to the gentleman from New Mexico (Mr. UDALL).

(Mr. UDALL of New Mexico asked and was given permission to revise and extend his remarks.)

Mr. UDALL of New Mexico. Mr. Speaker, I compliment the gentleman from Washington (Mr. INSLEE) for his management of this bill. Let me just talk a little bit about the judicial review test here, because I think that we are embarking on new ground. When we put in a test that talks about short-term and long-term, really what we are ending up doing is saying that if you cut down the whole forest and it is okay in 100 years, then that is all right. I mean, that is the kind of test that we are putting into this piece of legislation. We do not know what that means. And so we are encroaching into the judicial arena, trying to tell the courts what to do. This is a new test. It is a new standard. It has never been used before.

And what is going to happen? We hear all the talk about lawsuits and litigation from this side of the aisle. Guess what, folks? This is going to be a lawyers employment bill. If there is anything that is going to come out of this, it is going to be more litigation, it is going to be more billable time, it is going to be more lawyers involved in this process. And I think what is going to happen further, if we allow this to happen, if we allow this to happen, we are going to see this appear across the board in other areas, workers' rights, OSHA, any place where Federal agency decision-making is going on, this is going to be imposed on the Federal courts. And I think that is why the committees that supervise in the Congress judicial review have such a hard time with this provision.

With that, I would just urge my colleagues to vote against this bill.

The recent firestorm in Southern California acted to once again remind us of the gravity of rampant wildfires in the west. However, this issue is of such great importance that I am extremely concerned about, and strongly object to, the manner that this legislation was brought before us today.

You may recall that the Committee Print of the Healthy Forests Restoration Act was released to the members of the Resources Committee during a recess period, on the Friday afternoon before it was scheduled to be marked up in Resources committee, a few days later.

Similarly, we are called upon today to vote on the Healthy Forests Conference Committee report. This report was just released yesterday. It is my understanding that the rules for the House call for a minimum of 3 days of review of a conference report before it is voted upon.

So, in what now seems to be standard operating procedure of the House, we have barely had twenty-four hours, if that, to read and digest its contents. One day is hardly sufficient to allow all Members to carefully and thoughtfully consider this vital legislation.

I would like to point out that H.R. 1904 was not the sole option available for our protection from wildfire devastation. Mr. UDALL of Colorado and I introduced H.R. 1042, the Forest Restoration and Fire Risk Reduction Act.

Had we had an opportunity to hold hearings on our bill, Mr. UDALL and I would have been able to formally raise some of the issues that I view are not adequately addressed in H.R. 1904 or the conference report, but that are critically important to wildlife prevention and protection.

Our bill would place greater emphasis on protection of the ''wildland/urban interface'' without imposing the unprecedented deadlines and standards for injunctive relief on the Federal judiciary, and without emasculating our environmental laws that are present in both H.R. 1904 and the Report.

While the results of the conference are better than the version passed by the House, the provisions that I view to be most controversial remain in the text. The agreement places a greater emphasis on thinning forests very close to communities, but, like the House bill, it significantly limits environmental reviews of forest thinning projects and insect infestation field research projects.

I reemphasize that I believe that we must conduct thinning projects to help reduce the likelihood of unusually severe fires. However, I do not support the contention that to facilitate such projects we need to expunge our environmental laws and procedures for public comment and participation.

The limits placed on fire-risk reduction projects from environmental review and administrative appeals, especially in the wildland

urban interface, in effect constrain the provisions of the National Environmental Policy Act. Furthermore, denying the public the full and fair opportunity to have viable alternatives to agency action considered circumvents established policy of public participation.

Such participation is an important aspect of our democratic process for making decisions affecting public lands. Limiting public comment and ignoring the provisions of NEPA and other laws designed to protect our environment does not assist in developing sound forest management.

I believe, however, that the conference report is a better bill than the version passed by the House. The Report contains specific provisions to protect the wildland urban interface. Furthermore, the report authorizes tribal watershed management programs for Indian tribes, an issue that I have strongly advocated for since we began working on this legislation in the 107th Congress.

Nonetheless, I am afraid that this legislation is just another assault by the Bush Administration on our Nation's forests. Most of the attacks over the last year have been below the radar—in arcane rules, stealth riders and misnamed legislation. In this many-fronted assault, big timber is the winner.

Under the guise of buzz words such as forest health, catastrophic-wildfire prevention and streamlining, the Administration's initiatives transform forest policy in ways that are staggering in their scope as well as in their implications for democracy.

The changes revamp laws fundamental to sound forest management, including the National Forest Management Act, the Appeals Reform Act and NEPA. The cumulative effect of these changes is to undermine or eliminate open decisionmaking, agency accountability, resource protection and recourse in the courts.

It began in December 2002, when the Administration proposed a forest-planning regulation that renders public involvement virtually meaningless. The rule ignores scientific involvement, eliminates fish and wildlife protection, and fails to protect roadless areas.

It skews the planning process to favor logging, mining and off-road vehicle use. It renders plan standards more discretionary, further reducing agency accountability. Most shocking, the final rule, due out imminently, exempts forest plans from environmental analysis and eliminates the opportunity for the public to appeal the final plan.

The Forest Service assured critics that it would undertake in-depth environmental studies when specific logging projects were proposed. Not so.

In June 2003, the Administration abolished environmental review of logging done in the name of ''hazardous fuels reduction'' on up to 1,000 acres of land as well as post-fire rehabilitation projects on up to 4,200 acres.

One month later, the Administration carved out more loopholes for National Environmental Policy Act exemptions for commercial logging by setting acreage limits of 70 acres for timber sales and 250 acres for salvage sales. These projects have few, if any, meaningful constraints.

For example, the projects must be ''consistent'' with local forest plans. Yet, under the soon-to-be final planning regulations, forest plans can be amended simply by changing the plan on an interim basis with no public notice.

Under the banner of hazardous fuels reductions, large-scale, intensive commercial logging projects may take place virtually anywhere in our forests, regardless of forest type or tree size. In effect, the conference report allows logging and associated road building with limited environmental analysis, administrative appeals, judicial review and public involvement.

The Appeals Reform Act of 1992 gave citizens a statutory right of appeal after the Forest Service tried to eliminate appeals on timber sales. Although billed as part of the ''Healthy Forests Initiative,'' changes to these regulations significantly curtail rights to appeal a broad range of timber sales and land management decisions—not just those pertaining to fire risk.

H.R. 1904 sets no time frames for appeal, no required stay of action provision during the appeal, and no guaranteed right to appeal. Instead, the Forest Service would have 30 days after enactment of this legislation to develop the new administrative appeals process.

This legislation also pushes citizens out of the picture. In addition to altering the intentions of the Appeals Reform Act, H.R. 1904 reduces environmental review on logging projects not already given a wholesale exemption and severely restricts opportunities for public involvement.

Furthermore, it encroaches upon the courts' ability to review the legality of logging projects almost anywhere on our publicly owned forests, including roadless areas and old growth. If bug and disease-control are the purported reasons for logging, projects up to 1,000 acres will bypass all environmental review and appeals.

With millions of dollars authorized in the act for any hazardous fuels project on public lands, logging without laws can proceed throughout the backcountry.

The synergistic effects of these radical rollbacks are breathtaking. I predict that the assault will only foment more controversy and stimulate more distrust of the Forest Service for years to come.

I urge my colleagues to vote ''no.''

Mr. STENHOLM. Mr. Speaker, I yield 1 minute to the gentleman from Pennsylvania (Mr. PETERSON).

Mr. PETERSON of Pennsylvania. Mr. Speaker, I rise to urge everyone if you want forests to be healthy and be managed, to support this bill. I have heard stated here that we have mismanaged, that the Forest Service and other agencies cannot manage forests under the current law. It is impossible to manage.

In the Allegheny National Forest in Pennsylvania, the finest hardwood forest in America, we just had 10,000 to 20,000 acres of blow-down in July. It has been assessed at somewhere between $50 to $100 million in value lying on the ground. The Forest Service chief there just determined that it would be at least 3 years before he could have people there harvesting trees on the ground. Tell me that the system season broke, that it makes sense to have $100 million worth of American assets to lie there and rot because in 3 years they are of little value at all.

Folks, this system is broken. We do not want judges managing our forests. We want soil scientists, fish and wildlife biologists, and all the people that our Forest Service hires. They have every kind of scientist there is managing our forests. They should make those decisions.

Mr. POMBO. Mr. Speaker, I yield 1 minute to the gentleman from Arizona (Mr. RENZI), who brought a renewed vigor to this debate.

Mr. RENZI. Mr. Speaker, I want to thank the chairman for his leadership, and I especially want to thank the gentleman from Colorado (Mr. MCINNIS) for his fighting spirit and 3 years of perseverance that it took us to finally get to this point.

I also maybe want to offer a little bit of a different view for those limousine environmentalists from the inner city, who do not necessarily live in the forests as we do. Coming from Flagstaff, Arizona, the largest Ponderosa pine forest in the world, where we suffered the likes of the Rodeo-Chedeski fire, a fire of 500 thousand acres.

I want my colleagues to know there is a science that is being ignored here. We are taking half the money and putting it into wildland urban interface right on the boundaries of our communities. Yet the forest managers want to be able to attack fire in the outlands. What they understand is in the West we have canyons. While they may have concrete canyons in New York City, we have real canyons in Arizona. In those canyons, we have up-slope terrain. When up-slope terrain combines with wind and temperature, that fire burns so hot and so fast that wildland urban interface and limiting the money will not be able to give us fallback positions for our firemen. It is a compromise that we have proposed here. Vote in favor of the bill.

Mr. GOODLATTE. Mr. Speaker, I yield 1 minute to the gentleman from Georgia (Mr. BURNS).

Mr. BURNS. Mr. Speaker, I want to join my colleagues in support of H.R. 1904, the Healthy Forest Initiatives. I want to thank the gentleman from Virginia (Mr. GOODLATTE), the gentleman from California (Mr. POMBO), my distinguished colleague from Texas (Mr. STENHOLM). We think about the healthy forests, we think about our homes, the wildlife, the lives of the men and women who live near and certainly the forest, and we want to protect those.

In California, we saw the devastating fires of this year. I can think of no better way to ease the minds of those in the West than to pass the Healthy Forest Initiative.

In Georgia, we do not have the wildfires and the large forest fires that we see in the West, but we have pests, and we have disease. We have millions of acres that are at risk in Georgia due to the southern pine beetle and other insects. We have seen a 278 percent in increase in pine beetle infestation last year alone. This Healthy Forest Restoration Act provides the Federal land managers with great flexibility to deal with the fire dangers in the West, but it also provides them with the authority to do innovative things in detection

and suppression of pests that really threaten eastern forests.

Mr. Speaker, the Healthy Forest Restoration Act is a national solution to a national problem. I urge Congress to vote yes.

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

Mr. POMBO. Mr. Speaker, I yield 2 minutes to the gentleman from Oregon (Mr. WALDEN), the coauthor of the legislation.

Mr. WALDEN of Oregon. Mr. Speaker, this legislation provides for major improvements in how we will manage our forests. First of all, it reduces unneeded government analysis. Second, it provides for actually more public involvement, especially in the beginning, through better notice and better participation requirements. It requires and reforms the appeals process so we can end the costly delays that do keep our professional foresters from doing the work they need to do to make our forests more healthy.

Finally, it does require the courts to more quickly move on appeals and, more importantly, consider the catastrophic affect on forest health of preventing these projects from going forward.

Now, we have heard today about the problem with the General Accounting Office, but let us talk about what the General Accounting Office actually found. This is what the GAO report found: 58 percent of eligible thinning projects in the United States were appealed in fiscal year 2001 and fiscal year 2002. Fifty-two percent of the eligible forest thinning projects proposed near communities in the wildland urban interface were appealed. Half the projects, half the projects right around communities were appealed. The GAO found an overwhelming number of Forest Service appeals were found to be without merit. Seventy-three percent of the appeals were rejected.

Ladies and gentlemen, we have to change the process. That is what we are doing today. We are going to fund the work that needs to be done. This year alone we are going to spend $420 million to go in and thin out our forests so we will not have catastrophic fires in the future. I would like to see this bill expanded beyond 11 percent of the forests that need this kind of treatment, but that is as far as we could get under this act. I want to see our communities protected.

This legislation relies on the underlying National Forest management plans to protect old growth forests. My colleague, the gentleman from Washington (Mr. INSLEE) talks about protecting old growth. We do that in this bill because the underlying plans protect the old growth. And the alternative of defeating this bill is to have old growth forests that are blackened, burned and destroyed, and I will not stand for that. Vote for the bill.

Mr. GOODLATTE. Mr. Speaker, I yield 1 minute to the gentlewoman from Colorado (Mrs. MUSGRAVE).

Mrs. MUSGRAVE. Mr. Speaker, I would like to offer my gratitude to the chairman of the Committee on Agriculture, the gentleman from Virginia (Mr. GOODLATTE), the ranking member, the gentleman from Texas (Mr. STENHOLM), the gentleman from California (Mr. POMBO), and especially to my colleague, the gentleman from Colorado (Mr. MCINNIS).

In the West we care very deeply about this legislation, particularly in Colorado. We have had the Buffalo Creek Fire, we have had the Hayman Fire in Colorado, we have had massive loss in acres of our beautiful forest land. We have had immeasurable damage to the environment, to our water quality.

The Denver Water Board spent over $20 million cleaning up after the last fire. Habitat has been destroyed. Our tourism industry has been harmed greatly. And, more importantly, we have lost the lives of our brave firefighters in Colorado.

We are in strong support, those of us that care about our national forests and our private forests, are in strong support of this conference committee report. And I commend all those who have worked so hard on this conference committee and this legislation.

The SPEAKER pro tempore (Mr. BASS). The Chair would like to announce that the gentleman from California (Mr. POMBO) has 3 minutes remaining, the gentleman from Virginia (Mr. GOODLATTE) has 1 minute remaining, the gentleman from Texas (Mr. STENHOLM) has 7 minutes remaining, the gentleman from Washington (Mr. INSLEE) has 5 minutes remaining.

Mr. STENHOLM. Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. DREIER).

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

Mr. DREIER. Mr. Speaker, I rise in strong support of this conference report. And I was told that I had to spend my entire 2 minutes praising the gentleman from Texas (Mr. STENHOLM), but I am going to instead talk about the benefits of this bill. And I want to compliment my colleague, the gentleman from California (Mr. POMBO), and the chairman of the conference, our good friend, the gentleman from Virginia (Mr. GOODLATTE), the chairman of the Committee on Agriculture, the gentleman from Oregon (Mr. WALDEN), and others who have been so involved in this measure.

I happen to represent the Los Angeles area in southern California. And the world knows that we have just suffered devastating fires in the southern California area. It impacted the districts of my colleague, the gentleman from California (Mr. LEWIS) who represents the area in the Inland Empire to the east of Los Angeles, further east of the area I represent, and several others of our colleagues in San Diego. I know that my colleague, the gentleman from California (Mr. HUNTER), as we all know, lost his home. And this impacted the district of the gentleman from California (Mr. CUNNINGHAM). And I can go through the litany of our colleagues. Many members of the California delegation had their districts impacted by this. We lost lives, we lost a tremendous, tremendous amount of property. I lost in excess of 50 homes in the area that I represent.

And I was very pleased when the gentleman from Virginia (Mr. GOODLATTE) was before the Committee on Rules yesterday and talked about the fact that within this measure we will be able to have resources to deal with things like the bark beetle which has played a role in creating a problem in southern California when these trees were not cleared. And that played a role in starting these fires.

We know that some resources were provided through the Department of Agriculture to deal with this, but it was not handled appropriately from the reports that we had from the head of the Office of Emergency Services there. It is important for us to do everything that we can to ensure that the loss of life and property is diminished. I am convinced that passage of this conference report will go a long way towards doing just that. And I thank all my friends who played such an important role in making this happen.

The SPEAKER pro tempore (Mr. BASS). The Chair will advise that the closing order will be the gentleman from California (Mr. POMBO) first, the gentleman from Texas (Mr. STENHOLM) second, the gentleman from Washington (Mr. INSLEE) third, and the gentleman from Virginia (Mr. GOODLATTE) fourth.

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Mr. POMBO. Mr. Speaker, I have one additional speaker to close.

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

Mr. STENHOLM. Mr. Speaker, I yield 1 minute to the gentleman from Michigan (Mr. SMITH).

(Mr. SMITH of Michigan asked and was given permission to revise and extend his remarks.)

Mr. SMITH of Michigan. Mr. Speaker, our Committee on Agriculture is a great committee in terms of Republicans and Democrats working together.

Our forests in this country are one of our strong resources that not only help us economically but also help the environment, and conserving the environment is important. Our forests certainly are an important part of Michigan, but they are also a very important part of our economic strength in the United States.

In the West, catastrophic wildfires recently have decimated those forests over the last several years. We have made a mistake over how we want to control forests. And sometimes in our overzealousness to protect from fires, we have increased the potential of additional damage. Two days ago, we

passed an energy bill. In this bill there is also language to utilize the natural renewable resources of our woodlands of America to also contribute to energy.

Removing some of the bureaucratic red tape for performing fire prevention measures is not only environmentally friendly but also fiscally responsible, as fire prevention costs American taxpayers approximately one-fourth of what it costs to fight catastrophic forest fires. The Healthy Forests Restoration Act authorizes the Bureau of Land Management (BLM) to reduce the amount of underbrush and deadwood buildup in forests that serve as kindling and fuel for the hottest, most dangerous fires. It would regulate BLM's activities by putting limits on the tree removal and road construction that has provoked controversy at times in the past. This would give BLM the tools it needs to confront the increasing threat of destructive forest fires on federal lands that have had serious impacts both on people and wildlife.

The bill takes additional measures to improve our forests. These include provisions to encourage energy production from renewable energy sources, protection of watersheds in forest areas and the creation of a forest reserve program aimed at preserving and rehabilitating up to one million acres of degraded and rare forest lands.

Disease and insect infestations are not only detrimental to our woodlands, but also to our tree-lined streets and backyards. In southeast Michigan, we are combating an exotic beetle known as the Emerald Ash Borer. The bettles' larvae feed on the sapwood and eventually kill branches and entire trees. This invasive pest has resulted in the quarantine of all ash products in six counties and southeastern Michigan. There are 28 million ash trees in the six quarantined counties and an estimated 700 million ash trees in Michigan. We are not finding that the pest is spreading into Ohio. The magnitude of this problem is serious. Preliminary data from the Forest Service estimates that the potential national impact of the Emerald Ash Borer is a loss of ash trees up to 2 percent of total timber with a value loss of between $20–60 billion.

Following discussions with Secretary Veneman and gaining the support of the Michigan delegation, Michigan Department of Agriculture, and DNR we were able to get the approval of substantial millions of dollars in emergency assistance from USDA to combat the Emerald Ash Borer. This federal funding will supplement resources provided by state and local authorities and will be used for pest surveillance, quarantine of infected areas, and some tree removal. In order to more efficiently combat destructive pests like the Emerald Ash Borer, the Healthy Forest Restoration Act puts in place measures that will allow accelerated information gathering on such insect infestations. By removing bureaucratic red tape and being more proactive in maintaining forest health, the Healthy Forest Restoration Act is a step in the right direction towards efficiently managing our forests, preventing catastrophic fires, controlling damaging insect infestations, and protecting our environment.

Mr. STENHOLM. Mr. Speaker, I ask unanimous consent to give two of my remaining minutes to the gentleman from Virginia (Mr. GOODLATTE) for the purposes of closing.

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

There was no objection.

The SPEAKER pro tempore. The gentleman from Virginia (Mr. GOODLATTE) has 2 extra minutes.

Mr. POMBO. Mr. Speaker, I yield the balance of our time to the gentleman from Colorado (Mr. MCINNIS), the subcommittee chairman and co-author of the legislation.

Mr. MCINNIS. Mr. Speaker, I appreciate the yeoman's work of the chairman and the guidance of making sure that we could get this bill through. I also wish to acknowledge deeply the gentleman from Virginia's (Mr. GOODLATTE) service and especially the service of the staff who have worked so hard in making sure that we could come together on this side of the aisle so that when we approached this side of the aisle we had a package that had common sense. We had a package that people like the gentleman from Texas (Mr. STENHOLM), the gentleman from California (Mr. GEORGE MILLER), and the gentleman from Oregon (Mr. DEFAZIO) could come to the table and work with us on. And a lot of that was guided, a lot of the going back and forth was guided by someone who I consider an artist and that is the gentleman from Oregon (Mr. WALDEN), somebody who can negotiate between both the Republicans and the Democrats.

It was about 99 years ago when Teddy Roosevelt used his State of the Union address to urge Congress to create a national forest system to ensure proper stewardship of these tremendous assets that we have in our huge public lands. And by the way, I live in a district that has 23 million acres of public lands. It is fitting now that 99 years later, 99 years later we have one of the most significant pieces of forest legislation that has come in since.

What this piece of legislation does is over the 99 years we have seen the leadership, the guidance, the expertise and the science taken away from the Green Hats, who I complimentarily refer to as our Forest Service people, the people who understand the forests, the people who dream of running the forest, the people who have been educated in the forests. We have seen through some very tactical maneuvers their power and their authority taken by the Sierra Club-types and moved to the courts and moved to the Congress.

What this bill does is this bill allows this authority to go back to those people on a commonsense approach, on a balanced approach which is demonstrated by the fact that this will pass with bipartisan support, to let it go back to the Green Hats, to let the Forest Service manage those forests.

The passage of this legislation today means that the Congress, all of us are responding to the America forests health crisis, the crisis that was demonstrated recently in the State of California, the crisis which we have seen in the State of Oregon, the crisis through bug infestation, not just fires, but bug infestation down in the South. Storm King Mountain, the mountain that I grew up on, the mountain that I took bodies off of, we finally are responding and we are coming back. I am pleased that we are coming back and giving that authority where Theodore Roosevelt thought that authority ought to exist, and that is with the United States Forest Service.

Once again I want to compliment my colleagues on the Democratic side that have worked with us. And I want to point out those who have not. It amazes me that one like the gentleman from New York City (Mr. HINCHEY) would stand up and make the kind of statements that he made and speak from a wooden podium. A little ironic.

This is a good bill. It is bipartisan, and it is going to make a big, big difference.

Mr. INSLEE. Mr. Speaker, I will be closing, so when the appropriate order comes, I will take my turn.

The SPEAKER pro tempore. The closing order will be the gentleman from Texas (Mr. STENHOLM), the gentleman from Washington (Mr. INSLEE), and, lastly, the gentleman from Virginia (Mr. GOODLATTE).

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

I will yield to the gentleman from Virginia (Mr. GOODLATTE) if he would like to engage in a colloquy on monitoring.

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

Mr. STENHOLM. I yield to the gentleman from Virginia.

Mr. GOODLATTE. Mr. Speaker, I will clarify a point that the gentleman from Texas (Mr. STENHOLM) is interested in. Let me state that the projects authorized by title IV are primarily scientific efforts, and scientific methods should be the primary means of assessing them. While we encourage multiparty monitoring, it is not our intent to require it, particularly for projects conducted under title IV.

Mr. STENHOLM. Mr. Speaker, I will state I certainly agree with the chairman. I understand the benefit of multiparty monitoring. However, the chairman is correct in expressing that our intent with respect to projects conducted under title IV are to be scientifically conducted and multiparty monitoring is not a requirement of these projects.

Mr. Speaker, I would like to conclude by thanking all who have worked so diligently for so long to bring us to this point to where we truly have a compromise that will move our forest policy in a desirable direction.

I thank the staff, all who have worked on both sides on the aisle so diligently under somewhat trying conditions from time to time as we have had some of the internal strife that unfortunately finds its way into this House of Representatives. But that certainly has not been the case regarding

the House Committee on Agriculture, and the bipartisan support there is something that I have enjoyed and working with the chairman and the gentleman from California (Mr. POMBO) and others as we have strived to put together what is basically a good bill.

When you read the bill, much of the complaints about what we have heard today are not in the bill. If you are going to have sound forests, if you are going to have a sound forest policy, sound science, common sense has got to replace the opinions of many who have a difference of opinion regarding what is good conservation, what is good management, and how we do, in fact, manage our forests so that we do have lumber for housing and other projects.

So all in all, this is a good sound compromise worthy of overwhelming support of this body. I thank all of those who have worked on it. It certainly has been something that I personally have worked on for many, many years. I am glad to see it is getting to this point. I urge a very strong vote in favor of the project.

Mr. INSLEE. Mr. Speaker, how much time do I have remaining?

The SPEAKER pro tempore. The gentleman from Washington (Mr. INSLEE) has 5 minutes remaining.

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

Mr. Speaker, I commend all of the people who have worked on this bill. There are a lot of technical and difficult issues trying to fashion a hazardous fuels reduction program. And I am unable to support this and I hope my colleagues will join me and the Sierra Club and the League of Conservation Voters and other main-line commonsense groups who have committed their lives to protecting our national forests in defeating this bill and moving on to a better one, and I hope that my colleagues will join me.

Underlying that position is the basic belief that the medicine that we are providing here is both inadequate and misguided. It is misguided because it is based on a myth; and that myth rising to an urban legend is that these fires have consumed thousands of acres because people have questioned what some government officials have done, and that is an abject falsehood.

The GAO report shows that 92 percent of these projects go ahead unimpeded. In California, you know why the California projects did not get done? It was not environmental project appeals. In the last 3 years, there has not been one hazardous fuel reduction program that held up national forests in Southern California the last 3 years. The reason some of this work did not get done is Uncle Sam, us, did not appropriate enough money for California to do the job. The State of California asked for $430 million last April to solve this problem. And what did Uncle Sam do in the Bush administration? They did not give it to them. And the fires occurred.

This is a failure of appropriations, not a failure because certain citizens once in a blue moon have the temerity to stand up on their back legs and question decisions by the Forest Service to do disguised commercial logging which has on occasion happened, thankfully not very often. Maybe 2 percent of the time. We are not doing enough to really solve this problem.

What we have done is in one of the most serious reductions of citizens' ability to question their government is reduce the ability to have their oversight of our Federal officials.

Now, it is kind of a conservative position to be rightfully sometimes distrustful of our Federal officials. Now, I have got to say there have been occasions, thankfully few, where these projects have been disguised timber sales. And the reason is because we are not appropriating enough to the Forest Service to do their job. And when that has happened, less than three pearls of the time there has been a brief appeal of that decision, and most frequently these things get worked out. But until we increase tenfold our appropriations, we are not going to cut the mustard in this program.

Now, let me mention something else, too. We have not talked about what the real debate is about here. The debate is as much about roads as it is about forests, because the real issue here is where we are going to build roads. We have 440,000 miles of Forest Service roads in our forests, 440,000 miles. They are falling apart, and we ought to be putting our money in and fixing those roads before we punch new roads into roadless areas.

Let me put this into real-life perspective. Take a couple in northeast Washington who is not getting adequately protected by this bill. Their house is surrounded by pine trees in the national forest. We have not prioritized those pine forests around their home for treatment like we should have in this bill. We did not do it. Now, when that couple leaves their home to drive over to the Olympic Peninsula to the Jupiter Ridge Roadless Area, if they hike out to a nice little picnic spot, they will find two trees. They are about maybe 6, 7, 8 feet in diameter, cedars, right next to each other. We call them Jefferson and Washington.

In this bill, neither protects that couple in their home surrounded by the pine forest, nor the two trees they go to visit in the roadless area.

Their home is not protected from fire adequately, and those two trees are not protected from chainsaws adequately in this bill.

It is my hope that this bill will be defeated and we will come back and make some very modest but important improvements on it to solve both of those problems.

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

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

Let me start by thanking the gentleman from Texas (Mr. STENHOLM) for yielding me 2 additional minutes for this close, but more importantly for the very cooperative way in which the House Committee on Agriculture has produced this legislation. This is truly the example of why this bill will pass by an overwhelming margin here today.

It passed out of the House Committee on Agriculture originally on a voice vote; and when it came to the floor, I believe, 19 of the 24 Democrats on the committee, Members who represent rural areas, Members who represent areas that are forests, voted for this legislation, nearly 80 percent.

Had we had that kind of support elsewhere in the Congress, this legislation would have been adopted a long time ago. It has been 8 years that we have been working on it. And I would have to say to the gentleman from Washington State (Mr. INSLEE) that if we were not to pass this conference report, not to send it to the President, we would be working on this for many more years. We would see more years like this year where 6½ million acres of forest land in this country were burned to the ground.

□ 1445

That is what we are faced with. That is why we need to begin this first step of solving this problem by giving the Forest Service the tools that it needs.

It is absolutely incorrect that these forest fires are not related to the problems that the Forest Service is presented with. Certainly, money is a problem. Certainly, we are going to have to deal with that, but in addition, massive parts of the Western part of this country are tied up in legal cases, including the entire southern California area that is tied up over litigation related to the spotted owl. This is clearly, clearly needed to address the problems that we face across the country.

I want to thank also the gentleman from California (Mr. POMBO). He recognizes very clearly the nature of this problem, and the gentleman from Colorado (Mr. MCINNIS), I want to congratulate him on his leadership in bringing this bill to the floor as well. He is leaving the Congress at the end of this term, and this is his signature bill. This is his legacy in the Congress. So I commend him as well.

I also commend Members who have fought against this process like the gentleman from California (Mr. GEORGE MILLER) and the gentleman from Oregon (Mr. DEFAZIO). They have seen the light. They understand what it takes. They understand that it is time to get about the business of solving the problem, rather than another 8 years of fighting, and I would say to those few remaining who do not understand, get on board, get this done.

Yes, there is additional work that needs to be done. Yes, we will look forward to working with them in future

Congresses, but now is the time to give the President the ability to sign a bill that will put our Forest Service to work, to get this problem underway. We will come back for additional legislation because this problem is going to persist, and this is only a beginning.

Support this conference report. It is a good one.

Ms. LORETTA SANCHEZ of California. Mr. Speaker, my home state of California has just been through a terrible series of wildfires. The fires burned more than 800,000 acres, destroyed over 3,300 homes, caused over $12 billion in property damage, and tragically took the lives of 22 people.

What could have been done to prevent it? What should we do now to prevent such occurrences in the future?

The answer, it seems to me, is active management and control of overgrown areas near development, usually referred to as the Woodland-Urban Interface. This will go a long way to preventing fires from destroying homes and worse, killing our citizens.

We have a bill in front of us today, H.R. 1904, The Health Forests Initiative, that its proponents tell us will help prevent the kind of devastation that we endured in California.

This conference report is certainly better than the initial House version of the bill. In the House bill, money used for clearing would have had to come from nearby logging activities. In the chaparral of Southern California, there is no logging, and that means no removal of forest fuels would have occurred to protect our homes and our families.

The House-Senate compromise that is before us today is a step in the right direction. Most importantly, it provides $760 million to fund clearing forest fuels to prevent catastrophic wildfires. Nevertheless, there remain some fundamental problems with the bill.

First of all, the Healthy Forests Initiative is only effective for federal lands. Roughly two-thirds of the lands that burned in California was not federal land, and therefore would be unaffected by the healthy forests initiative.

Second, only half of the $760 million is set aside for forest clearing within 1½ miles of structures—the Wildlife-Urban Interface. The other half will go toward thinning in other areas. Moreover, where in the initial bill the clearing was paid for by nearby profitable logging, now we are giving $365 million to commercial loggers for these thinning activities. So, instead of asking logging companies to contribute their fair share to forest management and fire mitigation, we are subsidizing them to do it.

I am disappointed with this bill. We had an opportunity to craft a bipartisan bill, one that would have addressed the pressing issue of protecting lives and property in the Wildlife-Urban Interface. Instead, the Healthy Forests Initiative puts commercial logging interests ahead of protecting our vulnerable communities. Once again, the Republican-controlled Congress has it priorities all wrong.

While this bill does not sufficiently address this important priority, I am supporting an effort that does. I am working to provide more funding for community and individual-initiated and driven initiatives to clear fire fuels in their areas. We should be empowering local communities to clear these areas—they have the greatest knowledge of the environments in which they live, and the greatest personal stake in the success of these efforts. I am hopeful that this initiative will generate broad bipartisan support.

In the meantime, I regret that I must oppose the Health Forests Initiatives, principally because it uses a great deal of resources, but it won't do very much to make our Southern Californian forests any healthier.

Mr. GEORGE MILLER of California. Mr. Speaker, today the House of Representatives accepted the conference report for H.R. 1904, the Healthy Forests Restoration Act. I was appointed as a conferee, as was Representative INSLEE of Washington and Representative CONYERS of Michigan. Unfortunately, instead of using the conference process to reconcile differences between the House and Senate versions of the legislation, certain members of the conference committee were included in bicameral meetings to craft a compromise acceptable to the group of negotiators. In short, the negotiating group picked people from the conference committee who would agree with them and did not invite others to participate. Official members of the conference committee were invited to a conference meeting to consider the product negotiated outside the conference process. The conference consideration did not provide for a real debate of amendments and the Chair moved to close the conference 30 minutes after it began. This does not contain the elements of a democracy but the elements of arrogance of power.

Mr. UDALL of Colorado. Mr. Speaker, I am going to vote for this conference report.

It has flaws. But if its provisions are properly implemented it can help reduce the risk of severe wildfire damage that now threatens lives and property in many communities in Colorado and other States—and for me that is the bottom line.

I am convinced we need to act to protect our communities and their water supplies. For that, a variety of things must be done, including working to reduce the built-up fuels that can increase the severity of the wildland fires that will periodically occur nearby.

That's why I have introduced legislation to expedite those thinning projects. It is also why last year I joined with my Colorado colleague, Representative MCINNIS, and other Members to develop a bill that was approved by the Resources Committee.

I voted for that bill last year, and if H.R. 1904 as it came to the House floor earlier this year had been the same as that bill, I would have voted for it again. But it wasn't the same bill, which was why I voted against it.

Instead of building on last year's work in the Resources Committee, the Resources and Agriculture Committees this year brought forth a quite different measure—one that added a long list of new provisions while omitting some of the key parts of last year's bill. As a result, it has taken much longer than I though it should have for us to reach the point of being ready to vote on a measure that has a good chance of clearing both chambers and being sent to the President for signing into law.

Because H.R. 1904 as passed by the House rejected key compromises that we worked our last year, the bill encountered more resistance in the Senate than otherwise would have been the case, and it was that much harder to shape compromises on a number of difficult points.

However, in the end the Senate passed a bill that made important improvements on the House version—and this conference report, while far from perfect, is itself a definite improvement over the legislation that I voted against earlier this year.

Let me briefly outline some of the ways in which the conference report is enough of an improvement over the House bill that I can and will vote for it today:

FUNDING FOCUS

Like the Senate bill, the conference report requires that at least 50 percent of all thinning-project funds be spent in the interface areas. Last year's Resources Committee bill would have required 70 percent of the money to be spent in the interface, but H.R. 1904 as passed by the House did not include any such requirement. So, the conference report is an improvement over the House bill in this area.

WILDLAND/URBAN INTERFACE

I think the highest priority for fuel-reduction work needs to be on the forest lands where accumulated fuels present the most immediate risks to our communities—those within the wildland/urban interface, or the ''red zone,'' as it is called in Colorado—and to municipal water supplies. These are the places where forest conditions present the greatest risks to people's lives, health, and property, and so they should be where our finite resources—time, money, and people—are concentrated.

To properly focus on these areas, we have to properly identify them. In that regard, I had no quarrel with the provisions of H.R. 1904 as passed by the House. By referring to lands within either an ''interface'' or ''intermix'' community, it provided an appropriate limitation on the discretion of the agencies without drawing an arbitrary mileage line that would not appropriately reflect the reality that a community's exposure to the risk of wildfire depends on terrain, forest conditions, and other factors that can vary greatly from one place to another and over time.

However, proper focus also requires assured priority status for funds to carry out projects to protect communities and their water supplies. The bill reported by the Resources Committee last year required that at least 70 percent of the funds provided a for fuel-reduction purposes would have to be used for such projects—but no similar provision is included in H.R. 1904. I offered an amendment to restore the provision, and its absence was a major reason I voted against the House bill.

The Senate bill had a basic limit of one-half mile from a community's boundary, with some exceptions—if a larger area was identified in a community protection plan developed through a collaborative process; or if land near a community was steep; or if there was a geographical feature that would provide a firebreak within three-quarters of a mile, in which case the interface would go to that feature. The ''community protection plan'' provision was particularly good, in my opinion, because it did not require an arbitrary cutoff, and because it allowed both Federal and non-Federal land to be included. The rest of the definition was problematical.

The conference report improves somewhat on the Senate bill. It (1) retains the ''community protection plan'' part of the definition; (2) keeps the basic one-half mile limit; but (3) allows the interface to go to 1½ mile, if the slopes are steep or if there is a firebreak-feature within that distance and the lands are very susceptible to fire. Like the Senate bill, it

also defines the interface as including a route identified as necessary for escape from a threatened community.

I think it is well established that reducing the fuels closest to structures pays big dividends in terms of reduced fire risks. However, I do into favor defining the interface in terms of arbitrary lines on the map, because fires do not respect those lines and because our experience in Colorado has shown that some of the high-priority ''red zone'' areas are extensive. A prime example is the Hayman fire—it was among the largest in our State's history, but all of the lands involved were within the ''red zone'' as defined by our State Forester (a definition that is included in my bill, H.R. 1042).

Nonetheless, on balance, I think the conference report is acceptable on this point because of the emphasis that it puts on community-protection plans. This should encourage at-risk communities, like those along the Front Range, to develop protection plans and to encourage owners of non-Federal lands to join in working to reduce fire risks.

COMMUNITY-PROTECTION PLANS

I strongly support increased public involvement during the planning and other initial stages of fuel-reduction projects. That was the purpose of an amendment I offered during the markup of the House bill. The ideal is to make it less likely those projects will be delayed by controversies or lawsuits, by developing support at the front end for projects that are urgently needed, narrowly tailored and scientifically sound. I think the conference report's provisions related to community protection plans can foster such involvement and promote a collaborative approach that will do much more to reduce conflicts and delays than will the provisions related to NEPA analysis, administrative appeals, and judicial review.

NEPA ANALYSIS AND JUDICIAL REVIEW OF THINNING PROJECTS

On judicial review, the Senate bill is slightly better than the House bill, and the conference report follows the Senate bill.

On NEPA analysis, the conference report is a compromise between the House and Senate bills. Under the House bill, no alternatives to a proposed action would have to be analyzed; under the Senate bill at least the ''no-action'' alternative would have to be analyzed, and so would a third if proposed during scoping. The conference report would follow the House bill for projects within the interface, but follow the Senate bill for projects outside the interface.

As passed by the House, H.R. 1904 clearly reflected the premise that the land-managing agencies are laboring under procedural burdens that unnecessarily delay work on fuel-reduction projects—a premise that I think has not been proved beyond doubt.

The Chief of the Forest Service has testified that the agency has been slow to act to reduce the risks of catastrophic wildfire because of ''analysis paralysis,'' meaning that the fear of appeals or litigation has made Forest Service personnel excessively cautious in the way they formulate and analyze fuel-reduction—and other—projects. The chief may be correct in that diagnosis—certainly he is in a better position that I am to evaluate the mental states of his subordinates. But it is important to remember that the Chief has also testified that he does not think revision of the environmental laws is required in order to treat this condition—and on that point I am in full agreement.

Nonetheless, I supported some restrictions on NEPA analysis last year, and because the conference report does not go as far in that direction as the House bill I am prepared to reluctantly accept this part of the conference report as well as its provisions related to administrative appeals and judicial review even though I would have preferred the provisions of last year's Resources Committee bill or this year's Senate bill dealing with those topics.

OLD GROWTH AND BIG TREES

The House bill had no specific protection for old-growth stands, and only weak language to require that thinning projects focus on removing small trees. The Senate bill had provisions intended to protect old-growth stands and slightly stronger language to put emphasis on thinning out smaller trees. The conference report falls far short of ideal in these areas—in this respect it is weaker than either the Udall-Hefley bill of 2001 or H.R. 1042. However, it is an improvement over the House-passed bill.

FUNDING

The House bill had no specific authorization for funding thinning projects; the Senate bill authorized $760 million per year, and the conference report follows the Senate bill.

This part of the conference report is a definite improvement over the House bill, because the main obstacle to getting needed work done has been lack of funds, and lack of focus on red zone areas, not the environmental laws or the appeals process.

Of course, an authorization alone will not assure appropriation of adequate amounts, and nothing in the conference report will protect the funding that is appropriated for thinning projects from being used to fight fires if Congress does not provide adequate funding for that essential purpose. However, the specific authorization may assist in both respects by demonstrating the importance that Congress attaches to thinning projects.

OMITTED PROVISIONS

The conference report drops a number of provisions that the Senate added to the original House bill. I think some of those provisions should have been retained, such as those dealing with health monitoring of firefighters, monitoring of air quality, increases in the fines for violations of regulations related to fires on Federal lands, and the enforcement of animal fighting provisions of the Animal Welfare Act. I also would have preferred the deletion of some parts of the original House bill that have been retained in the conference report. On balance, however, neither the omission of some good Senate provisions nor the retention of some defective House provisions is enough to make the conference report unacceptable to me.

In conclusion, Mr. Speaker, let me say that while I am voting for this conference report, I do not expect this to be the last time Congress addresses the matters it addresses. I am under no illusions about the flaws in this legislation, and will be working to improve it. I will also do all I can to make sure that it is implemented in a way that is consistent with sound, balanced management of the Federal lands.

Mr. BLUMENAUER. Mr. Speaker, the problem of forest fires in the West that are aggravated, in some cases caused, by human mismanagement has been a problem as long as I have been in Congress. I am pleased that with the work of Oregonians Representative PETER DEFAZIO, Senator RON WYDEN and Representative GREG WALDEN, the bill that's moving forward is better than the bill I voted against in the past.

I wish I could vote for H.R. 1904 in good conscience, but it still has three fundamental problems. First, the procedural fix far exceeds any procedural problem. This bill would undermine the National Environmental Protection Act, the judicial process, and the system of administrative appeals to fix a perceived problem of too many projects being tied up in environmental litigation. However, the Government Accounting Office estimates that only 1 percent of forest management projects have been tied up in litigation. This type of sweeping procedural change is unnecessary.

Second, the bill opens up our forests to much broader timber harvest. This should be debated on its own merits and not under the guise of forest health and fire prevention. If we want to substantially increase timber harvest on Federal lands we ought to be clear and deal with it directly.

Last, and most troubling of all for me, is that this bill does not adequately protect families whose lives and property are at risk because of forest fire hazard. This bill does not focus our resources on the interface between residential properties and forest land, in what we are coming to know as the ''flame zone.'' Focused hazardous fuel reduction around communities could substantially reduce the risk of fire damage by providing a buffer to help slow and stop advancing fires.

This is a better bill than before but it is still a missed opportunity. To adequately protect families and businesses we need to take a few, simple, proactive steps. We need to strengthen building codes and insurance requirements for ''firewise'' construction and ''defensible space'' landscaping. According to Forest Service scientists, these precautions can increase a home's ability to survive a wildfire by more than 90 percent. We need to educate homeowners of the dangers before wildfires start so they can adequately prepare, and make informed choices on where to live. We need to implement smart land-use planning that guides development away from fire-prone areas. And, we need to provide affordable, livable housing options for families away from danger.

Mr. RAHALL. Mr. Speaker, I rise in opposition to the conference report. Others will come to the floor to discuss the threat of wild fire to the health and general welfare of segments of the American population.

Others will come to the floor to discuss other elements of this legislation, such as its provisions concerning insect infestation which threatens some of our forests and forest industries.

I am not unmindful of the need to address the issues raised by the bill, but in our view, we would do so in a more prudent and responsible manner.

There is one issue in the pending legislation, however, which transcends the debate over forest fires and forest health: the independence of our judiciary and the right of Americans to seek redress from the courts when they believe they are aggrieved by a governmental action.

Indeed, the judicial review provisions of this bill would set a dangerous precedent for anybody concerned with civil liberties, civil rights, workers' rights and any other issue that may come before our judiciary.

Simply put, this legislation curtails access to the courts by American citizens by limiting where challenges can be brought, by whom, and on what issues.

This legislation interferes with how judges run their courtrooms. It arbitrarily requires courts to lift injunctions and stays after 60 days unless affirmatively renewed by the court.

A dangerous precedent and very bad policy. Our Constitution clearly delineates three branches of government. This conference report tramples on that tenant of our Constitution.

Incredible. Simply incredible.

This bill tells the court that litigation involving thinning trees is more important than prosecuting suspected Al Qaeda terrorists.

To judge suits over forest thinning projects more important than all other civil cases, let alone criminal cases, is seriously misguided. To make this policy law is absurd.

I have been here long enough to remember when conservatives did not trust the federal government and did not endorse expanded and unchecked federal powers.

It is unfortunate, it really is, that the sponsors of this bill chose to inject this controversial attack on the independence of our judiciary in a measure of this nature.

These provisions are a poison pill, and do a disservice to our addressing issues such as forest insect infestation and forest fires in a prudent and responsible fashion.

Mr. TANCREDO. Mr. Speaker, I rise today in support of H.R. 1904, the Healthy Forest Restoration Act. I would like to thank leadership for allowing this long overdue bill to come to the floor today, and most importantly, I would like to thank Forest Subcommittee Chairman SCOTT MCINNIS, whose hard work and dedication this bill has brought us to this point today.

Mr. Speaker, there are many reasons to cut through the current procedural and bureaucratic thicket that has engulfed the U.S. Forest Service. It is time to eliminate the ''analysis paralysis'' of administrative appeals and litigation that has heretofore prevented the U.S. Forest Service from conducting badly needed thinning projects that are needed to protect communities and wildlife.

The fires of the last few years have ravaged the west. My district was no exception, where the 137,000 acre Hayman Fire tore through the Pike National Forest last year. That wildfire—the largest and most destructive in state history—burned homes, fouled streams and reservoirs, and may even have pushed an endangered butterfly into extinction. Fires like these have proven once and for all that no management on our public lands, is bad management.

Unfortunately, much of the destruction caused by these fires is attributable to the bureaucracy, appeals, and red tape that have hamstrung land managers for years. The Hayman Fire, for example, occurred in part in an area slated for treatment. Unfortunately, the treatments took years to plan because of arcane procedural rules, and were then further held up by frivolous appeals filed by a host of environmental groups. Before the treatments could begin, the fires reduced the area to ashes. This bill will seek to streamline that process, and curtail frivolous litigation so that we can avoid the large scale environmental devastation caused by these catastrophic fires in the future. In addition, the bill will help reduce costs to the American taxpayer.

The cost to extinguish these abnormally massive fires to protect communities and their water supplies has cost more than $1 billion. With the passage of H.R. 1904, rather than continuing to treat the expensive symptoms of this dangerous buildup of dead and diseased trees in our forests—we will finally get at the root cause of the problem.

Mr. Speaker, I believe every dollar we spent on a thinning project that prevents a fire, is several dollars saved in suppression and first responder costs when the fire starts. Restoring our forests to a healthier state by clearing out dead fuel and bug-infested trees before they feed wildfires isn't just good environmental policy, it's good fiscal policy too.

Mr. HERGER. Mr. Speaker, I rise in strong support of H.R. 1904, the ''Healthy Forests Restoration Act of 2003.'' For the Northern California Congressional District I represent, this bill is long overdue. My District comprises 5 national forests, and wildfires are an annual and growing threat. Each day, month and year that good forest management is stymied, communities are placed in greater danger.

Mr. Speaker, in my view, this bill doesn't go far enough to address our monumental and compounding forest health crisis. With 190 million acres of forests at risk, and only 2 million acres being treated annually, we have to do much, much more. But it takes an important first step forward in the face of tremendous resistance from the radical environmentalists. And I want to commend my colleagues—Chairman POMBO, Chairman GOODLATTE, Chairman MCINNIS and Congressman WALDEN—for their staunch leadership and dedication in fashioning a collaborative bill that is able to win a majority of the House and Senate. President Bush also deserves a great deal of credit and thanks for his efforts in bringing our growing forest health crisis to the attention of the American public, and to the forefront of our environmental policy debate.

An extraordinarily cumbersome environmental review process, which can delay forest health projects for years, has elevated the review ''process'' over good management and professional judgment. The Forest Service Chief, Dale Bosworth, testified to Congress that his agenda spends 40% of its time on planning and process activities. Litigation and an appeals process that is ripe for abuse have been utilized by radical environmental groups to stop community-supported forest health projects. A General Accounting Office study indicated that 59% of all projects eligible for appeal are appealed, the vast majority from radical environmental groups. The percentage is even higher in California. Meantime, our forests are literally burning up. Lives are being lost. Catastrophic fires are causing billions in property damage and costing the taxpayer billions in suppression and rehabilitation costs. Public health and safety demands that something be done.

For too long radical environmental groups have hijacked our forests to advance their own so-called ''environmental agenda.'' Their handiwork has contributed to an immense forest health crisis where lives and property are threatened, billions of taxpayer dollars are spent to suppress destructive fires—instead of on common sense forest health projects that could prevent them—and millions are wasted on endless environmental reviews and litigation. It's high time for the rest of us to take our forests back.

This bill will not solve this enormous and compounding crisis. But it takes an important step forward by streamlining environmental reviews and preventing abuses of the appeals process, which will allow urgently needed management to move forward in a small portion of our at-risk forests. It will give forest professionals the tools they desperately need, and provide positive momentum for continuing active management throughout all of our forests to restore them to a healthy condition, and address a very serious and growing threat to lives and property. I urge my colleagues to support it.

Mr. MATHESON. Mr. Speaker, I rise today in support of the Healthy Forests bill. This legislation will help restore Utah's forests that have been devastated by fire, drought, and insect infestations.

I am hopeful that this legislation will prevent a repeat of this year's severe wildfire season and stop fires from spreading so quickly and affecting our communities. This legislation focuses its resources on hazardous fuel reduction efforts close to home by prioritizing efforts to prevent fires within a mile and a half of at-risk communities. This bill also provides grants for states and local communities to perform the fuel reduction activities that will benefit them the most.

Not only will this legislation help prevent forest fires, but it will address the infestation of the bark beetle that has affected much of southern Utah. This bill requires the Forest Service to develop a plan to combat insect infestation and allows for the expedition of projects that would help eliminate this problem that has turned Cedar Mountain in the Dixie National Forest into a skeleton of what it once was.

The passage of this bill is critical to protecting the health of the forests in Utah and throughout the West. We've seen too much devastation and damage in recent years to allow the situation to go unchanged. I am committed to this legislation as an important first step toward remediating our forests.

The SPEAKER pro tempore (Mr. BASS). All time has expired.

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.

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

Mr. GOODLATTE. 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, this 15-minute vote on the conference report will be followed by 5-minute votes on H. Res. 453, on which the yeas and nays were ordered, and S. 1156, on which the yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 286, nays 140, not voting 8, as follows:

[Roll No. 656]

YEAS—286

Aderholt	Alexander	Bachus
Akin	Baca	Baird

Baker
Ballance
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Bereuter
Berkley
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Cardoza
Carson (OK)
Carter
Castle
Chabot
Chocola
Clyburn
Coble
Cole
Collins
Cox
Cramer
Crane
Crenshaw
Culberson
Cunningham
Davis (AL)
Davis (CA)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette
DeLay
DeMint
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dooley (CA)
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emerson
English
Etheridge
Everett
Feeney
Flake
Foley
Forbes
Ford
Fossella
Franks (AZ)
Frelinghuysen
Frost
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Goode
Goodlatte
Gordon
Goss
Granger
Graves
Green (WI)
Greenwood
Gutknecht
Hall
Harman
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hobson
Hoekstra
Holden
Hooley (OR)
Hostettler
Houghton
Hulshof
Hunter
Hyde
Isakson
Issa
Istook
Janklow
Jenkins
John
Johnson (CT)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kline
Knollenberg
Kolbe
LaHood
Lampson
Larsen (WA)
Larson (CT)
Latham
LaTourette
Lewis (CA)
Lewis (KY)
Linder
Lipinski
Lucas (KY)
Lucas (OK)
Manzullo
Marshall
Matheson
Matsui
McCarthy (NY)
McCotter
McCrery
McHugh
McInnis
McIntyre
McKeon
Mica
Michaud
Miller (FL)
Miller (MI)
Miller, Gary
Miller, George
Mollohan
Moran (KS)
Murphy
Murtha
Musgrave
Myrick
Nethercutt
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Obey
Ortiz
Osborne
Ose
Otter
Oxley
Pearce
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Portman
Pryce (OH)
Putnam
Radanovich
Ramstad
Regula
Rehberg
Renzi
Reyes
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Royce
Ryan (WI)
Ryun (KS)
Sandlin
Schrock
Scott (GA)
Sensenbrenner
Sessions
Shadegg
Shaw
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Smith (MI)
Smith (TX)
Smith (WA)
Snyder
Souder
Spratt
Stearns
Stenholm
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Toomey
Turner (OH)
Turner (TX)
Udall (CO)
Upton
Vitter
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Wu
Young (AK)
Young (FL)

NAYS—140

Abercrombie
Ackerman
Allen
Andrews
Baldwin
Becerra
Bell
Berman
Bishop (NY)
Blumenauer
Brown (OH)
Brown, Corrine
Capps
Capuano
Cardin
Carson (IN)
Case
Clay
Conyers
Cooper
Costello
Crowley
Cummings
Davis (FL)
Davis (IL)
Delahunt
DeLauro
Deutsch
Dingell
Doggett
Emanuel
Engel
Eshoo
Evans
Farr
Fattah
Ferguson
Filner
Frank (MA)
Gonzalez
Grijalva
Gutierrez
Hastings (FL)
Hill
Hinchey
Hinojosa
Hoeffel
Holt
Honda
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson (IL)
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kind
Kirk
Kleczka
Langevin
Lantos
Leach
Lee
Levin
Lewis (GA)
LoBiondo
Lofgren
Lowey
Lynch
Majette
Maloney
Markey
McCarthy (MO)
McCollum
McDermott
McGovern
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Miller (NC)
Moore
Moran (VA)
Nadler
Napolitano
Neal (MA)
Olver
Owens
Pallone
Pascrell
Pastor
Paul
Payne
Pelosi
Price (NC)
Rahall
Rangel
Rodriguez
Rothman
Roybal-Allard
Rush
Ryan (OH)
Sabo
Sanchez, Linda T.
Sanchez, Loretta
Sanders
Saxton
Schakowsky
Schiff
Scott (VA)
Serrano
Shays
Sherman
Slaughter
Smith (NJ)
Solis
Stark
Tauscher
Tierney
Towns
Udall (NM)
Van Hollen
Velazquez
Visclosky
Waters
Watson
Watt
Waxman
Weiner
Wexler
Woolsey

NOT VOTING—8

Cubin
Fletcher
Gephardt
Green (TX)
Kucinich
Quinn
Ruppersberger
Wynn

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

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

□ 1509

Ms. JACKSON-LEE of Texas and Messrs. CROWLEY, EVANS, ABERCROMBIE, DEUTSCH, LANTOS, OWENS, DELAHUNT, COSTELLO and JEFFERSON changed their vote from ''yea'' to ''nay.''

Mr. STRICKLAND changed his vote from ''nay'' to ''yea.''

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.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

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

CONDEMNING TERRORIST ATTACKS IN ISTANBUL, TURKEY ON NOVEMBER 15, 2003

The SPEAKER pro tempore. The pending business is the question of suspending the rules and agreeing to the resolution, H. Res. 453, as amended.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New Jersey (Mr. SMITH) that the House suspend the rules and agree to the resolution, H. Res. 453, 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 426, nays 0, not voting 8, as follows:

[Roll No. 657]

YEAS—426

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Baldwin
Ballance
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Becerra
Bell
Bereuter
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
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
Culberson
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette
Delahunt
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Dooley (CA)
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emanuel
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Feeney
Ferguson
Filner
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 (WI)
Greenwood
Grijalva
Gutierrez
Gutknecht
Hall
Harman
Harris
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hill
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Honda
Hooley (OR)
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hyde
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Janklow
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick
Kind
King (IA)
King (NY)
Kingston
Kirk
Kleczka
Kline
Knollenberg
Kolbe
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Lynch
Majette
Maloney
Manzullo
Markey
Marshall
Matheson

Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCotter
McCrery
McDermott
McGovern
McHugh
McInnis
McIntyre
McKeon
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Michaud
Millender-McDonald
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Mollohan
Moore
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Nadler
Napolitano
Neal (MA)
Nethercutt
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Ose
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Paul
Payne
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Putnam
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Renzi
Reyes
Reynolds
Rodriguez
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
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)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Toomey
Towns
Turner (OH)
Turner (TX)
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velazquez
Visclosky
Vitter
Walden (OR)
Walsh
Wamp
Waters
Watson
Watt
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Young (AK)
Young (FL)

NOT VOTING—8

Cubin
Fletcher
Gephardt
Green (TX)
Kucinich
Quinn
Ruppersberger
Wynn

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

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

□ 1520

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

The result of the vote was announced as above recorded.

The title of the resolution was amended so as to read: ''A resolution condemning the terrorist attacks in Istanbul, Turkey, on November 15 and 20, 2003, expressing condolences to the families of the individuals murdered and expressing sympathies to the individuals injured in the terrorist attacks, and expressing solidarity with Turkey and the United Kingdom in the fight against terrorism.''.

A motion to reconsider was laid on the table.

VETERANS HEALTH CARE, CAPITAL ASSET, AND BUSINESS IMPROVEMENT ACT OF 2003

The SPEAKER pro tempore (Mr. BASS). The pending business is the question of suspending the rules and passing the Senate bill, S. 1156.

The Clerk read the title of the Senate 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 Senate bill, S. 1156, 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 423, nays 2, not voting 9, as follows:

[Roll No. 658]

YEAS—423

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Baldwin
Ballance
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Becerra
Bell
Bereuter
Berkley
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, 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
Culberson
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette
Delahunt
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Dooley (CA)
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emanuel
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Feeney
Ferguson
Filner
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 (WI)
Greenwood
Grijalva
Gutierrez
Gutknecht
Hall
Harman
Harris
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hill
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Honda
Hooley (OR)
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hyde
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Janklow
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
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
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Lynch
Majette
Maloney
Manzullo
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCotter
McCrery
McDermott
McGovern
McHugh
McInnis
McIntyre
McKeon
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Michaud
Millender-McDonald
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Mollohan
Moore
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Nadler
Napolitano
Neal (MA)
Nethercutt
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Ose
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Paul
Payne
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Putnam
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Renzi
Reyes
Reynolds
Rodriguez
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
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)
Taylor (NC)
Terry
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Toomey
Towns
Turner (OH)
Turner (TX)
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velazquez
Visclosky
Vitter
Walden (OR)
Walsh
Wamp
Waters
Watson
Watt
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Young (AK)
Young (FL)

NAYS—2

Johnson, Sam
Thomas

NOT VOTING—9

Berman
Cubin
Fletcher
Gephardt
Green (TX)
Kucinich
Quinn
Ruppersberger
Wynn

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

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

□ 1529

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

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. GREEN of Texas. Mr. Speaker, I regret I was unavoidably detained and missed the three votes earlier today.

Had I been present, I would have voted in the following manner: rollcall 656, approving H.R. 1904, the Healthy Forests Restoration Act of 2003, I would have voted ''nay.''

On rollcall 657, approving H.R. 453, I would have voted ''yea.''

On rollcall 658, approving S. 1156, I would have voted ''yea.''

□ 1530

REPORT ON RESOLUTION WAIVING POINTS OF ORDER AGAINST CONFERENCE REPORT ON H.R. 1, MEDICARE PRESCRIPTION DRUG, IMPROVEMENT, AND MODERNIZATION ACT OF 2003

Ms. PRYCE of Ohio, from the Committee on Rules, submitted a privileged report (Rept. No. 108–394) on the resolution (H. Res. 463) waiving points of order against the conference report to accompany the bill (H.R. 1) to amend title XVIII of the Social Security Act to provide for a voluntary program for prescription drug coverage under the Medicare Program, to modernize the Medicare Program, to amend the Internal Revenue Code of 1986 to allow a deduction to individuals for amounts contributed to health savings security accounts and health savings accounts, to provide for the disposition of unused health benefits in cafeteria plans and flexible spending arrangements, and for other purposes, which was referred to the House Calendar and ordered to be printed.

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

Ms. PRYCE of Ohio. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 459 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 459

Resolved, That the requirement of clause 6(a) of rule XIII for a two-thirds vote to consider a report from the Committee on Rules on the same day it is presented to the House is waived with respect to any resolution reported on the legislative day of November 21, 2003, providing for consideration or disposition of a conference report to accompany the bill (H.R. 1) to amend title XVIII of the Social Security Act to provide for a voluntary program for prescription drug coverage under the Medicare Program, to modernize the Medicare Program, to amend the Internal Revenue Code of 1986 to allow a deduction to individuals for amounts contributed to health savings security accounts and health savings accounts, to provide for the disposition of unused health benefits in cafeteria plans and flexible spending arrangements, and for other purposes.

The SPEAKER pro tempore (Mr. BASS). The gentlewoman from Ohio (Ms. PRYCE) is recognized for 1 hour.

Ms. PRYCE of Ohio. 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, yesterday the Committee on Rules met and passed this resolution waiving clause 6(a) of rule XIII, requiring a two-thirds vote to consider a rule on the same day it is reported from the Committee on Rules against certain resolutions reported from the Committee on Rules. The resolution applies the waiver to a special rule reported on or before the legislative day of Friday, November 21, 2003, providing for consideration or disposition of the conference report to accompany the bill, H.R. 1, the Medicare Prescription Drug, Improvement, and Modernization Act of 2003.

Mr. Speaker, as my colleagues are aware, the conference committee has completed its work and the conference report has been filed. In the spirit of bipartisanship to accommodate the request of the minority, the Committee on Rules met this morning, as opposed to last night, to give members of the minority an opportunity to come to the Committee on Rules at a convenient time and so that the witnesses could come to the Committee on Rules at a convenient time to talk about this extraordinarily important conference report which delivers to America's seniors a voluntary, universal, and guaranteed prescription drug benefit.

This morning, the Committee on Rules received testimony for more than 4 hours on this conference report from many Members in anticipation of reporting a rule to bring this very important and historic legislation before the House. Adoption of this same-day rule and a subsequent rule will simply allow us to consider the historic prescription drug and Medicare modernization plan today, hopefully moving us one day closer to sending this measure to the President of the United States for his signature and sending a strong message to the American people that this Congress is committed to ensuring our seniors that they have access to affordable medications that will keep them healthy and active.

Mr. Speaker, I strongly urge my colleagues to support this rule and allow the House to complete its work on this landmark legislation. America's seniors have waited far too long. It is time for us to act.

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

Ms. SLAUGHTER. Mr. Speaker, I thank the gentlewoman from Ohio for yielding me the customary 30 minutes, and 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, the rules of this body require that before considering a conference report, a copy of the report and the joint explanatory statement must be available to Members for 3 business days. The Medicare drug conference report and accompanying explanatory statement were filed very early this morning, 1:17 a.m. But here we are, Mr. Speaker, debating a special rule waiving the House rule prohibiting the same-day consideration of the Medicare conference report that is more than 1,000 pages long. This defies common sense. This tramples on the rights of the Members of this body. How are we to make the best informed decisions for our constituents and the Nation about monumental legislation when we do not have the required opportunity to examine this report? What should be bipartisan conference committees are, in fact, clandestine meetings held behind closed doors. Democratic House Members were deliberately excluded from the conference committee. The only African Americans on the Committee on Ways and Means were banned from a place at the negotiating table speaking for our African American citizens. That included the ranking member of the Committee on Ways and Means, who was appointed to the conference by the Speaker of the House. Key policy bargains were made out of sight of Members and hidden from public inspection.

What is it that we and the American people are not supposed to see in the fine print? Does this plan hand billions of dollars to the wealthy drug companies and insurance industry? Does this plan hurt seniors more than it helps? Will seniors end up paying more and receiving less? What will the impact be on minority seniors? They were not represented at the table. Is this bill a Trojan horse of privatizing and dismantling Medicare? If this bill is the answer to seniors' cries for help combating the skyrocketing prices charged for medications, why are we not allowed to carefully review the hundreds of pages of this report? News reports and a quick glance at the bill indicate that nothing is done to freeze or control out-of-control drug prices.

Just this morning, Thomas Scully, administrator of the Centers for Medicare and Medicaid Services, told a senior Member of the other body that he misunderstood this plan and needs to read the bill. That is a wonderful suggestion, Mr. Speaker. Too bad that we will not have that chance as the Senate has. Medicare is much too precious to kill because we will never, ever in our lifetimes and probably anybody else's in my voice's range be able to institute another program like this in America.

I remind my colleagues of the Medicare Catastrophic Coverage Act which was passed without providing Members and seniors sufficient opportunity to read the pages and pages of fine print. The result was a momentous backlash. American seniors were outraged by the legislation, so outraged that Congress was forced to repeal the law the very next year.

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

Ms. PRYCE of Ohio. Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. DREIER), chairman of the Committee on Rules.

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

Mr. DREIER. Mr. Speaker, I rise in strong support of this rule, and obviously we at this moment have begun the debate on what is clearly one of the most important issues that we will face in our entire careers here. We all know that 38 years ago the Medicare program was established, and it has met the very important needs of many retirees, many of our seniors. But we are also well aware of the fact that there have been more than a few problems with the Medicare program, and for years and years and years people have talked about bringing about reform of Medicare. There has been a lot of talk; and in just a few hours, we are going to finally have an opportunity to vote ''yes'' on this conference report which will effectively address many of those concerns which have existed for many, many years.

We all know, Mr. Speaker, that this measure will include a number of other very important items. Back in 1987, I had the privilege of introducing in this House legislation calling for the establishment of what we then called MSA, medical savings accounts, the opportunity for people to put dollars aside, tax deductible, so that they could plan for their future health care needs purchasing either health insurance or direct health benefits. Health needs that they had could be addressed with those dollars. We have already proceeded with bipartisan support in putting into place pilot programs, and there has been a great deal of success. Why? Because it does help diminish the demand for Federal programs by allowing people to again privately plan and privately save with some incentive as they look toward those health care needs in the future.

We also, Mr. Speaker, with this plan are doing something that is unprecedented, and it is a need which Democrats and Republicans alike have said needs to be met. We know that in the last Presidential campaign, both Vice President Al Gore, who was a candidate, and now President George Bush, when he was a candidate, talked about the need to ensure that we for our seniors provide an opportunity for them to have access to affordable prescription drugs. One of the things that is often said, our majority leader points it out, I have said it for a long period of time, 38 years ago when the Medicare program was established, the only prescription drug available was that doctors would say, ''Take two aspirin and call me in the morning.'' We know that if today we were putting into place a Medicare program, there would clearly be a prescription drug component included in that program. That is why, Mr. Speaker, I believe we are taking this very bold and important step to enhance the availability of prescription drugs for our retirees.

Mr. Speaker, having said that, we know that we included $400 billion in our budget, but there are many who have projected that this program could in fact spiral out of control, that it could become another massive new entitlement program which would get us into a great deal of fiscal trouble for the future. That is why I am very pleased at the direction of the Speaker, who, as we all know, has been intimately involved in working on health care issues for years.

He was very involved, of course, in the medical savings account issue earlier. He has headed task forces on this issue. He instructed me and my colleagues on the Committee on Rules to work on a cost-containment vehicle that would help us take steps to diminish the prospects of having this program spiral out of control so that there would be a degree of accountability here in this institution. That is why I say, Mr. Speaker, this legislation that we are going to be voting on later this evening includes this unprecedented cost-containment requirement that will ensure the fiscal integrity of Medicare for more than just a generation of Americans.

The legislation protects Medicare in two ways. First, it instructs the Medicare trustees to keep a constant vigil over the ebbs and flows of revenues in their different systems. We need that kind of monitoring mechanism to make sure that the programs are working and to make sure that the cost stays within our expectations. More important than that, Mr. Speaker, however, this legislation defends against the creation of another out-of-control entitlement program. As Members know, this is one of the most serious and debilitating and unintended consequences of the good intentions of so many of our programs here, that the costs run way, way beyond what are anticipated. There are already too many entitlement programs, we know, over which we have very little or, in fact, no fiscal control. We know them as mandatory programs. This legislation is different because it sets up an early warning system that alerts us to unexpected and unintended spending increases and gives us a mechanism for applying the brakes if spending is driven out of control by events and circumstances we could not have foreseen.

Under this legislation, the Medicare trustees are required to notify the Congress if 45 percent or more of Medicare outlays are predicted to be funded through general revenue.

□ 1545

Two such notifications in consecutive years require both Presidential and congressional action. Within 15 days of his annual budget submission, the President then has to propose legislation to resolve the funding difficulties. Continuing under expedited procedures, the House then has 3 legislative days to introduce the measure, and any such legislation introduced on the President's behalf, or any legislation introduced by a Member with the same purpose, must be certified by the chairman of the Committee on the Budget to ensure that it adequately address the problem.

At this point, Mr. Speaker, it would be easy for some in Congress to take the path of least resistance and let the difficult solutions die in the committee process. I want to underscore to the Members that this legislation does not allow that to happen. It does not allow us to just push it off to the committee process. By July 30 of any year after a Medicare Funding Warning is issued, it is in order, under this legislation's special provisions, to move to discharge any committee that is holding up any legitimate attempt to address the funding gap. The motion to discharge would be in order with the support of one-fifth, one-fifth, of the House Members; that is, 87 Members can stand up.

After the legislation has been discharged, the measure would have to be considered on the floor within 3 days and must result in a vote. Mr. Speaker, this mechanism ensures that we are not going to in any way abrogate our constitutional duty to watch over the Federal Treasury even in the case of what is considered to be entitlement spending.

I want to congratulate the gentlewoman from North Carolina (Mrs. MYRICK), my Committee on Rules colleague, for working very closely with us on this issue, and I believe that taking this step, putting this mechanism into place which has never been put in place before, to help us ensure that we do not see the spending spiral out of control will go a long way towards addressing the need of making sure that we have a prescription drug program for our seniors and at the same time making sure that we do it in a fiscally responsible way. We do have a very unique opportunity ahead of us, and again I want to congratulate the gentleman from Illinois (Speaker HASTERT) for the vision that he has shown on this, the fact that we have worked in a bipartisan way.

And I want to say that as we proceed with work on the same-day rule and the rule that will allow for consideration of the conference report, we want to ensure that every Member has an opportunity to be heard. We will have an hour on this rule, an hour on the second rule, and then the traditional hour on the conference report; and we have been working on an arrangement which will allow an opportunity to at least double the amount of time on the conference report.

So I believe we have a very good measure here. I think that it is deserving of strong bipartisan support since both Democrats and Republicans have consistently said that we do need to

address this need of both reforming Medicare and at the same time making sure that seniors have access to affordable prescription drugs.

So I thank my friend for yielding me this time for me to provide this explanation for our colleagues, and we look forward to strong passage of this rule, the next rule, and the conference report itself.

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

I feel compelled to say that two-thirds of this bill could have been paid for by the money that the United States owes the Medicare Trust Fund today, $270 billion.

Mr. Speaker, I yield 3 minutes to the gentleman from New York (Mr. RANGEL), ranking member of Committee on Ways and Means, who stood at the door and knocked.

Mr. RANGEL. Mr. Speaker, let me congratulate the chairman of the Committee on Rules for the splendid job he has done in explaining, as he sees it, a 1,000-page bill to this House, and why we should shove this down the throats of the Members of the House of Representatives without being privy to what he is privy to.

I do not know how in the world anybody can get to this well and say we are talking about a bipartisan bill when they had the Sergeant of Arms blocking out Democrats from the House from getting anywhere near the preparation of this bill.

Some people claim that they know what is in it. The eloquence of the chairman of the Committee on Rules was overwhelming. Why will he not allow the rest of the House to take a look at this 1,000-page bill so that they can be just as eloquent as he.

Let me tell the Members one thing. There are people in this House today that believe that in that 1,000-page bill is a plan to eliminate completely the Medicare system as we know it.

I know that you know better.

There are people here that really believe this is a payoff to the pharmaceuticals, to the HMOs, and even some of the folks that run around saying they represent old folks.

I know you know better.

There are people who truly believe that employees and retirees are going to lose out in this bill.

Republicans know better, but they want to keep it a secret. It is a Republican thing. Democrats not invited.

All we are saying is you put this bill together yourselves. You think you know what is the best for the Nation. You believe that Democrats have no contribution to make, whether they belong to the Congressional Black Caucus, you do not have one; the Hispanic Caucus; you do not have one; the nonexistent Jewish caucus, you have got one. No matter what you have got, you really believe that we have to be excluded until you decide what is best for us.

You know something, you just may be right. All we are asking for is let us have a day to take a look at it. Let us see what makes you right. Let us see why all of these people are calling us every day say that you are wrong, and you are trying to kill the system. Tell us why would you not let into the conference the gentleman from Michigan (Mr. DINGELL), the son of the author of the Medicare bill, the dean of the House of Representatives? Why is it that you believe that he would have nothing to offer to this bill? All I am saying is that you know what is in the bill. Give the House of Representatives, not the Republicans, not the Democrats, but the people's House, give us a chance to see what we truly believe is going to be good for the American people and our seniors. If you do that, maybe you are right. If you are afraid, you will not give us any more time.

Ms. PRYCE of Ohio. Mr. Speaker, I yield myself such time as I may consume.

This bill has been online on the Committee on Ways and Means Web site and the Committee on Rules Web site since last night. This is no secret to anyone, least of all the American public, and anyone is free to look it up and read it at their leisure.

Mr. Speaker, I yield 2 minutes to the gentleman from Georgia (Mr. LINDER), my friend and colleague of the Committee on Rules.

Mr. LINDER. Mr. Speaker, I would like to say something about the rule. It is a fair rule. It is a rule that was used often as long as I have been here toward the end of a session to get pieces of legislation to the floor. The rule gives an extra hour for those opposing this bill to argue about it, and we are going to hear lots of arguing and lots of whining. But in the event we get through this rule and the rule on Medicare reformation and get to the bill, I think the public is going to know an awful lot about what is in it. Frankly, the substance of this agreement was known last Sunday, several days ago. And the 3-day rule layover that we are avoiding this time is normal for the end of year.

I just want to make one comment about something that I heard twice in a 4-hour hearing today in the Committee on Rules, and we will hear it later on the floor. On two occasions, it was said that former Speaker Gingrich said in a speech to the Blue Cross organization, or Blue Shield, that he wanted Medicare to wither on the vine. That was made into a commercial by AFL–CIO and run across the country. And Brooks Jackson on July 15, 1996, did an expose on that. He showed the entire speech, and he showed that what they had done was cut up a piece. What Newt Gingrich was talking about was not Medicare or its beneficiaries, but the bureaucracy that runs it. He said that given the opportunity to make free choices, our seniors will voluntarily, voluntarily, opt out of the Health Care Financing Administration, and it will wither on the vine. When Brooks Jackson did that expose, he said what the unions were doing was dishonest.

I want to make this point before the debate starts because I want you to know that we know that you know you are dishonest.

Ms. SLAUGHTER. Mr. Speaker, I yield 2 minutes to the gentleman from New Jersey (Mr. PASCRELL).

Mr. PASCRELL. Mr. Speaker, I just heard the epitome of hypocrisy from the gentleman from California when he tried to interrupt the gentleman from New York (Mr. RANGEL) and he would not let the gentleman from New York (Mr. RANGEL) into the room and the likes of the leadership. If this is not hypocrisy, what is? The movie ''Thelma and Louise,'' watch it. Louise turns to Thelma and says ''You get what you settle for.'' And how right she was.

This prescription drug bill is the worst example of accepting what we are given. The administration is telling seniors that they should settle. They have convinced that the AARP that they are getting half a loaf, which is, of course, better than no bread at all. But, seniors, beware. They are not getting a slice even, they are not getting a half a loaf. These are the crumbs off the table. Our seniors will be settling for crumbs while the special interests are getting fat, and are they happy this week.

Today, the leaders on the other side are here to try to pass a bill that provides a weak prescription drug benefit, that fails to lower drug costs because the bill prohibits the government to try to help negotiate down the cost of the drugs. They specifically put that into the legislation. And it privatizes Medicare. It changes Medicare as we know it, pushing millions of seniors into HMOs. And this is fiscally irresponsible. Do the Members know what HMOs have done in New Jersey? They have shoved 79,000 people out of those HMOs since 1999. That is what awaits our seniors.

You cannot ignore that. Democrats have led the charge for years to add a prescription drug benefit, but we are not going to settle. We will compromise. We will discuss, but at least invite us to the table to compromise. This is America, not the Soviet Union.

Ms. PRYCE of Ohio. Mr. Speaker, I yield such time as he may consume to the gentleman from the great State of Texas (Mr. SESSIONS), my friend and colleague from the Committee on Rules.

Mr. SESSIONS. Mr. Speaker, I thank the gentlewoman from Ohio (Ms. PRYCE) for yielding me this time.

There is a lot of talk today about what is occurring with procedures and whether it is right or wrong, but I want to stand up today and talk about the bill. I want to talk about the bill and the things that it does for not only families like mine, but also for millions of other families across this great Nation.

What this bill does is it modernizes Medicare and so much more because it

then gets into health care for families. It talks about the opportunity for families to be able to save money on a pretax and tax-free basis. Why is that important to my family? That is important to me because I have got a beautiful wife of 19 years, I have got a son who is 14 years old, who plays football and wrestles, and he sometimes gets hurt, and I have a 9-year-old Down's syndrome son who spends an extensive amount of time needing help with physicians and health care professionals. Not always do we get an answer back from the insurance company that they want to cover the needs of my family. Sometimes the needs of my family go well beyond those needs of what insurance pays for. But my family, like millions of other families, will now be helped because of the extreme generosity of the gentleman from California (Mr. THOMAS) and the gentleman from Louisiana (Mr. TAUZIN) who have written a bill that will allow families to save up to $5,000 a year. Even if it is just $2,000 a year, if that is what we have got left over, then we can put that money in there, and it means that this money can grow, tax free, and then be used, tax free, on health care. It means that my family and myself will now be able to supplement those things that may not be covered under our health care. It means that we will be able to be decision-makers to get the right things if we need something that goes beyond what insurance pays for.

I cannot tell the Members how important that is because there are millions of other families that are less fortunate than mine who many times go without the ability to have the services that are necessary for their children.

□ 1600

This is a way that people can help. They can help their children. They can help their families. They can make sure that they supplement those things that insurance provides, and that is good.

We have heard today that all this is about is about rich people or about rich organizations. Let me tell my colleagues, when you have someone who is sick or hurt in your family and you find out that insurance does not cover everything you need, and then you look at the tab that is out there, you will look and say, thank goodness for what Republicans have done.

I am proud of what this bill does. It modernizes health care today the way it ought to be, where we can participate, where we can do the right things. So I am proud of what the gentlewoman from Ohio (Ms. PRYCE) is standing up for today, to stand for this House to confirm this rule, to make sure that this Republican body can deliver to Americans and their families and senior citizens not only the health care that they need, but as a result of listening to what people need, we will deliver prescription drugs and those things that America has been asking for.

And then we will have a President who will sign this bill and do the right thing. And in the scheme of things, us doing the right things to help people today and to make sure families can be prepared for tomorrow is part of the oath and obligation that I took when I said I will support and defend this Constitution and make sure that the people I represent get the best from what we can come up with.

Mr. Speaker, I support this rule. I support this bill. I encourage every single Member to think about what this is about. It is not about politics. It is not about ourselves. It is about our families, our children, and our future.

Ms. SLAUGHTER. Mr. Speaker, I yield 3 minutes to the gentleman from New Jersey (Mr. PALLONE).

Mr. PALLONE. Mr. Speaker, I appreciate that the gentleman from Texas is proud of this legislation, but I want to tell him, I am ashamed of this legislation, and I am ashamed of what we are about to do; and I hope we do not do it.

Secondly, he said his constituents are going to be helped. They are not going to be helped; they are going to be hurt. When he says this is a good bill, it is not a good bill; it is a bad bill. My constituents are calling, the gentleman from New York (Mr. RANGEL) said his constituents are calling, and they are calling me because they are scared to death about what you are going to do, because they think that Medicare is going to die, to disappear and that they are not going to get any kind of decent prescription drug benefit.

Let me tell my colleagues why they are right. There is no question that you are not going to get any kind of drug benefit under this bill unless you go private. You have to join an HMO. If you do not join an HMO and lose your choice of doctor or your choice of hospital, then you are not going to get the drug benefit. They are scared, because they do not want to do that. They do not want to have to trade and lose their doctor in order to get some kind of drug benefit.

Secondly, they are upset because there is no benefit here. There is nothing here for them to benefit from. They are going to have to pay more out, shell more out of their pocket than they are going to get back in terms of a prescription drug benefit. If we look at what this bill does, first of all, we do not know what the premium is going to be. You might have a premium of $75, $85 month. You have to pay a deductible of $275 a month. After you pay out $2,200, for the next $3,000 or so, you get no benefit at all, no drug benefit. You have to pay 100 percent out-of-pocket while you continue to pay probably a very high premium.

So they figure, I am going to lose my choice of doctor. I may lose my choice of hospital. And at the same time, I am not getting any benefit because of this doughnut hole and what you are causing me to pay out.

Then they say, they are expecting there is going to be some kind of controls on the price of prescription drugs, but you have a clause in the bill that says that we cannot even negotiate price. So the costs of prescription drugs will continue to rise, as all of these other terrible things are happening.

Then they say, my constituents say to me, Congressman, is it true that this bill does not even take effect until 2006 with the drug benefit? The answer is yes. That is what the bill says. Read the bill: 2006 before the drug benefit kicks in. You know what my constituents say? That is a joke. What kind of a joke is this? You are going to have some election in 2004 and then you are all going to run for election and say what a great thing this is and this is not even going to kick in. They want a prescription drug benefit now. Why can it not start January 1 of 2004?

Lastly, the reason they are really scared is because of the privatization. I heard the gentleman from California (Mr. DREIER) say ''privatize'' three times. That is what this is all about: privatizing, not just the prescription drug benefit, but Medicare as a whole. Because even though we are only going to have these demonstration programs in certain parts of the country, the bottom line is they are going to impact the whole country and ultimately, by the year 2010, you are going to force people to take a voucher, try to go out in the private sector and buy their Medicare as a whole, and if they cannot find it or they do not like what they are offering for that voucher, that set amount of money, then they are not going to be able to stay in traditional Medicare, fee-for-service Medicare.

Privatize Medicare, privatize the drug benefit, it does not even start until 2006, and you lose your doctor. That is why they are scared to death.

Ms. PRYCE of Ohio. Mr. Speaker, I must take 1 minute to say that the gentleman has misspoken. Our most needy seniors, the seniors who need it most will be getting help with their prescription drugs, the best tool medicine has to offer, by next spring if we pass this bill. But if we delay, if we continue to defeat our efforts, the Republican efforts to bring prescription drugs to the American people, we will never provide them help. We have to start and we have to pass this bill today.

Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Georgia (Mr. GINGREY), someone who should know a lot about this.

Mr. GINGREY. Mr. Speaker, I thank the gentlewoman from Ohio for yielding me this time, and I promise to tone down the rhetoric just for a couple of minutes.

Mr. Speaker, I rise today in support of the rule for the Medicare agreement. Today, we face a Medicare reality, a reality that requires change, reform, and willing leadership.

Though not a perfect solution, the Medicare agreement is a big step in the right direction, a step in the right direction by providing our seniors with

assistance to pay for the rising cost of prescription medications, medications that will help them live longer and help their lives; a step in the right direction by supplying appropriate reimbursement updates for hospitals, and updates to ensure that hospitals sustain the ability to provide needed goods and quality services for their patients; a step in the right direction by blocking the proposed cut in Medicare reimbursements to physicians and, instead, provide a positive update, reimbursements that will allow physicians to properly serve their patients and curb the trend of reduced access.

I urge my colleagues to take this step to help our seniors, our hospitals, and our physicians and adopt this rule so we can pass the Medicare conference report.

Ms. SLAUGHTER. Mr. Speaker, I am pleased to yield 2 minutes to the gentleman from Rhode Island (Mr. LANGEVIN).

Mr. LANGEVIN. Mr. Speaker, I thank the gentlewoman for yielding me this time.

I rise in strong opposition to the proposed rule to consider the Medicare Modernization and Prescription Drug Act of 2003. We are about to vote on legislation that will have an enormous impact on every single American. While we know very little about the details, since we were only given this bill late last night, what we do know is that it offers a completely inadequate drug benefit, does nothing to contain the rapidly increasing cost of prescription drugs, and takes steps toward privatizing Medicare. When our seniors find out about the truth of what this bill will do to their health plans, they will be outraged. This is shameful, because it does not have to be this way.

We are poised to make the most significant changes to Medicare in history, and we are proposing to vote on it while the ink is still drying, a 600-page bill that we have scarcely been able to read. This is no way to make good public policy.

Mr. Speaker, as President Woodrow Wilson once said, ''Whenever any business affecting the public is conducted, wherever any plans affecting the public are laid, over that place a voice must speak with the divine prerogative of the people's will the words 'let there be light.''' Mr. Speaker, there is no light in our work here today, and the Members of this House and the people that we represent deserve better.

I urge all of my colleagues, regardless of their position on this bill, to vote against this rule.

Ms. PRYCE of Ohio. Mr. Speaker, I reserve the balance of my time.

Ms. SLAUGHTER. Mr. Speaker, I am happy to yield 3 minutes to the gentleman from Oregon (Mr. DEFAZIO).

Mr. DEFAZIO. Mr. Speaker, I thank the gentlewoman for yielding me this time.

Would every Member who is on the floor and who has read all 691 pages of this bill since it was made available at 1:30 in the morning please raise your hand. I do not see any hands raised, but we are going to vote on it very soon. We are not doing a service to the American public by violating the rules of the House and not allowing this bill to be held over for 3 days, as required by the rules, so Members of Congress, and maybe even members of the public and the fourth estate, could read it, analyze it, and report it so we could better hear the opinion of the American people. But from what I know of it and the bits I have read, it is not much of a benefit, and it is not what seniors need.

Americans pay more for U.S. manufactured, FDA-approved drugs than anybody else in the world. Our neighbors in Canada pay half as much, on average, for drugs manufactured in the United States of America. Now, how could that be? Well, the government of Canada bargains lower prices on behalf of Canadians. Well, maybe that would be a solution to the problem here in the United States: let us lower the extortionate price of drugs. Let us put the 40 million people in Medicare into a buying group, that would not cost anything, and let us negotiate lower prices. No.

This bill, at the behest of the pharmaceutical industry, a generous contributor to the Republican Party and the President, prohibits the Government of the United States of America, unlike any other industrial nation or democracy on Earth, from negotiating lower drug prices for its citizens with these multinational conglomerate pharmaceutical companies. There is no pain for the pharmaceutical industry in this bill. In fact, their stock has gone up dramatically in the last week. The analysts have read it, and they said, what a sweet deal for the pharmaceutical industry. Too bad it will not give seniors what they need.

Well, there are $400 billion of taxpayer money, copayments, premiums, deductibles, the doughnut exclusion. There is a nice $20 billion subsidy to private HMO insurance companies who might or might not offer benefits. But seniors, on average, are going to get a benefit that is less than they could get by mail-ordering their drugs from Canada. Oh.

Well, the bill is going to take care of that problem too. Despite the fact that this House of Representatives is on record by a large margin allowing the free reimportation of U.S.-manufactured, FDA-approved drugs for Americans from other industrialized nations that regulate safely those drugs, this bill is going to begin to block that process. They say, oh, well, that is not in the bill. We give the authority to the Secretary of Health and Human Services to allow the importation if he sees fit. Yes, sure. Except he has already said that he does not see fit and he will never, ever do that; and the FDA commissioner has said oh, no, we are not going to ever do that. We cannot certify that those U.S.-manufactured, FDA-approved drugs that took a little vacation in Canada are safe.

This is simply legislation that is not going to provide the benefits that seniors need at an extraordinary cost to the ultimate detriment of the core Medicare program. Vote ''no.''

Ms. PRYCE of Ohio. Mr. Speaker, I continue to reserve my time.

Ms. SLAUGHTER. Mr. Speaker, the gentleman is absolutely correct. There is no great list of dead Canadians from taking bad medicines.

Mr. Speaker, I yield 2 minutes to the gentleman from Washington State (Mr. BAIRD).

Mr. BAIRD. Mr. Speaker, at the beginning of this debate, the distinguished chairman of the Committee on Rules pointed out that this is one of the most important bills we have faced possibly in our careers. Indeed, he is correct. Yet, we are given less than 24 hours to consider this. The most important bill in our careers, 24 hours to consider it.

It is part of a very troubling pattern, and I call my colleagues' attention to this: in the last 7 legislative days in this Congress, we have either authorized or appropriated more than $1.26 trillion of the people's money. The defense authorization bill we were given 3 hours to read before the vote. The Medicare bill, we may have a total of about 28 hours, clock hours, if we read around the clock to read this. The intelligence authorization bill, 8 hours. A total of $1.26 trillion, and we are going to have an omnibus appropriation bill shortly.

I would like to yield, if I may, to the gentlewoman from Ohio. I have asked one of the pages to take her a piece of text from this legislation, and I would like her to explain this to me. If we have had adequate time to study it, then we should know what is in it.

The text reads as follows, and I will invite the gentlewoman to explain what it means.

□ 1615

On page 13, actually of the interpretive paper from the Republican party, it reads, ''Plans would be permitted to substitute cost-sharing requirements for costs up to the initial coverage limit that were actuarially consistent with an average expected 25 percent coinsurance for costs up to the initial coverage limit. They could also apply tiered copayment, provided such copayments were actuarially consistent with the average 25 percent cost-sharing requirement.''

I yield to the gentlewoman from Ohio (Ms. PRYCE) to explain what that means.

Ms. PRYCE of Ohio. Mr. Speaker, I thank the gentleman from Washington (Mr. BAIRD) for yielding. This was just put in front of me. I would defer to the chairman of the Committee on Ways and Means or a member of the Committee on Ways and Means because this is their jurisdiction and certainly not the jurisdiction of the Committee on Rules.

Mr. BAIRD. Mr. Speaker, reclaiming my time. I believe the gentlewoman from Ohio (Ms. PRYCE) has pointed out we have had adequate time to study the legislation. I presume she is going to vote on it. This is a summary provided by her Republican party, yet she fails to be able to explain it.

I would invite anyone here present with us today from the majority party, or who plans to vote from the minority party, to please explain what it is we are voting on. I would invite the next person to offer that explanation.

Ms. PRYCE of Ohio. Mr. Speaker, I will continue to reserve my time. We do not have any more speakers at this point.

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

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

Ms. JACKSON-LEE of Texas. Mr. Speaker, my good friend has really laid it out for us. We are not yet debating the bill. I thank the distinguished gentlewoman from New York (Ms. SLAUGHTER) from the Committee on Rules, both of them in fact, we are debating the process. I think it is important because this is historic.

I sat for 2½ hours in the Committee on Rules, and I want to thank the Committee on Rules for giving me the 2½ hours to sit, and then the opportunity to express my opposition and challenges to this legislation. I have been taught as a child that it is all about who shows up. Not about whether you can finish or whether or not you are the best, but who shows up. Who shows up in school, who stays in school.

Let me tell about this legislation and what I went to the Committee on Rules about. I asked them to reserve what we call points or order. Because I believe this bill is fatally flawed. It has killer bees in the midst. It has a lot of roses in it. And people are talking about hospitals and doctors. I am glad to see the American Nurses Association is against this bill. But roses have thorns and thorns make you bleed. And there is a lot of bleeding going on in this bill.

This bill is a subsidy for HMOs and a subsidy, if you will, for prescription drug companies. And as I said, it is all about who shows up. And HMOs do not show up.

Take any city and any county and any State and when an HMO finds out they cannot make a profit, they close up. Take Harris County, 4 years ago, six HMOs, they closed up shop on our seniors because they could not make a profit.

And what does this bill do? It hurts low-income seniors and those who are disabled. I cannot imagine how we would vote for a bill that unravels Medicare by its premium support, even if it is an example program. It gives premium support to defer you over to a private insurance program and leaves Medicare unraveling on the vine.

In addition, it does not take a law graduate to understand what anticompetitiveness means. We call that antitrust violations. And how can you give benefits to private insurance companies and pharmaceutical companies when you allow them to establish the cost of the drugs, and you do not allow the Federal Government to compete fairly by bringing down the cost of the drugs. Some people say it is dumber than dumb. This is a dumber than dumb plan. We should have the opportunity to take 3 days to review this. This is a dumb plan, a dumb procedure. And, Mr. Speaker, how can you leave Democrats off the conference committee and say this is a good plan.

Ms. SLAUGHTER. Mr. Speaker, I yield 2 minutes to the gentleman from Tennessee (Mr. COOPER).

Mr. COOPER. Mr. Speaker, this is a very sad day for this House. I bring a unique perspective, I think, to this legislation because I represent probably more hospitals than any other Member of this body. Because Nashville, Tennessee, is the headquarters town for most of the for-profit hospitals in America. We also have a leading academic medical center and many nonprofit hospitals with some 300 health care companies headquartered in our city. We are Health Care U.S.A.

I have also been a professor of health care policy at Vanderbilt Business School; the last 7 years studying these issues. And in my prior service in Congress, I was one of the leaders in trying to craft bipartisan health care policy, getting Democrats and Republicans to work together, to do the right thing for our Nation's seniors and for all of our citizens.

This bill, which we were finally allowed to see a few short hours ago, is a travesty. First of all, very few, if any, Members really know what is in it. There simply has not been enough time. And our seniors deserve better than a martial law rule. Why not at least the regular 3 days, so Americans can see what is in this bill? What is the other side afraid of? What are they afraid of?

Sunshine is the best policy. Sunshine is the best disinfectant for what may or may not be in this bill.

Now, I had a head start, I have been trying to follow proceedings closely over the last several months of the conference from which all Democrats have been excluded in the House. But I have tried to pick up bits and pieces here or there. I have tried to read everything available on this. And the best I can tell, the policies in this bill come up way short.

Now, our hospitals in Nashville are proud of the 3 to 5 percent of the bill that covers their activities, but the rest of the bill, the other 95 percent, has severe policy shortcomings that I am afraid the other side feels cannot stand the light of day, cannot stand full debate.

So our seniors deserve better, Mr. Speaker. Let us give them a better bill. Let us take the time to do it right.

Ms. PRYCE of Ohio. Mr. Speaker, I yield myself such time as I may consume.

And in light of the comments of the gentleman from Tennessee (Mr. COOPER), the last speaker, I would say that every major hospital association in this Nation is on board with this legislation. He should be supportive of it. Not only the hospital associations, but the American Association of Retired Persons, the AARP, who speaks for every senior in this country. They are on board. The AIDS Institute, the Alzheimer's Association, the Coalition for Medicare Choices, Hepatitis C Global Foundation, International Patient Advocacy Association, Kidney Cancer Association, National Alliance for the Mentally Ill, the National Council on the Aging, the Seniors Coalition, United Seniors International Association, We Are Family Foundation, Academy of Family Practice Residence Directors, Alliance for Quality Nursing Home Care, Alliance to Improve Medicare, American Academy of Dermatology Association, American Academy of Family Practitioners and Physicians, American Academy of Home Care Physicians, American Academy of Neurology, Ophthalmology, Osteopathy, Pharmaceutical Physicians.

Mr. Speaker, this list is pages and pages long. Every significant health care provider, every significant person in this country who is touched by health care and feels the pain of seniors and understands their health care needs is on board with this legislation. Anyone who cares about the future of health care for seniors should be on board as well.

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

Ms. SLAUGHTER. Mr. Speaker, I am interested in the list that the gentlewoman from Ohio (Ms. PRYCE) read off. I hope that they know what is in the bill, because we sure do not.

Mr. Speaker, I yield 3 minutes to the gentleman from Arkansas (Mr. ROSS).

Mr. ROSS. Mr. Speaker, I thank the gentlewoman from New York (Ms. SLAUGHTER).

And to the gentlewoman from Ohio (Ms. PRYCE), let me assure you that AARP no longer speaks for America's seniors. The National Committee to Preserve Social Security and Medicare is the Nation's second largest senior advocacy group. Unlike AARP, they are not in the pharmacy business, and they are not in the discount prescription card business. And Max Richmond, their executive director said what? He said, ''You ever heard of Medicare fraud? This Republican prescription drug bill is Medicare fraud.'' And let me tell you why: It is obscene that the Republicans in Congress would lock the door and refuse to allow the Democratic conferees in the room while this bill was being finalized. If that is not enough, now they are trying to use a parliamentary procedure to immediately bring this bill up for a vote, a bill that is 681 pages. It was received in

my office just a few hours ago. I have not read it all. It is 681 pages, and I just got it.

If there is any Republican here who has already read it, then they have been through some kind of speed reading course that I have not been through. But I have gotten through a few pages. Page 54 is a good place to start. Surely to goodness, no one here has read page 54, because if they have, they would not be asking for this bill to be brought up immediately. They would want time to read it, because page 54 says what? It says the Federal Government shall be prohibited from negotiating with the big drug manufacturers to bring down the high cost of medicine. And they call this a seniors bill? Give me a break.

And if that is not enough, my colleagues can turn to page 18 of the bill. Page 18 of the bill tells us what seniors are going to get, or, really, what seniors are not going to get. This is clearly a bill written by the big drug manufacturers and the big insurance companies, not to benefit our seniors, not to bring down the high cost of medicine, but to benefit the big drug manufacturers and the big insurance companies.

Make no mistake about it, seniors, it is important the Members here understand, understand what the seniors get in this bill. There is a $420 yearly premium, $35 a month. There is a $250 deductible, and then, from $250 to $2,250, Medicare pays 75 percent of the bill leaving the senior to pay 25 percent. That part sounds pretty good. But then from $2,250 all the way up to $5,100, guess what? The senior is back stuck paying the full price for the prescription drug while still being required, under this bill, to pay a $35-a-month premium.

This legislation boils down to this: Of the first $5,100 worth of medicine, seniors are going to still be stuck paying $4,020 while Members of Congress, who wrote and approved this bill, only pay $1,275.

Ms. PRYCE of Ohio. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the gentleman from Arkansas (Mr. ROSS) says that the AARP does not speak for seniors of America? The AARP represents 35 million seniors, dues-paying, card-carrying voting seniors. These seniors care what we do, and they are watching what we do, and we better do right by them.

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

Ms. SLAUGHTER. Mr. Speaker, I yield 2 minutes to the gentleman from Mississippi (Mr. TAYLOR).

Mr. TAYLOR of Mississippi. Mr. Speaker, a little over a year ago, the President of the United States, Secretary of Defense Donald Rumsfeld, Under Secretary of Defense Paul Wolfowitz all told me, me, that not only did the Iraqis have weapons of mass destruction, but that they had their finger on the trigger and were getting ready to use them. Now, 7 months after we have occupied Iraq, the only thing harder to find than a Republican who will tell me where those weapons of mass destruction are is a Republican who will tell me how they are going to pay for this bill.

In the 29 months since the passage of their budget, their spending, their tax cuts, they have increased our Nation's debt by $1,229,407,000.

□ 1630

This bill alone will add another $400 billion to our staggering $6.8 trillion debt.

But if you have noticed, not one of my Republican colleagues will say how they are going to pay for it, because they do not want you to know that a few seniors will benefit from this, but all of us will end up paying interest on it. And we are already squandering $1 billion of your money a day on that interest.

This is nothing but an auction to the insurance companies and the pharmaceutical companies of this Nation, for campaign contributions to the Republican party. And I want one Republican to hold up one prescription and just tell me how much less it is going to be 1 year from today, 2 years from today, because that is what seniors really want. They do not want another bureaucracy. They do not want $400 billion worth of debt.

The people who are seniors now are the Greatest Generation, and the last thing the Greatest Generation wanted is the country they fought for in World War II and Korea to be bankrupted by some political prank now.

So I ask the gentlewoman from Ohio (Ms. PRYCE) how are you going to pay for it, and please name one drug that will be cheaper 1 year from today.

Ms. PRYCE of Ohio. Mr. Speaker, I yield myself such time as I may consume.

I would just like to remind the gentleman that last year's Democrat prescription drug bill cost $1 trillion, $1 trillion, almost three times what this bill costs.

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

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

Mr. Speaker, whether you support this bill or not, the Members should be very concerned that we are about to cast a vote on a major, major piece of legislation that only a small handful of House Members have actually read because it was not finalized and filed until 1:30 this morning.

They should be very concerned that this marshal law rule waives the House rule that requires the conference report layover for 3 days before coming to the floor for a vote. Of course, it was not supposed to be this way.

Just a few weeks ago, 44 members of the Republican Study Committee demanded that the Republican leadership allow Members 3 days to read the conference report after it was filed and before forcing them to vote on it. It was a reasonable demand since that is what the rules of the House say.

The gentleman from Illinois (Mr. HASTERT) agreed to it as has been publicly reported. Here is how the November 3, 2003, edition of Roll Call reported it: ''At a GOP conference meeting that was called exclusively to update Members on the Medicare talks, Hastert assured his troops that they would now get regular briefings on the Medicare bill and would have at leave 3 days to look over the conference report before having to vote on it, according to several Members who attended.

'''The Speaker wants to make sure that Members are comfortable making this historic change' to Medicare, said Hastert spokesman John Feehery.''

The November 7, 2003, edition of Congress Daily quoted the gentleman from Georgia (Mr. NORWOOD) ''referring to a promise made by House Speaker HASTERT.''

The gentleman from Georgia (Mr. NORWOOD) said, ''The thing I'm happiest about is we get 3 days with the language.''

Now, we all know the Speaker of the House is an honorable man, but apparently the Republican leadership is willing to renege on his commitment and to ensure Members do not get 3 days with the language. Because while various summaries, press releases, and drafts may have been posted on Web sites of today, the final language of that conference report was not filed until early this morning. And 3 days from Friday morning is Monday morning, not Friday afternoon.

For that reason, Mr. Speaker, I urge Members to join me in opposing the important parliamentary vote known as the previous question. If it is defeated, I will amend the rule so that it no longer waives the House's rule requiring a 3-day layover for all conference reports.

Voting no will not defeat the Republican Medicare bill, but it is the only way to uphold the commitment of the Speaker of the House and to allow Members and the public to examine this 700-page $400 billion Medicare bill before voting on it.

I urge Members to vote ''no'' on the previous question.

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

Ms. PRYCE of Ohio. Mr. Speaker, I yield myself such time as I may consume.

I remind my colleagues that this body is about to embark on a monumental endeavor. We are about to consider the most significant benefit America's seniors have ever seen since the creation of the Medicare program nearly 40 years ago. We are about to give seniors the best tool that medicine has to offer, prescription drugs. A tool that they have been denied, that our government has not supplied to them. We are about to give that to them, Mr. Speaker. That is not even to mention the most significant and deliberative reform that Medicare has ever seen.

I urge my colleagues to support American seniors, to support the future of the Medicare program, and to support this Congress in one of the most promising endeavors I have ever been a part of in my years in this esteemed body. Join me in taking a bold step closer to consideration of this extraordinary legislation. I ask the Democrats, stop defeating these attempts, stop delaying help to our seniors, and stop destroying their trust in their government.

Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

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

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

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

The yeas and nays were ordered.

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

WAIVING REQUIREMENT OF CLAUSE 6(A) OF RULE XIII WITH RESPECT TO CONSIDERATION OF CERTAIN RESOLUTIONS

Mr. LINDER. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 458 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 458

Resolved, That the requirement of clause 6(a) of rule XIII for a two-thirds vote to consider a report from the Committee on Rules on the same day it is presented to the House is waived with respect to any resolution reported on the legislative day of November 21, 2003, providing for consideration or disposition of any of the following measures:

(1) A bill or joint resolution making further continuing appropriations for the fiscal year 2004, or any amendment thereto.

(2) A bill or joint resolution making general appropriations for the fiscal year ending September 30, 2004, any amendment thereto, or any conference report thereon.

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

Mr. LINDER. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from Texas (Mr. FROST), 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. 458 is a rule that waives clause 6(a) of rule XIII with respect to same-day consideration against certain resolutions reported from the Committee on Rules. Specifically, this rule waives the requirement for a two-thirds majority vote in the House to consider a rule on the same day it has been reported by the Committee on Rules.

This rule's waiver applies to any special rule reported on the legislative day of November 21, 2003, providing for the consideration or disposition of any of the following:

A, a bill or joint resolution making further continuing appropriations for fiscal year 2004 or any amendments thereto; or

B, a bill or joint resolution making general appropriations for the fiscal year ending September 30, 2004, any amendment thereto or any conference reported thereon.

I urge my colleagues in the House to join me in approving H. Res. 458. Its passage will help expedite the consideration of either another continuing resolution, if that becomes needed, or even conference reports on the last few remaining fiscal year 2004 appropriations bills, including the Foreign Operations bill, Transportation-Treasury bill, the Agriculture bill, the VA–HUD bill, the Commerce-Justice bill, the District of Columbia bill, and the Labor-HHS bill.

I believe that we are in the waning days of this year's legislative session with only a relatively small number of must-do legislative items still left to finish. Approving this same-day waiver rule will help provide for prompt consideration of these important funding bills.

Mr. Speaker, the Committee on Rules approved this rule last night, and I urge my colleagues to join me in supporting its passage.

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

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

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

Mr. FROST. Mr. Speaker, marshal law rules like this one are symptomatic of the failure of this Republican government. Republicans are doing such harm to America, from Medicare and the economy to foreign policy and homeland security, that keeping the public in the dark has become their chief priority.

So today, Republican leaders are yet again waiving the rules of the House. Later today they plan to do it in order to force through their plan to end Medicare as we know it, which is how the chief author of the Republican Medicare bill describes their goal.

But first, Republican leaders want to pass this marshal law rule so that they can rush through a spending bill before Members, the press, and the public have had the chance to find out what is really in it.

Mr. Speaker, they will not even tell us which spending bill they plan to hide from us today. All we know is that it will either spend tens of billions of dollars in taxpayer money, or that it will spend hundreds of billions of dollars in taxpayer money. Either way, it will become law before it has even been read by anyone except for a handful of Republicans at the White House and in the Congress. But since these are the same Republicans who have exploded the budget deficit to nearly $500 billion, raising the debt tax on all Americans, no one has much faith in them anymore.

Mr. Speaker, after nearly a decade of controlling the Congress, the Republican Party's fundamental goal is simply protecting its own power by hiding from the public the damage they are doing to America. Of course, if you look at the Republican record, you can understand why they are so desperate to keep it hidden. In the nearly 3 years since George Bush became President, Republicans have created a whole host of problems for the American people.

On national security, the Bush administration has plunged this Nation into its worst foreign policy crisis since the end of the cold war because they would not trust the American people with the truth about Iraq and because they could not work with our allies around the world. And while U.S. taxpayers are spending hundreds of billions of dollars on Iraq, our homeland defense needs here in the United States remain dangerously unmet.

On domestic policy, of course, Republicans are going for the right wing gold. Later today they will try to finalize Newt Gingrich's dream of forcing Medicare to wither on the vine, shattering Medicare's nearly 40-year-old promise to American citizens. That debate, Mr. Speaker, will be a case study in the public dishonesty that is fundamental to the Republican government.

Over and over again, Republicans will repeat their poll-tested sound bytes. They will save Medicare reform and hope that millions of seniors do not notice the Republicans are forcing them out of traditional Medicare and into HMOs and insurance companies. They will talk about choice and ignore the fact that millions of seniors will lose the ability to choose their own doctors. And they will decry skyrocketing prescription prices and hope no one notices that they are actually protecting drug company profits by making it illegal for Medicare to negotiate lower prices for senior citizens.

Mr. Speaker, Republicans will wax poetic about the generosity of their drug benefit, hiding the fact that premiums and benefits will actually be set by HMOs and insurance companies; and that even under the Republicans rosiest scenario, seniors with average drug bills will still have to pay about $2,500 per year out of their own pockets. Of course, Republicans will not say a thing about the $12 billion slush funds they are setting up for HMOs or insurance companies or the $139 billion in windfall profits they are giving to the big drug companies.

Mr. Speaker, no wonder the Republican Medicare bill does not take effect until after the election. Republican political strategists are desperately hoping that seniors do not discover this truth about this assault on Medicare before they go to the polls in 2004. But

make no mistake, when seniors sit down at their kitchen tables to pay their bills, they are going to do the math, and they are going to see that Republicans have sold them a very expensive and very harmful bill of goods.

Mr. Speaker, the false promise of the Republican Medicare plan will remind a lot of Americans of the false promise of the Republican economic plan. In less than 3 years, the Republicans have taken a historic budget surplus and turned it into a monumental deficit. They have done it through reckless fiscal irresponsibility and through an obsession with spending billions of taxpayer dollars for a small elite of the wealthiest few, people like the Bush campaign fund-raising Pioneers.

As a result, instead of using the budget surplus to help address priorities like skyrocketing prescription prices and strengthening Social Security and Medicare, Republicans have created a fiscal crisis and raised the debt tax on all Americans.

Along the way, nearly 3 million jobs have been lost, giving George W. Bush the worst job performance of any President since The Great Depression. Millions of families no longer share in the prosperity of the nineties. Of course, you would never know the facts if you just listened to Republican rhetoric. But talking points cannot cancel out the truth. And the truth is, Mr. Speaker, that Americans continue to be unemployed at alarmingly high rates. More than 2 million workers have been unable to find a job in this economy for more than 6 months, and many of them will lose their unemployment insurance over the holidays if this Republican Congress does not act this year before we adjourn.

□ 1645

That is why, Mr. Speaker, I intend to oppose the important parliamentary vote known as the previous question. That is the only way to ensure Republicans do not leave town for their own holiday vacations without providing unemployed Americans with the help they so desperately need.

Mr. Speaker, Americans are smarter than Republican leaders give them credit for. They know the difference between rhetoric and reality. So I urge my Republican friends to look past their leader's rhetoric and join me in providing real help to Americans suffering through this economy.

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

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

Mr. FROST. Mr. Speaker, I yield 4 minutes to the gentleman from Maryland (Mr. CARDIN).

Mr. CARDIN. Mr. Speaker, let me thank my friend from Texas for yielding me this time.

Mr. Speaker, this rule will allow us to consider an additional continuing resolution which will allow us to go home over the holidays, and at this time, there is no indication from the majority that they are prepared to bring up an extension of the unemployment insurance benefits for thousands of our fellow citizens who will be running out of unemployment insurance benefits during that period of time. So, Mr. Speaker, I would hope that we would not approve the previous question so that we could bring up this unemployment insurance extension.

Let me just remind my colleagues that 1 year ago we were in a similar position, and the majority did not bring up an extension of the unemployment insurance benefits, and at Christmastime, we had to tell hundreds of thousands of Americans that they ran the risk of losing the Federal benefits that they needed during this recession. We are faced with the situation again.

Two days after Christmas, the current Federal 13-week unextended benefit program is scheduled to expire. If we do not do anything about it, 80- to 90,000 people in this Nation, every week, will exhaust their State extended benefits and will not be entitled to any Federal extended benefits; 1.4 million Americans during that 6-month period, until June of next year, are anticipated would be without benefits.

The exhaustion rate, those who have exhausted their State unemployment benefits without finding employment has reached the highest level on record, the highest level on record, 43 percent. Two million workers have been unemployed for more than 6 months, nearly triple the amount compared to the beginning of 2001. We have 2.4 million fewer jobs today compared to 2½ years ago.

Mr. Speaker, the majority leader recently said, I see no reason to be extending unemployment compensation since every economic indicator is better off than in 1993 when the Democrats ended the Federal unemployment program. Mr. Speaker, nothing could be further from what the record shows, and I could go through a list of the economic indicators from the last downturn in our economy and this time, but this one I think really puts it all in proper perspective.

The current amount of jobs that were created before we terminated the Federal unemployment benefits in the 1990s was 2.9 million additional jobs. What we are looking at now is 2.4 million less jobs in this recession. The majority leader refers to some slight job growth that we had, and we hope that continues, because, currently, if someone's looking for a job, there are three people looking for every job that is available today. These are people who cannot find employment, but the loss of employment in our economy in the last couple of years is 2.4 million jobs. The jobs are not there. People want work. They cannot find work. That is why we have the Federal unemployment benefit program.

There is $20 billion in the fund today to fund this program. The money is there. The money is there for this purpose. We should extend it before we go home. So I hope we will use this opportunity because, quite frankly, Mr. Speaker, I do not see any other opportunities coming along. This may be our last chance by using this vehicle so that we can consider legislation that would extend the Federal unemployment benefits for some additional weeks, and by the way, we should also take care of those who have already exhausted all their benefits.

The economy just is not there yet. We all hope we will get there. We usually do this on a bipartisan basis. Let us get together and help our uninsured.

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

Mr. FROST. Mr. Speaker, I yield 3 minutes to the gentleman from Michigan (Mr. LEVIN).

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

Mr. LEVIN. Mr. Speaker, I join the gentleman from Maryland (Mr. CARDIN), and I want to say to the Republicans, do not think this is a procedural vote on the previous question. This is a vote of substance. This is a vote questioning whether my colleagues will agree to bring up an unemployment compensation extension program.

As the gentleman from Maryland (Mr. CARDIN) said, the majority leader stated, ''I see no reason to be extending unemployment compensation since every economic indicator is better than in 1993 when the Democrats ended the Federal unemployment program.'' He could not be further from the truth.

If we do not act, 90,000 a week who are out of work, exhausting their benefits, will be out in the cold; 90,000 a week, 350,000 more or less a month, and they will join the 1.4 million long-term unemployed in this country, and the percentage of unemployed workers who have exhausted their benefits, contrary to what the gentleman from Texas (Mr. DELAY) has said, will reach an all-time high, almost 44 percent, and even with this modest increase in jobs the last couple of months, the U.S. economy still has 2.4 million fewer jobs today than 2½ years ago.

I want to refer to Michigan. The unemployment figures just came out: 7.6 is the unemployment rate, a 3-year high, an 11-year high, actually, and higher than when the temporary unemployment program was set up.

So this is not a test on procedure. This is a test whether my colleagues will stand with those who are unemployed, looking for work or turn a cold shoulder to them. There is nothing compassionate about this kind of action, conservatism or anything else.

So I urge all my colleagues, Democrats and Republicans, to vote no on the previous question and stand up for those millions of Americans, millions who are looking for work, who cannot find it, who want not charity but unemployment compensation that they worked for. Vote no on the previous question.

Mr. LINDER. Mr. Speaker, I yield myself such time as I may consume just to observe the lesson I just learned from the gentleman from Michigan. When President Clinton ran for President, he said we had the worst economy in 50 years, and just a few months later, he turned everything around. Things were so wonderful that he could stop unemployment compensation. I had not realized he had done it so quickly.

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

Mr. FROST. Mr. Speaker, I yield 3 minutes to the gentleman from Washington (Mr. MCDERMOTT).

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

Mr. MCDERMOTT. Mr. Speaker, several times this week the House has used emergency procedures to pass partisan legislation.

Yesterday, the Congress found time to give tax credits to Wal-Mart, but the Republican majority refuses to consider what is truly an emergency to millions of families, the fact that they do not have jobs, and millions of these workers are about to run out of unemployment insurance.

Last year, the same thing happened. The Republican Congress left town about Christmastime without extending the temporary program that provides employment benefits, leaving hundreds of thousands of unemployed workers to worry over the holidays about whether they were going to get the unemployment benefits that they had been expecting.

We have heard it has been reported that the majority leader said, ''I see no reason to be extending unemployment compensation since every economic indicator is better than in 1993 when the Democrats ended the Federal unemployment program.'' Mr. Speaker, the esteemed majority leader does not know what he is talking about.

Washington State's unemployment is still among the highest in the Nation. It has grown for two solid years as we felt the brunt of the Bush recession. If the Congress does not extend the Federal program that provides unemployment compensation and fix a technical flaw in the Federal-State extended benefits program, over 83,000 workers in my State will stop, at Christmastime, receiving unemployment benefits.

I know the economy created 100,000 jobs last month, but 150,000 jobs must be created each month to maintain the employment rate because our population continues to grow.

Two days after Christmas, the temporary Federal unemployment benefits program is scheduled to expire, denying benefits to nearly 90,000 workers every single week. The unemployment picture today simply is not much better than it was last year, Mr. Speaker.

According to the Department of Labor, there is still only one job opening for every three unemployed workers. In other words, of the 9 million unemployed American workers, 6 million of them have no chance of finding a job in the current economic climate.

I urge my colleagues to vote against the previous question so that Congress can consider an emergency that faces millions of families, the Nation's unemployment problem.

It is Thanksgiving for heaven's sakes, and we are not even going to provide them a turkey at Thanksgiving or at Christmastime. That is really Scrooge, and it is really hard-hearted.

I urge my colleagues to vote against the previous question.

STATE OF WASHINGTON,
EMPLOYMENT SECURITY DEPARTMENT,
Olympia, WA, November 13, 2003.

Hon. JIM MCDERMOTT,
House of Representatives, Longworth Building, Washington, DC.

DEAR CONGRESSMAN MCDERMOTT: This letter is in response to your request (dated November 7, 2003) for unemployment projections and data.

Washington State's Seasonally Adjusted Total Unemployment Rate (SATUR) remained at 7.5 percent for the month of September, and this percentage is 116 percent of the same rate two years ago, keeping the State of Washington in a period of Extended Benefits (EB). The next issuance of the SATUR numbers is scheduled for November 21, 2003. Our forecast for October still shows that the State of Washington will again be above the required 110 percent of the same period for either of the past two years, and will remain in EB status for that period as well. Statistics due out on December 19, 2003 are indicating that the 110 percent criteria will not be met, and we would thus be out of EB for weeks after January 10, 2004.

Tables 1 and 2, enclosed, provide SATUR forecasts through calendar year 2005. As shown, the State of Washington Forecast Council estimates that the State of Washington's SATUR will remain above 6.5 percent through 2005.

Table 3 provides a count of claimants exhausting all benefits, by entitlement, for the first six months of 2003. Unemployment statistics are very cyclical and we believe the exhaustion rates for the first six months of 2004 will be very similar to those of 2003. Claimants exhausting Regular UI benefits become eligible for the TEUC program and claimants exhausting TEUC become eligible for the EB program. If the TEUC program were not continued, we estimate that close to 54,000 claimants would be without benefits in the first six months of 2004. Additionally, if the EB program were to end in January of 2004 due to the ''look-back'' provision, an additional 28,508 claimants exhausting the TEUC program would be without benefits.

Table 4 provides a summary of total dollars paid out to claimants by month ad entitlement, for the first six months of 2003. Similar to exhaustion rates, we believe that payment totals will be very similar in 2004. We estimate that we would pay $282 million out under the TEUC program and close to $83 million under the EB program.

Also enclosed for your information is an additional fact sheet on current unemployment insurance data.

Please let me know if you have any additional questions, or if we can be of further assistance.

Sincerely,

ANNETTE M. COPELAND,
Assistant Commissioner.

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

Mr. FROST. Mr. Speaker, I yield 3 minutes to the gentleman from Oregon (Mr. DEFAZIO).

Mr. DEFAZIO. Mr. Speaker, Congress has one last opportunity to provide unemployment benefits for Americans who have lost their jobs and been unable to find new jobs.

It is quite astounding. We at this point have what is called a jobless recovery. In my State, tens of thousands of people are unable to find employment with their benefits exhausted or near exhaustion. Across America it is millions.

I know budgets are tight around here. I know that Congress can afford to borrow money to pay Iraqis for no-show jobs, but the President says we cannot afford to spend down the $20 billion balance in the Unemployment Trust Fund, taxes paid by employers and employees, for just such a situation. So we cannot afford that. We cannot afford to spend that. We can borrow money to send to Iraq, but we cannot spend down the trust fund for unemployed Americans.

□ 1700

Is he saying it is their fault they are unemployed? Is he saying he does not care they are unemployed? Is he saying he does not care they might lose their home; they cannot feed their kids; they cannot afford essentials; they cannot even buy gas for the car to go out and look for work; that they are having their phones shut off?

I am getting those kinds of calls. We have the highest unemployment rate in the United States in Oregon. It is chronic. And there are a lot of people who want to work and cannot find jobs. The least this Nation could do would be to help them with a modest extension of unemployment benefits.

Now, this is not the first time this has happened. Last year, Congress skipped out of town, the President did not raise any concern, and unemployment benefits expired for millions of Americans. This year, we are confronted with the same situation. Two days after Christmas, Merry Christmas, 90,000 workers will lose their extended unemployment benefits and have no income, and yet they cannot find a job. And it will be 90,000 workers a week. In 6 months, 2.2 million Americans will have lost everything, probably their homes, maybe their families, because this kind of breaks up families.

This is, of course, a family-friendly Republican majority and White House, but they just do not seem to care about these people wanting and needing jobs. Their jobs are being exported and have disappeared in the jobless recovery, or whatever. They cannot find work. In my State, it will be 43,000 people by February who will lose benefits.

Now, there is $20 billion, that is 20,000 million dollars, in the Unemployment Trust Fund. We do not even have to borrow the money to give Americans a little bit of help to stay in their homes and keep their families together. We do

not have to borrow it because they pay the taxes, their employers pay the taxes. All the President has to do is say, I think that is a good idea, and the Republican majority will jump to it. We could do it right here, now, on the floor, by voting ''no'' and bringing that bill up today.

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

Mr. FROST. Mr. Speaker, I yield 2 minutes to the gentlewoman from Oregon (Ms. HOOLEY).

Ms. HOOLEY of Oregon. Mr. Speaker, I thank my colleague for yielding me this time, and I rise in opposition to this bill.

While Congress dithers in what is probably the waning days of the first session of the 108th Congress, it is inexcusable that we are considering adjournment without first passing an extension of unemployment benefits for the millions of American workers who are currently jobless. In my home State of Oregon, the unemployment rate is still 7.6 percent, nearly 2 percentage points higher than the U.S. average. Even that number, though, is misleading, since it only counts the workers who are still looking for work. It does not include those people who have been off work, who no longer receive unemployment benefits.

Mr. Speaker, to me it is inexcusable and unconscionable that the bill offered by our colleague, the gentleman from Maryland (Mr. CARDIN), is not being brought to the floor right now. Instead, the Republican leadership has chosen to force a vote on a 2-day CR because they are unable to fund the government by passing appropriation bills on time and in regular order.

Let me tell you just a little bit about these people who are looking for work, Mr. Speaker. These are people who are out of work through no fault of their own. They go out every single day and look for a job. One gentleman said to me that it is like playing musical chairs. He says, I go in, I think I have this wonderful resume, I meet all of the criteria, and I go in and there are 200 people that all have the same qualifications to meet that job. So he said it is a little bit like playing musical chairs with 200 people in the room and only one chair.

One woman told me she had to sell her home. She has been looking for work every day. She has sold her home and is living off the profits of her home. She does not know what she is going to do when those run out.

Another gentleman said, I have been trying to reeducate myself, so every day I am out looking for work. He said, I just feel like if I can just hold on for a little longer that job is going to be there.

Let us tide over the 90,000 Americans per week who will lose their unemployment benefits by the end of this year. Congress can and should pass an extension that will allow workers who are seeking employment to provide for their most basic needs as the holidays approach. Let us get on with this. Let us extend those unemployment benefits.

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

Mr. FROST. Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. STARK).

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

Mr. STARK. Mr. Speaker, I insert for the RECORD at this point a letter addressed to the chairman of the Committee on Rules that outlines some of the bases for our request for more time to evaluate the bill.

COMMITTEE ON RULES,
HOUSE OF REPRESENTATIVES,
Washington, DC, Nov. 19, 2003.

Hon. DAVID DREIER,
Chairman, House Committee on Rules, The Capitol, Washington, DC.

DEAR MR. CHAIRMAN: For the second time this week we are forced to write to you to protest the fact that the Republican majority will bring to the House floor a conference report on a major legislative proposal of enormous impact on every single American and is more than likely to do so without giving the Members of the House the opportunity to know what is in the bill. We are referring, of course, to the conference agreement on Medicare which we understand will be filed at some point today, this evening, or perhaps sometime in the wee hours of the morning.

Given our experience with the modus operandi of the Republican House Leadership, we believe we can safely assume that once that conference agreement has been filed the Rules Committee will convene in short order to report a rule. We must protest in the strongest possible terms. To bring this legislation to the Rules Committee in the middle of the night or at seven o'clock in the morning is a gross distortion and perversion of the legislative process and any sense of fairness to the Members of this institution and to the American people. Further, bringing this legislation to the floor while the ink is still drying on the paper, would renege on the promise made by the Speaker of the House in response to a letter signed by 41 Members of the Republican Conference who requested that the text of the Conference Report, its joint explanatory statement, and the CBO cost estimate be made available for three days before its consideration.

That letter reads: ''We write to request if the Conferees on the Medicare Prescription Drug and Modernization Act of 2003 report to the House a Conference Report, copies of the text of the Conference Report, the text of the explanatory statement, and the text of the Congressional Budget Office cost estimate for the Conference report be made available to all Members at least three calendar days after filing (excluding Saturdays, Sundays, and legal holidays, unless the House is in session on those days) and prior to consideration of the Conference Report or to any measure reported from the Committee on Rules providing for the consideration of the Conference Report.

''The general public will evaluate not only what Congress does regarding Medicare and prescription drugs, but the way in which it does it. A bill proposing such substantive changes to the Medicare system and costing an estimated $400 billion over the next decade deserves the careful and thoughtful consideration of all Members.''

As has been publicly reported, at a meeting of the Republican Conference on October 30 Speaker Hastert assured these members that they would indeed have three days to review the bill as they had requested. From the November 3, 2003 edition of Roll Call: ''So last Thursday, at a GOP Conference meeting that was called exclusively to update Members on the Medicare talks, Hastert assured his troops that they would now get regular briefings on the Medicare bill and would have at least three days to look over the conference report before having to vote on it, according to several Members who attended. . . 'The Speaker wants to make sure that Members are comfortable making this historic change' to Medicare, said Hastert spokesman John Feehery.''

On November 7, Congress Daily reported on the Speaker's promise: ''. . . time is required for those outside the room to look over what everyone agrees are the most sweeping changes being made to Medicare in a generation. 'The thing I'm happiest about is we get three days with the language,' said Rep. Charlie Norwood, R–GA, referring to a promise made by House Speaker Hastert.'' Clearly, this was a promise that Members of the Republican Conference felt would be kept.

On November 12, at a symposium on the modern day Speaker of the House, Speaker Hastert outlined his own set of principles that guide him in his work: ''When you are Speaker, people expect you to keep your word, and they will not quickly forgive you if you cannot deliver. I've learned that keeping your word is the most important part of this job. You are better off not saying anything than making a promise that you cannot keep. And you have to keep both the big promises and the small promises.''

We believe the Speaker to be a man of honor and a man who lives up to the high-minded principles he outlined in his speech. Yet, yesterday it was reported in Congress Daily that the Majority Leader—who had previously said that Members would have three full days to look over the agreement—said that the clock had started running on Sunday.

Mr. Chairman, on Sunday there was an announcement that an agreement had been reached and a summary of the agreement was posted on the Web; but as of today, no finalized text of the bill, the joint explanatory statement of managers, or the CBO cost estimate have been released to Members of the House.

If the Rules Committee convenes at some point today or early tomorrow morning to pave the way for the consideration of this conference report, the Republican Leadership will have shown that political expediency, rather than the wishes of its own Members and the promise of the Speaker of the House, is what drives its agenda. Perhaps your Leadership can mollify these Members who wrote to the Speaker making a reasonable and rational request. Perhaps Members of the Republican Conference will agree to vote for a rule without ever knowing what is really in this bill. But we would consider that to be a sad turn of events, Mr. Chairman, and we would urge you to object to this process if for no other reason than to protect the prerogatives of Members of Congress to have the opportunity to understand what they are voting for or against.

Mr. Chairman, once again House Democratic conferees were deliberately excluded from negotiations on major legislation. Chairman Thomas stated on more than one occasion when asked about the Medicare conference that there was no reason to include anyone who did not want to reach an agreement. We believe what he really meant to say was there was no reason to include anyone in the negotiations who would not agree with him or the other Republican conferees. This attitude seems to pervade the manner in which this institution is being run and the fact that an agreement of this magnitude few people have seen will be rushed to

the floor for a vote only adds to this perception. May we remind you that perception often become reality?

We are perfectly aware that our protests will most likely fall on deaf ears. But, for the sake of this institution and the United States, we urge you to ensure that the Republican Leadership keeps the promise made by the Speaker of the House.

We look forward to a response at your earliest convenience.

Sincerely,

MARTIN FROST.
JIM MCGOVERN.
LOUISE M. SLAUGHTER.
ALCEE L. HASTINGS.

Mr. Speaker, I just wanted to point out on the Medicare bill, getting back to that, that by not having time to review it and perhaps correct some of the technicalities, whether one thinks this is a good benefit or not, I am sure that many of my colleagues on the right take the same view as I do about privacy, and particularly privacy of our personal financial records.

I am sure that most of them are unaware that private contractors will now be able to willy nilly get tax returns from anybody who may be required to pay a higher premium under the income-adjusted premiums. This means that for the first time in the history of the Internal Revenue Code, we are making available personal tax information to private enterprise operators at will, and I am not sure my colleagues want to do that.

I hope our friends on the right will think about it and think about what unscrupulous folks might do with private personal tax information, which has been one of the bedrock principles of privacy in this country. And I would like to think that the Republicans would not support that. But they do not know what is in this bill. The chairman does not know what is in the bill. And I would submit that the members of the Committee on Rules do not know what is in the bill.

To vote in that kind of ignorance is an affront to the principles, if you have any, which you might stand for.

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

Mr. FROST. Mr. Speaker, I yield 2 minutes to the gentleman from Texas (Mr. GREEN).

Mr. GREEN of Texas. Mr. Speaker, I thank the ranking member and the dean of our Texas delegation for yielding me this time.

Mr. Speaker, martial law rules, it is interesting to note, always come up in the later part of the session because we always want to get finished. We did a martial law on Medicare so we could pass a 600-page document without having to digest it. Now we have a continuing resolution martial law.

But I really want to talk about the prescription drug provision in Medicare, because that is what will come up later. Our Houston Chronicle wrote an interesting editorial today which talks about the ''scribbled prescription'' in the bill that we are going to consider as an ''intended cure could be worse than Medicare disease.'' It talks about the provisions of this bill we are going to consider tonight is stingy because it does not begin until 2006; and that there is such a donut hole in the middle that people will lose, if they have $300 a month in prescription drugs, because they will fall into that donut hole. So it is stingy.

The critics point out that providing a drug component to Medicare encourages businesses to dump their retirees. I had a constituent call me the other day from a utility company who said he was worried his retiree benefits for prescription drugs would be cut. And I said unless you have a collective bargaining agreement, that could happen.

A concern I have, as they quote in the Chronicle editorial, is that the ''AARP, the most powerful senior citizen organization, has endorsed'' this proposal. Again, I am quoting the Houston Chronicle, ''But, as the plan before Congress offers such limited help for seniors with high prescription costs, it's no wonder so many people believe AARP's decision was motivated more by its own political dealmaking than concern for its 35 million members' best interests.'' And that is a direct quote.

Mr. Speaker, when I first came to Congress, a prescription drug bill was the goal, to pass something; but this bill actually goes in the wrong direction. It prohibits Medicare from negotiating for lower prices. HMOs do it, the Veterans Administration does it, companies do it; and yet now we are prohibiting Medicare from doing it by law. That ought to outrage our seniors, including those 35 million AARP members.

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

Mr. FROST. Mr. Speaker, how much time remains?

The SPEAKER pro tempore (Mr. THORNBERRY). The gentleman from Texas (Mr. FROST) has 5 minutes remaining, and the gentleman from Georgia (Mr. LINDER) has 28 minutes remaining,

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

Mr. Speaker, if the previous question is defeated, I will offer an amendment to the rule. My amendment will provide that immediately after the House passes this resolution, it will take up legislation to extend the Federal unemployment insurance that is set to expire for new enrollees just 2 days after Christmas.

This legislation would continue the extended unemployment insurance program through the first 6 months of next year. The bill would also increase to 26 weeks the amount of benefits provided under that program, up from 13 weeks. This would provide new help to the 1.4 million workers who have already exhausted their extended benefits and have yet to find work.

This measure is identical to the text of H.R. 3244, the Rangel-Cardin unemployment extension; and it also contains the text of H.R. 3554, sponsored by the gentleman from Washington (Mr. MCDERMOTT), which would fix a flaw in current law that penalizes people in States with exceptionally high long-term unemployment rates by preventing them from receiving the unemployment benefits they need.

Here is why it is needed, Mr. Speaker. Americans continue to be unemployed at alarmingly high rates. The percentage of Americans exhausting their unemployment benefits without finding a job has reached its highest level on record. More than 2 million workers have been unemployed for more than 6 months. These Americans need relief, and they need it immediately. If we do not fix this today, over 400,000 jobless Americans will not be eligible for unemployment compensation after the first of the year.

Mr. Speaker, it appears likely that Congress will adjourn sine die within the next few days. This will very likely be the only opportunity we have to help unemployed Americans this year. Let us not abandon them today.

Let me make very clear that a ''no'' vote on the previous question will not stop consideration of this resolution for consideration of the appropriations items, but a ''no'' vote will allow the House to vote on legislation to help provide some much-needed relief to our Nation's unemployed workers, some relief that might be nice during the upcoming holiday season.

Again, I urge a ''no'' vote on the previous question.

Mr. Speaker, I ask unanimous consent that the text of the amendment be printed in the RECORD immediately before the vote on the previous question.

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

There was no objection.

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

Mr. LINDER. Mr. Speaker, I yield myself such time as I may consume, and I urge my colleagues to vote ''yes'' on the previous question and ''yes'' on the rule, so we can hopefully have an appropriation bill later this evening or this weekend we can vote on and finish things up.

The text of the amendment previously referred to by Mr. FROST, is as follows:

PREVIOUS QUESTION FOR H. RES. 458—RULE ON WAIVING 2/3RDS FOR C/R AND APPROPRIATIONS MEASURES

At the end of the resolution add the following new section:

SEC. 2. ''Immediately after disposition of this resolution, it shall be in order without intervention of any point of order to consider in the House the bill (H.R. 3568) to provide extended unemployment benefits to displaced workers, and to make other improvements in the unemployment insurance system. The bill shall be considered as read for amendment. The previous question shall be considered as ordered on the bills to final passage without intervening motion except: (1) one hour of debate equally divided and controlled by the Chairman and ranking Minority Member of the Committee on the Ways and Means; and (2) one motion to recommit with or without instructions.

Mr. LINDER. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The SPEAKER pro tempore. The question is on ordering the previous question.

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

Mr. FROST. Mr. Speaker, 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.

A FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Monahan, one of its clerks, announced that the Senate agrees 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. 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.''

CONTROLLING THE ASSAULT OF NON-SOLICITED PORNOGRAPHY AND MARKETING ACT OF 2003

Mr. TAUZIN. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 877) to regulate interstate commerce by imposing limitations and penalties on the transmission of unsolicited commercial electronic mail via the Internet, as amended.

The Clerk read as follows:

S. 877

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 ''Controlling the Assault of Non-Solicited Pornography and Marketing Act of 2003'', or the ''CAN-SPAM Act of 2003''.

SEC. 2. CONGRESSIONAL FINDINGS AND POLICY.

(a) FINDINGS.—The Congress finds the following:

(1) Electronic mail has become an extremely important and popular means of communication, relied on by millions of Americans on a daily basis for personal and commercial purposes. Its low cost and global reach make it extremely convenient and efficient, and offer unique opportunities for the development and growth of frictionless commerce.

(2) The convenience and efficiency of electronic mail are threatened by the extremely rapid growth in the volume of unsolicited commercial electronic mail. Unsolicited commercial electronic mail is currently estimated to account for over half of all electronic mail traffic, up from an estimated 7 percent in 2001, and the volume continues to rise. Most of these messages are fraudulent or deceptive in one or more respects.

(3) The receipt of unsolicited commercial electronic mail may result in costs to recipients who cannot refuse to accept such mail and who incur costs for the storage of such mail, or for the time spent accessing, reviewing, and discarding such mail, or for both.

(4) The receipt of a large number of unwanted messages also decreases the convenience of electronic mail and creates a risk that wanted electronic mail messages, both commercial and noncommercial, will be lost, overlooked, or discarded amidst the larger volume of unwanted messages, thus reducing the reliability and usefulness of electronic mail to the recipient.

(5) Some commercial electronic mail contains material that many recipients may consider vulgar or pornographic in nature.

(6) The growth in unsolicited commercial electronic mail imposes significant monetary costs on providers of Internet access services, businesses, and educational and nonprofit institutions that carry and receive such mail, as there is a finite volume of mail that such providers, businesses, and institutions can handle without further investment in infrastructure.

(7) Many senders of unsolicited commercial electronic mail purposefully disguise the source of such mail.

(8) Many senders of unsolicited commercial electronic mail purposefully include misleading information in the message's subject lines in order to induce the recipients to view the messages.

(9) While some senders of commercial electronic mail messages provide simple and reliable ways for recipients to reject (or ''opt-out'' of) receipt of commercial electronic mail from such senders in the future, other senders provide no such ''opt-out'' mechanism, or refuse to honor the requests of recipients not to receive electronic mail from such senders in the future, or both.

(10) Many senders of bulk unsolicited commercial electronic mail use computer programs to gather large numbers of electronic mail addresses on an automated basis from Internet websites or online services where users must post their addresses in order to make full use of the website or service.

(11) Many States have enacted legislation intended to regulate or reduce unsolicited commercial electronic mail, but these statutes impose different standards and requirements. As a result, they do not appear to have been successful in addressing the problems associated with unsolicited commercial electronic mail, in part because, since an electronic mail address does not specify a geographic location, it can be extremely difficult for law-abiding businesses to know with which of these disparate statutes they are required to comply.

(12) The problems associated with the rapid growth and abuse of unsolicited commercial electronic mail cannot be solved by Federal legislation alone. The development and adoption of technological approaches and the pursuit of cooperative efforts with other countries will be necessary as well.

(b) CONGRESSIONAL DETERMINATION OF PUBLIC POLICY.—On the basis of the findings in subsection (a), the Congress determines that—

(1) there is a substantial government interest in regulation of commercial electronic mail on a nationwide basis;

(2) senders of commercial electronic mail should not mislead recipients as to the source or content of such mail; and

(3) recipients of commercial electronic mail have a right to decline to receive additional commercial electronic mail from the same source.

SEC. 3. DEFINITIONS.

In this Act:

(1) AFFIRMATIVE CONSENT.—The term ''affirmative consent'', when used with respect to a commercial electronic mail message, means that—

(A) the recipient expressly consented to receive the message, either in response to a clear and conspicuous request for such consent or at the recipient's own initiative; and

(B) if the message is from a party other than the party to which the recipient communicated such consent, the recipient was given clear and conspicuous notice at the time the consent was communicated that the recipient's electronic mail address could be transferred to such other party for the purpose of initiating commercial electronic mail messages.

(2) COMMERCIAL ELECTRONIC MAIL MESSAGE.—

(A) IN GENERAL.—The term ''commercial electronic mail message'' means any electronic mail message the primary purpose of which is the commercial advertisement or promotion of a commercial product or service (including content on an Internet website operated for a commercial purpose).

(B) TRANSACTIONAL OR RELATIONSHIP MESSAGES.—The term ''commercial electronic mail message'' does not include a transactional or relationship message.

(C) REGULATIONS REGARDING PRIMARY PURPOSE.—Not later than 12 months after the date of the enactment of this Act, the Commission shall issue regulations pursuant to section 13 further defining the relevant criteria to facilitate the determination of the primary purpose of an electronic mail message.

(D) REFERENCE TO COMPANY OR WEBSITE.—The inclusion of a reference to a commercial entity or a link to the website of a commercial entity in an electronic mail message does not, by itself, cause such message to be treated as a commercial electronic mail message for purposes of this Act if the contents or circumstances of the message indicate a primary purpose other than commercial advertisement or promotion of a commercial product or service.

(3) COMMISSION.—The term ''Commission'' means the Federal Trade Commission.

(4) DOMAIN NAME.—The term ''domain name'' means any alphanumeric designation which is registered with or assigned by any domain name registrar, domain name registry, or other domain name registration authority as part of an electronic address on the Internet.

(5) ELECTRONIC MAIL ADDRESS.—The term ''electronic mail address'' means a destination, commonly expressed as a string of characters, consisting of a unique user name or mailbox (commonly referred to as the ''local part'') and a reference to an Internet domain (commonly referred to as the ''domain part''), whether or not displayed, to which an electronic mail message can be sent or delivered.

(6) ELECTRONIC MAIL MESSAGE.—The term ''electronic mail message'' means a message sent to a unique electronic mail address.

(7) FTC ACT.—The term ''FTC Act'' means the Federal Trade Commission Act (15 U.S.C. 41 et seq.).

(8) HEADER INFORMATION.—The term ''header information'' means the source, destination, and routing information attached to an electronic mail message, including the originating domain name and originating electronic mail address, and any other information that appears in the line identifying, or

purporting to identify, a person initiating the message.

(9) INITIATE.—The term ''initiate'', when used with respect to a commercial electronic mail message, means to originate or transmit such message or to procure the origination or transmission of such message, but shall not include actions that constitute routine conveyance of such message. For purposes of this paragraph, more than 1 person may be considered to have initiated a message.

(10) INTERNET.—The term ''Internet'' has the meaning given that term in the Internet Tax Freedom Act (47 U.S.C. 151 nt).

(11) INTERNET ACCESS SERVICE.—The term ''Internet access service'' has the meaning given that term in section 231(e)(4) of the Communications Act of 1934 (47 U.S.C. 231(e)(4)).

(12) PROCURE.—The term ''procure'', when used with respect to the initiation of a commercial electronic mail message, means intentionally to pay or provide other consideration to, or induce, another person to initiate such a message on one's behalf.

(13) PROTECTED COMPUTER.—The term ''protected computer'' has the meaning given that term in section 1030(e)(2)(B) of title 18, United States Code.

(14) RECIPIENT.—The term ''recipient'', when used with respect to a commercial electronic mail message, means an authorized user of the electronic mail address to which the message was sent or delivered. If a recipient of a commercial electronic mail message has 1 or more electronic mail addresses in addition to the address to which the message was sent or delivered, the recipient shall be treated as a separate recipient with respect to each such address. If an electronic mail address is reassigned to a new user, the new user shall not be treated as a recipient of any commercial electronic mail message sent or delivered to that address before it was reassigned.

(15) ROUTINE CONVEYANCE.—The term ''routine conveyance'' means the transmission, routing, relaying, handling, or storing, through an automatic technical process, of an electronic mail message for which another person has identified the recipients or provided the recipient addresses.

(16) SENDER.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the term ''sender'' means a person who initiates such a message and whose product, service, or Internet web site is advertised or promoted by the message.

(B) SEPARATE LINES OF BUSINESS OR DIVISIONS.—If an entity operates through separate lines of business or divisions and holds itself out to the recipient of the message, in complying with the requirement under section 5(a)(5)(B), as that particular line of business or division rather than as the entity of which such line of business or division is a part, then the line of business or the division shall be treated as the sender of such message for purposes of this Act.

(17) TRANSACTIONAL OR RELATIONSHIP MESSAGE.—

(A) IN GENERAL.—The term ''transactional or relationship message'' means an electronic mail message the primary purpose of which is—

(i) to facilitate, complete, or confirm a commercial transaction that the recipient has previously agreed to enter into with the sender;

(ii) to provide warranty information, product recall information, or safety or security information with respect to a commercial product or service used or purchased by the recipient;

(iii) to provide—

(I) notification concerning a change in the terms or features of;

(II) notification of a change in the recipient's standing or status with respect to; or

(III) at regular periodic intervals, account balance information or other type of account statement with respect to,

a subscription, membership, account, loan, or comparable ongoing commercial relationship involving the ongoing purchase or use by the recipient of products or services offered by the sender;

(iv) to provide information directly related to an employment relationship or related benefit plan in which the recipient is currently involved, participating, or enrolled; or

(v) to deliver goods or services, including product updates or upgrades, that the recipient is entitled to receive under the terms of a transaction that the recipient has previously agreed to enter into with the sender.

(B) MODIFICATION OF DEFINITION.—The Commission by regulation pursuant to section 13 may modify the definition in subparagraph (A) to expand or contract the categories of messages that are treated as transactional or relationship messages for purposes of this Act to the extent that such modification is necessary to accommodate changes in electronic mail technology or practices and accomplish the purposes of this Act.

SEC. 4. PROHIBITION AGAINST PREDATORY AND ABUSIVE COMMERCIAL E-MAIL.

(a) OFFENSE.—

(1) IN GENERAL.—Chapter 47 of title 18, United States Code, is amended by adding at the end the following new section:

''§ 1037. Fraud and related activity in connection with electronic mail

''(a) IN GENERAL.—Whoever, in or affecting interstate or foreign commerce, knowingly—

''(1) accesses a protected computer without authorization, and intentionally initiates the transmission of multiple commercial electronic mail messages from or through such computer,

''(2) uses a protected computer to relay or retransmit multiple commercial electronic mail messages, with the intent to deceive or mislead recipients, or any Internet access service, as to the origin of such messages,

''(3) materially falsifies header information in multiple commercial electronic mail messages and intentionally initiates the transmission of such messages,

''(4) registers, using information that materially falsifies the identity of the actual registrant, for 5 or more electronic mail accounts or online user accounts or 2 or more domain names, and intentionally initiates the transmission of multiple commercial electronic mail messages from any combination of such accounts or domain names, or

''(5) falsely represents oneself to be the registrant or the legitimate successor in interest to the registrant of 5 or more Internet protocol addresses, and intentionally initiates the transmission of multiple commercial electronic mail messages from such addresses,

or conspires to do so, shall be punished as provided in subsection (b).

''(b) PENALTIES.—The punishment for an offense under subsection (a) is—

''(1) a fine under this title, imprisonment for not more than 5 years, or both, if—

''(A) the offense is committed in furtherance of any felony under the laws of the United States or of any State; or

''(B) the defendant has previously been convicted under this section or section 1030, or under the law of any State for conduct involving the transmission of multiple commercial electronic mail messages or unauthorized access to a computer system;

''(2) a fine under this title, imprisonment for not more than 3 years, or both, if—

''(A) the offense is an offense under subsection (a)(1);

''(B) the offense is an offense under subsection (a)(4) and involved 20 or more falsified electronic mail or online user account registrations, or 10 or more falsified domain name registrations;

''(C) the volume of electronic mail messages transmitted in furtherance of the offense exceeded 2,500 during any 24-hour period, 25,000 during any 30-day period, or 250,000 during any 1-year period;

''(D) the offense caused loss to 1 or more persons aggregating $5,000 or more in value during any 1-year period;

''(E) as a result of the offense any individual committing the offense obtained anything of value aggregating $5,000 or more during any 1-year period; or

''(F) the offense was undertaken by the defendant in concert with 3 or more other persons with respect to whom the defendant occupied a position of organizer or leader; and

''(3) a fine under this title or imprisonment for not more than 1 year, or both, in any other case.

''(c) FORFEITURE.—

''(1) IN GENERAL.—The court, in imposing sentence on a person who is convicted of an offense under this section, shall order that the defendant forfeit to the United States—

''(A) any property, real or personal, constituting or traceable to gross proceeds obtained from such offense; and

''(B) any equipment, software, or other technology used or intended to be used to commit or to facilitate the commission of such offense.

''(2) PROCEDURES.—The procedures set forth in section 413 of the Controlled Substances Act (21 U.S.C. 853), other than subsection (d) of that section, and in Rule 32.2 of the Federal Rules of Criminal Procedure, shall apply to all stages of a criminal forfeiture proceeding under this section.

''(d) DEFINITIONS.—In this section:

''(1) LOSS.—The term 'loss' has the meaning given that term in section 1030(e) of this title.

''(2) MATERIALLY.—For purposes of paragraphs (3) and (4) of subsection (a), header information or registration information is materially misleading if it is altered or concealed in a manner that would impair the ability of a recipient of the message, an Internet access service processing the message on behalf of a recipient, a person alleging a violation of this section, or a law enforcement agency to identify, locate, or respond to a person who initiated the electronic mail message or to investigate the alleged violation.

''(3) MULTIPLE.—The term 'multiple' means more than 100 electronic mail messages during a 24-hour period, more than 1,000 electronic mail messages during a 30-day period, or more than 10,000 electronic mail messages during a 1-year period.

''(4) OTHER TERMS.—Any other term has the meaning given that term by section 3 of the CAN-SPAM Act of 2003.''.

(2) CONFORMING AMENDMENT.—The chapter analysis for chapter 47 of title 18, United States Code, is amended by adding at the end the following:

''Sec.
''1037. Fraud and related activity in connection with electronic mail.''.

(b) UNITED STATES SENTENCING COMMISSION.—

(1) DIRECTIVE.—Pursuant to its authority under section 994(p) of title 28, United States Code, and in accordance with this section, the United States Sentencing Commission shall review and, as appropriate, amend the sentencing guidelines and policy statements to provide appropriate penalties for violations of section 1037 of title 18, United States Code, as added by this section, and other offenses that may be facilitated by the sending

of large quantities of unsolicited electronic mail.

(2) REQUIREMENTS.—In carrying out this subsection, the Sentencing Commission shall consider providing sentencing enhancements for—

(A) those convicted under section 1037 of title 18, United States Code, who—

(i) obtained electronic mail addresses through improper means, including—

(I) harvesting electronic mail addresses of the users of a website, proprietary service, or other online public forum operated by another person, without the authorization of such person; and

(II) randomly generating electronic mail addresses by computer; or

(ii) knew that the commercial electronic mail messages involved in the offense contained or advertised an Internet domain for which the registrant of the domain had provided false registration information; and

(B) those convicted of other offenses, including offenses involving fraud, identity theft, obscenity, child pornography, and the sexual exploitation of children, if such offenses involved the sending of large quantities of electronic mail.

(c) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) Spam has become the method of choice for those who distribute pornography, perpetrate fraudulent schemes, and introduce viruses, worms, and Trojan horses into personal and business computer systems; and

(2) the Department of Justice should use all existing law enforcement tools to investigate and prosecute those who send bulk commercial e-mail to facilitate the commission of Federal crimes, including the tools contained in chapters 47 and 63 of title 18, United States Code (relating to fraud and false statements); chapter 71 of title 18, United States Code (relating to obscenity); chapter 110 of title 18, United States Code (relating to the sexual exploitation of children); and chapter 95 of title 18, United States Code (relating to racketeering), as appropriate.

SEC. 5. OTHER PROTECTIONS FOR USERS OF COMMERCIAL ELECTRONIC MAIL.

(a) REQUIREMENTS FOR TRANSMISSION OF MESSAGES.—

(1) PROHIBITION OF FALSE OR MISLEADING TRANSMISSION INFORMATION.—It is unlawful for any person to initiate the transmission, to a protected computer, of a commercial electronic mail message, or a transactional or relationship message, that contains, or is accompanied by, header information that is materially false or materially misleading. For purposes of this paragraph—

(A) header information that is technically accurate but includes an originating electronic mail address, domain name, or Internet protocol address the access to which for purposes of initiating the message was obtained by means of false or fraudulent pretenses or representations shall be considered materially misleading;

(B) a ''from'' line (the line identifying or purporting to identify a person initiating the message) that accurately identifies any person who initiated the message shall not be considered materially false or materially misleading; and

(C) header information shall be considered materially misleading if it fails to identify accurately a protected computer used to initiate the message because the person initiating the message knowingly uses another protected computer to relay or retransmit the message for purposes of disguising its origin.

(2) PROHIBITION OF DECEPTIVE SUBJECT HEADINGS.—It is unlawful for any person to initiate the transmission to a protected computer of a commercial electronic mail message if such person has actual knowledge, or knowledge fairly implied on the basis of objective circumstances, that a subject heading of the message would be likely to mislead a recipient, acting reasonably under the circumstances, about a material fact regarding the contents or subject matter of the message (consistent with the criteria are used in enforcement of section 5 of the Federal Trade Commission Act (15 U.S.C. 45)).

(3) INCLUSION OF RETURN ADDRESS OR COMPARABLE MECHANISM IN COMMERCIAL ELECTRONIC MAIL.—

(A) IN GENERAL.—It is unlawful for any person to initiate the transmission to a protected computer of a commercial electronic mail message that does not contain a functioning return electronic mail address or other Internet-based mechanism, clearly and conspicuously displayed, that—

(i) a recipient may use to submit, in a manner specified in the message, a reply electronic mail message or other form of Internet-based communication requesting not to receive future commercial electronic mail messages from that sender at the electronic mail address where the message was received; and

(ii) remains capable of receiving such messages or communications for no less than 30 days after the transmission of the original message.

(B) MORE DETAILED OPTIONS POSSIBLE.—The person initiating a commercial electronic mail message may comply with subparagraph (A)(i) by providing the recipient a list or menu from which the recipient may choose the specific types of commercial electronic mail messages the recipient wants to receive or does not want to receive from the sender, if the list or menu includes an option under which the recipient may choose not to receive any commercial electronic mail messages from the sender.

(C) TEMPORARY INABILITY TO RECEIVE MESSAGES OR PROCESS REQUESTS.—A return electronic mail address or other mechanism does not fail to satisfy the requirements of subparagraph (A) if it is unexpectedly and temporarily unable to receive messages or process requests due to a technical problem beyond the control of the sender if the problem is corrected within a reasonable time period.

(4) PROHIBITION OF TRANSMISSION OF COMMERCIAL ELECTRONIC MAIL AFTER OBJECTION.—

(A) IN GENERAL.—If a recipient makes a request using a mechanism provided pursuant to paragraph (3) not to receive some or any commercial electronic mail messages from such sender, then it is unlawful—

(i) for the sender to initiate the transmission to the recipient, more than 10 business days after the receipt of such request, of a commercial electronic mail message that falls within the scope of the request;

(ii) for any person acting on behalf of the sender to initiate the transmission to the recipient, more than 10 business days after the receipt of such request, of a commercial electronic mail message with actual knowledge, or knowledge fairly implied on the basis of objective circumstances, that such message falls within the scope of the request;

(iii) for any person acting on behalf of the sender to assist in initiating the transmission to the recipient, through the provision or selection of addresses to which the message will be sent, of a commercial electronic mail message with actual knowledge, or knowledge fairly implied on the basis of objective circumstances, that such message would violate clause (i) or (ii); or

(iv) for the sender, or any other person who knows that the recipient has made such a request, to sell, lease, exchange, or otherwise transfer or release the electronic mail address of the recipient (including through any transaction or other transfer involving mailing lists bearing the electronic mail address of the recipient) for any purpose other than compliance with this Act or other provision of law, except where the recipient has given express consent.

(B) OPT BACK IN.—A prohibition in clause (i), (ii), or (iii) of subparagraph (A) does not apply if there is affirmative consent by the recipient subsequent to the request under subparagraph (A).

(5) INCLUSION OF IDENTIFIER, OPT-OUT, AND PHYSICAL ADDRESS IN COMMERCIAL ELECTRONIC MAIL.—

(A) It is unlawful for any person to initiate the transmission of any commercial electronic mail message to a protected computer unless the message provides—

(i) clear and conspicuous identification that the message is an advertisement or solicitation;

(ii) clear and conspicuous notice of the opportunity under paragraph (3) to decline to receive further commercial electronic mail messages from the sender; and

(iii) a valid physical postal address of the sender.

(B) Subparagraph (A)(i) does not apply to the transmission of a commercial electronic mail if the recipient has given prior affirmative consent to receipt of the message.

(6) SUBSEQUENT AFFIRMATIVE CONSENT.—The prohibitions in subparagraphs (A), (B), and (C) do not apply to the initiation of transmission of commercial electronic mail to a recipient who, subsequent to a request using a mechanism provided pursuant to paragraph (3) not to receive commercial electronic mail messages from the sender, has granted affirmative consent to the sender to recieve such messages.

(7) MATERIALLY.—For purposes of paragraph (1)(A), header information shall be considered to be materially misleading if it is altered or concealed in a manner that would impair the ability of an Internet access service processing the message on behalf of a recipient, a person alleging a violation of this section, or a law enforcement agency to identify, locate, or respond to the person who initiated the electronic mail message or to investigate the alleged violation, or the ability of a recipient of the message to respond to a person who initiated the electronic message..

(b) AGGRAVATED VIOLATIONS RELATING TO COMMERCIAL ELECTRONIC MAIL.—

(1) ADDRESS HARVESTING AND DICTIONARY ATTACKS.—

(A) IN GENERAL.—It is unlawful for any person to initiate the transmission, to a protected computer, of a commercial electronic mail message that is unlawful under subsection (a), or to assist in the origination of such message through the provision or selection of addresses to which the message will be transmitted, if such person had actual knowledge, or knowledge fairly implied on the basis of objective circumstances, that—

(i) the electronic mail address of the recipient was obtained using an automated means from an Internet website or proprietary online service operated by another person, and such website or online service included, at the time the address was obtained, a notice stating that the operator of such website or online service will not give, sell, or otherwise transfer addresses maintained by such website or online service to any other party for the purposes of initiating, or enabling others to initiate, electronic mail messages; or

(ii) the electronic mail address of the recipient was obtained using an automated means that generates possible electronic mail addresses by combining names, letters, or numbers into numerous permutations.

(B) DISCLAIMER.—Nothing in this paragraph creates an ownership or proprietary interest in such electronic mail addresses.

(2) AUTOMATED CREATION OF MULTIPLE ELECTRONIC MAIL ACCOUNTS.—It is unlawful for any person to use scripts or other automated means to register for multiple electronic mail accounts or online user accounts from which to transmit to a protected computer, or enable another person to transmit to a protected computer, a commercial electronic mail message that is unlawful under subsection (a).

(3) RELAY OR RETRANSMISSION THROUGH UNAUTHORIZED ACCESS.—It is unlawful for any person knowingly to relay or retransmit a commercial electronic mail message that is unlawful under subsection (a) from a protected computer or computer network that such person has accessed without authorization.

(c) SUPPLEMENTARY RULEMAKING AUTHORITY.—The Commission shall by rule, pursuant to section 13—

(1) modify the 10-business-day period under subsection (a)(4)(A) or subsection (a)(4)(B), or both, if the Commission determines that a different period would be more reasonable after taking into account—

(A) the purposes of subsection (a);

(B) the interests of recipients of commercial electronic mail; and

(C) the burdens imposed on senders of lawful commercial electronic mail; and

(2) specify additional activities or practices to which subsection (b) applies if the Commission determines that those activities or practices are contributing substantially to the proliferation of commercial electronic mail messages that are unlawful under subsection (a).

(d) REQUIREMENT TO PLACE WARNING LABELS ON COMMERCIAL ELECTRONIC MAIL CONTAINING SEXUALLY ORIENTED MATERIAL.—

(1) IN GENERAL.—No person may initiate in or affecting interstate commerce the transmission, to a protected computer, of any commercial electronic mail message that includes sexually oriented material and—

(A) fail to include in subject heading for the electronic mail message the marks or notices prescribed by the Commission under this subsection; or

(B) fail to provide that the matter in the message that is initially viewable to the recipient, when the message is opened by any recipient and absent any further actions by the recipient, includes only—

(i) to the extent required or authorized pursuant to paragraph (2), any such marks or notices;

(ii) the information required to be included in the message pursuant to subsection (a)(5); and

(iii) instructions on how to access, or a mechanism to access, the sexually oriented material.

(2) PRIOR AFFIRMATIVE CONSENT.—Paragraph (1) does not apply to the transmission of an electronic mail message if the recipient has given prior affirmative consent to receipt of the message.

(3) PRESCRIPTION OF MARKS AND NOTICES.—Not later than 120 days after the date of the enactment of this Act, the Commission in consultation with the Attorney General shall prescribe clearly identifiable marks or notices to be included in or associated with commercial electronic mail that contains sexually oriented material, in order to inform the recipient of that fact and to facilitate filtering of such electronic mail. The Commission shall publish in the Federal Register and provide notice to the public of the marks or notices prescribed under this paragraph.

(4) DEFINITION.—In this subsection, the term ''sexually oriented material'' means any material that depicts sexually explicit conduct (as that term is defined in section 2256 of title 18, United States Code), unless the depiction constitutes a small and insignificant part of the whole, the remainder of which is not primarily devoted to sexual matters.

(4) PENALTY.—Whoever knowingly violates paragraph (1) shall be fined under title 18, United States Code, or imprisoned not more than 5 years, or both.

SEC. 6. BUSINESSES KNOWINGLY PROMOTED BY ELECTRONIC MAIL WITH FALSE OR MISLEADING TRANSMISSION INFORMATION.

(a) IN GENERAL.—It is unlawful for a person to promote, or allow the promotion of, that person's trade or business, or goods, products, property, or services sold, offered for sale, leased or offered for lease, or otherwise made available through that trade or business, in a commercial electronic mail message the transmission of which is in violation of section 5(a)(1) if that person—

(1) knows, or should have known in ordinary course of that person's trade or business, that the goods, products, property, or services sold, offered for sale, leased or offered for lease, or otherwise made available through that trade or business were being promoted in such a message;

(2) received or expected to receive an economic benefit from such promotion; and

(3) took no reasonable action—

(A) to prevent the transmission; or

(B) to detect the transmission and report it to the Commission.

(b) LIMITED ENFORCEMENT AGAINST THIRD PARTIES.—

(1) IN GENERAL.—Except as provided in paragraph (2), a person (hereinafter referred to as the ''third party'') that provides goods, products, property, or services to another person that violates subsection (a) shall not be held liable for such violation.

(2) EXCEPTION.—Liability for a violation of subsection (a) shall be imputed to a third party that provides goods, products, property, or services to another person that violates subsection (a) if that third party—

(A) owns, or has a greater than 50 percent ownership or economic interest in, the trade or business of the person that violated subsection (a); or

(B)(i) has actual knowledge that goods, products, property, or services are promoted in a commercial electronic mail message the transmission of which is in violation of section 5(a)(1); and

(ii) receives, or expects to receive, an economic benefit from such promotion.

(c) EXCLUSIVE ENFORCEMENT BY FTC.—Subsections (f) and (g) of section 7 do not apply to violations of this section.

(d) SAVINGS PROVISION.—Subject to section 7(f)(7), nothing in this section may be construed to limit or prevent any action that may be taken under this Act with respect to any violation of any other section of this Act.

SEC. 7. ENFORCEMENT GENERALLY.

(a) VIOLATION IS UNFAIR OR DECEPTIVE ACT OR PRACTICE.—Except as provided in subsection (b), this Act shall be enforced by the Commission as if the violation of this Act were an unfair or deceptive act or practice proscribed under section 18(a)(1)(B) of the Federal Trade Commission Act (15 U.S.C. 57a(a)(1)(B)).

(b) ENFORCEMENT BY CERTAIN OTHER AGENCIES.—Compliance with this Act shall be enforced—

(1) under section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818), in the case of—

(A) national banks, and Federal branches and Federal agencies of foreign banks, by the Office of the Comptroller of the Currency;

(B) member banks of the Federal Reserve System (other than national banks), branches and agencies of foreign banks (other than Federal branches, Federal agencies, and insured State branches of foreign banks), commercial lending companies owned or controlled by foreign banks, organizations operating under section 25 or 25A of the Federal Reserve Act (12 U.S.C. 601 and 611), and bank holding companies, by the Board;

(C) banks insured by the Federal Deposit Insurance Corporation (other than members of the Federal Reserve System) insured State branches of foreign banks, by the Board of Directors of the Federal Deposit Insurance Corporation; and

(D) savings associations the deposits of which are insured by the Federal Deposit Insurance Corporation, by the Director of the Office of Thrift Supervision;

(2) under the Federal Credit Union Act (12 U.S.C. 1751 et seq.) by the Board of the National Credit Union Administration with respect to any Federally insured credit union;

(3) under the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.) by the Securities and Exchange Commission with respect to any broker or dealer;

(4) under the Investment Company Act of 1940 (15 U.S.C. 80a–1 et seq.) by the Securities and Exchange Commission with respect to investment companies;

(5) under the Investment Advisers Act of 1940 (15 U.S.C. 80b–1 et seq.) by the Securities and Exchange Commission with respect to investment advisers registered under that Act;

(6) under State insurance law in the case of any person engaged in providing insurance, by the applicable State insurance authority of the State in which the person is domiciled, subject to section 104 of the Gramm-Bliley-Leach Act (15 U.S.C. 6701), except that in any State in which the State insurance authority elects not to exercise this power, the enforcement authority pursuant to this Act shall be exercised by the Commission in accordance with subsection (a);

(7) under part A of subtitle VII of title 49, United States Code, by the Secretary of Transportation with respect to any air carrier or foreign air carrier subject to that part;

(8) under the Packers and Stockyards Act, 1921 (7 U.S.C. 181 et seq.) (except as provided in section 406 of that Act (7 U.S.C. 226, 227)), by the Secretary of Agriculture with respect to any activities subject to that Act;

(9) under the Farm Credit Act of 1971 (12 U.S.C. 2001 et seq.) by the Farm Credit Administration with respect to any Federal land bank, Federal land bank association, Federal intermediate credit bank, or production credit association; and

(10) under the Communications Act of 1934 (47 U.S.C. 151 et seq.) by the Federal Communications Commission with respect to any person subject to the provisions of that Act.

(c) EXERCISE OF CERTAIN POWERS.—For the purpose of the exercise by any agency referred to in subsection (b) of its powers under any Act referred to in that subsection, a violation of this Act is deemed to be a violation of a Federal Trade Commission trade regulation rule. In addition to its powers under any provision of law specifically referred to in subsection (b), each of the agencies referred to in that subsection may exercise, for the purpose of enforcing compliance with any requirement imposed under this Act, any other authority conferred on it by law.

(d) ACTIONS BY THE COMMISSION.—The Commission shall prevent any person from violating this Act in the same manner, by the same means, and with the same jurisdiction, powers, and duties as though all applicable terms and provisions of the Federal Trade

Commission Act (15 U.S.C. 41 et seq.) were incorporated into and made a part of this Act. Any entity that violates any provision of that subtitle is subject to the penalties and entitled to the privileges and immunities provided in the Federal Trade Commission Act in the same manner, by the same means, and with the same jurisdiction, power, and duties as though all applicable terms and provisions of the Federal Trade Commission Act were incorporated into and made a part of that subtitle.

(e) AVAILABILITY OF CEASE-AND-DESIST ORDERS AND INJUNCTIVE RELIEF WITHOUT SHOWING OF KNOWLEDGE.—Notwithstanding any other provision of this Act, in any proceeding or action pursuant to subsection (b), (c), or (d) of this section to enforce compliance, through an order to cease and desist or an injunction, with section 5(a)(2), subparagraph (B) or (C) of section 5(a)(4), or section 5(b)(1)(A), neither the Commission nor the Federal Communications Commission shall be required to allege or prove the state of mind required by such section or subparagraph.

(f) ENFORCEMENT BY STATES.—

(1) CIVIL ACTION.—In any case in which the attorney general of a State, or an official or agency of a State, has reason to believe that an interest of the residents of that State has been or is threatened or adversely affected by any person who violates paragraph (1) or (2) of section 5(a), or who engages in a pattern or practice that violates paragraph (3), (4), or (5) of section 5(a) of this Act, the attorney general, official, or agency of the State, as parens patriae, may bring a civil action on behalf of the residents of the State in a district court of the United States of appropriate jurisdiction—

(A) to enjoin further violation of section 5 of this Act by the defendant; or

(B) to obtain damages on behalf of residents of the State, in an amount equal to the greater of—

(i) the actual monetary loss suffered by such residents; or

(ii) the amount determined under paragraph (2).

(2) AVAILABILITY OF INJUNCTIVE RELIEF WITHOUT SHOWING OF KNOWLEDGE.—Notwithstanding any other provision of this Act, in a civil action under paragraph (1)(A) of this subsection, the attorney general, official, or agency of the State shall not be not required to allege or prove the state of mind required by section 5(a)(2), subparagraph (B) or (C) of section 5(a)(4), or section 5(b)(1)(A).

(3) STATUTORY DAMAGES.—

(A) IN GENERAL.—For purposes of paragraph (1)(B)(ii), the amount determined under this paragraph is the amount calculated by multiplying the number of violations (with each separately addressed unlawful message received by or addressed to such residents treated as a separate violation) by up to $250.

(B) LIMITATION.—For any violation of section 5 (other than section 5(a)(1)), the amount determined under subparagraph (A) may not exceed $2,000,000.

(C) AGGRAVATED DAMAGES.—The court may increase a damage award to an amount equal to not more than three times the amount otherwise available under this paragraph if—

(i) the court determines that the defendant committed the violation willfully and knowingly; or

(ii) the defendant's unlawful activity included one or more of the aggravating violations set forth in section 5(b).

(D) REDUCTION OF DAMAGES.—In assessing damages under subparagraph (A), the court may consider whether—

(i) the defendant has established and implemented, with due care, commercially reasonable practices and procedures to effectively prevent such violations; or

(ii) the violation occurred despite commercially reasonable efforts to maintain compliance with such practices and procedures.

(3) ATTORNEY FEES.—In the case of any successful action under paragraph (1), the State may be awarded the costs of the action and reasonable attorney fees as determined by the court.

(4) RIGHTS OF FEDERAL REGULATORS.—The State shall serve prior written notice of any action under paragraph (1) upon the Federal Trade Commission or the appropriate Federal regulator determined under subsection (b) and provide the Commission or appropriate Federal regulator with a copy of its complaint, except in any case in which such prior notice is not feasible, in which case the State shall serve such notice immediately upon instituting such action. The Federal Trade Commission or appropriate Federal regulator shall have the right—

(A) to intervene in the action;

(B) upon so intervening, to be heard on all matters arising therein;

(C) to remove the action to the appropriate United States district court; and

(D) to file petitions for appeal.

(5) CONSTRUCTION.—For purposes of bringing any civil action under paragraph (1), nothing in this Act shall be construed to prevent an attorney general of a State from exercising the powers conferred on the attorney general by the laws of that State to—

(A) conduct investigations;

(B) administer oaths or affirmations; or

(C) compel the attendance of witnesses or the production of documentary and other evidence.

(6) VENUE; SERVICE OF PROCESS.—

(A) VENUE.—Any action brought under paragraph (1) may be brought in the district court of the United States that meets applicable requirements relating to venue under section 1391 of title 28, United States Code.

(B) SERVICE OF PROCESS.—In an action brought under paragraph (1), process may be served in any district in which the defendant—

(i) is an inhabitant; or

(ii) maintains a physical place of business.

(7) LIMITATION ON STATE ACTION WHILE FEDERAL ACTION IS PENDING.—If the Commission or other appropriate Federal agency under subsection (b) has instituted a civil action or an administrative action for violation of this Act, no State attorney general, or official or agency of a State, may bring an action under this subsection during the pendency of that action against any defendant named in the complaint of the Commission or the other agency for any violation of this Act alleged in the complaint.

(8) REQUISITE SCIENTER FOR CERTAIN CIVIL ACTIONS.—Except as provided in subsections (a)(2), (a)(4)(B), (a)(4)(C), (b)(1), and (d) of section 5, and paragraph (2) of this subsection, in a civil action brought by a State attorney general, or an official or agency of a State, to recover monetary damages for a violation of this Act, the court shall not grant the relief sought unless the attorney general, official, or agency establishes that the defendant acted with actual knowledge, or knowledge fairly implied on the basis of objective circumstances, of the act or omission that constitutes the violation.

(g) ACTION BY PROVIDER OF INTERNET ACCESS SERVICE.—

(1) ACTION AUTHORIZED.—A provider of Internet access service adversely affected by a violation of section 5(a) or of section 5(b), or a pattern or practice that vioalted paragraph (2), (3), (4), or (5) of section 5(a), may bring a civil action in any district court of the United States with jurisdiction over the defendant—

(A) to enjoin further violation by the defendant; or

(B) to recover damages in an amount equal to the greater of—

(i) actual monetary loss incurred by the provider of Internet access service as a result of such violation; or

(ii) the amount determined under paragraph (3).

(2) SPECIAL DEFINITION OF ''PROCURE''.—In any action brought under paragraph (1), this Act shall be applied as if the definition of the term ''procure'' in section 3(12) contained, after ''behalf'' the words ''with actual knowlege, or by consciously avoiding knowing, whether such person is engaging, or will engage, in a pattern or practice that violates this Act''.

(3) STATUTORY DAMAGES.—

(A) IN GENERAL.—For purposes of paragraph (1)(B)(ii), the amount determined under this paragraph is the amount calculated by multiplying the number of violations (with each separately addressed unlawful message that is transmitted or attempted to be transmitted over the facilities of the provider of Internet access service, or that is transmitted or attempted to be transmitted to an electronic mail address obtained from the provider of Internet access service in violation of section 5(b)(1)(A)(i), treated as a separate violation) by—

(i) up to $100, in the case of a violation of section 5(a)(1); or

(ii) $25, in the case of any other violation of section 5.

(B) LIMITATION.—For any violation of section 5 (other than section 5(a)(1)), the amount determined under subparagraph (A) may not exceed $1,000,000.

(C) AGGRAVATED DAMAGES.—The court may increase a damage award to an amount equal to not more than three times the amount otherwise available under this paragraph if—

(i) the court determines that the defendant committed the violation willfully and knowingly; or

(ii) the defendant's unlawful activity included one or more of the aggravated violations set forth in section 5(b).

(D) REDUCTION OF DAMAGES.—In assessing damages under subparagraph (A), the court may consider whether—

(i) the defendant has established and implemented, with due care, commercially reasonable practices and procedures to effectively prevent such violations; or

(ii) the violation occurred despite commercially reasonable efforts to maintain compliance with such practices and procedures.

(4) ATTORNEY FEES.—In any action brought pursuant to paragraph (1), the court may, in its discretion, require an undertaking for the payment of the costs of such action, and assess reasonable costs, including reasonable attorneys' fees, against any party.

SEC. 8. EFFECT ON OTHER LAWS.

(a) FEDERAL LAW.—

(1) Nothing in this Act shall be construed to impair the enforcement of section 223 or 231 of the Communications Act of 1934 (47 U.S.C. 223 or 231, respectively), chapter 71 (relating to obscenity) or 110 (relating to sexual exploitation of children) of title 18, United States Code, or any other Federal criminal statute.

(2) Nothing in this Act shall be construed to affect in any way the Commission's authority to bring enforcement actions under FTC Act for materially false or deceptive representations or unfair practices in commercial electronic mail messages.

(b) STATE LAW.—

(1) IN GENERAL.—This Act supersedes any statute, regulation, or rule of a State or political subdivision of a State that expressly regulates the use of electronic mail to send

commercial messages, except to the extent that any such statute, regulation, or rule prohibits falsity or deception in any portion of a commercial electronic mail message or information attached thereto.

(2) STATE LAW NOT SPECIFIC TO ELECTRONIC MAIL.—This Act shall not be construed to preempt the applicability of—

(A) State laws that are not specific to electronic mail, including State trespass, contract, or tort law; or

(B) other State laws to the extent that those laws relate to acts of fraud or computer crime.

(c) NO EFFECT ON POLICIES OF PROVIDERS OF INTERNET ACCESS SERVICE.—Nothing in this Act shall be construed to have any effect on the lawfulness or unlawfulness, under any other provision of law, of the adoption, implementation, or enforcement by a provider of Internet access service of a policy of declining to transmit, route, relay, handle, or store certain types of electronic mail messages.

SEC. 9. DO-NOT-E-MAIL REGISTRY.

(a) IN GENERAL.—Not later than 6 months after the date of enactment of this Act, the Commission shall transmit to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Energy and Commerce a report that—

(1) sets forth a plan and timetable for establishing a nationwide marketing Do-Not-E-mail registry;

(2) includes an explanation of any practical, technical, security, privacy, enforceability, or other concerns that the Commission has regarding such a registry; and

(3) includes an explanation of how the registry would be applied with respect to children with e-mail accounts.

(b) AUTHORIZATION TO IMPLEMENT.—The Commission may establish and implement the plan, but not earlier than 9 months after the date of enactment of this Act.

SEC. 10. STUDY OF EFFECTS OF COMMERCIAL ELECTRONIC MAIL.

(a) IN GENERAL.—Not later than 24 months after the date of the enactment of this Act, the Commission, in consultation with the Department of Justice and other appropriate agencies, shall submit a report to the Congress that provides a detailed analysis of the effectiveness and enforcement of the provisions of this Act and the need (if any) for the Congress to modify such provisions.

(b) REQUIRED ANALYSIS.—The Commission shall include in the report required by subsection (a)—

(1) an analysis of the extent to which technological and marketplace developments, including changes in the nature of the devices through which consumers access their electronic mail messages, may affect the practicality and effectiveness of the provisions of this Act;

(2) analysis and recommendations concerning how to address commercial electronic mail that originates in or is transmitted through or to facilities or computers in other nations, including initiatives or policy positions that the Federal government could pursue through international negotiations, fora, organizations, or institutions; and

(3) analysis and recommendations concerning options for protecting consumers, including children, from the receipt and viewing of commercial electronic mail that is obscene or pornographic.

SEC. 11. IMPROVING ENFORCEMENT BY PROVIDING REWARDS FOR INFORMATION ABOUT VIOLATIONS; LABELING.

The Commission shall transmit to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Energy and Commerce—

(1) a report, within 9 months after the date of enactment of this Act, that sets forth a system for rewarding those who supply information about violations of this Act, including—

(A) procedures for the Commission to grant a reward of not less than 20 percent of the total civil penalty collected for a violation of this Act to the first person that—

(i) identifies the person in violation of this Act; and

(ii) supplies information that leads to the successful collection of a civil penalty by the Commission; and

(B) procedures to minimize the burden of submitting a complaint to the Commission concerning violations of this Act, including procedures to allow the electronic submission of complaints to the Commission; and

(2) a report, within 18 months after the date of enactment of this Act, that sets forth a plan for requiring commercial electronic mail to be identifiable from its subject line, by means of compliance with Internet Engineering Task Force Standards, the use of the characters ''ADV'' in the subject line, or other comparable identifier, or an explanation of any concerns the Commission has that cause the Commission to recommend against the plan.

SEC. 12. RESTRICTIONS ON OTHER TRANSMISSIONS.

Section 227(b)(1) of the Communications Act of 1934 (47 U.S.C. 227(b)(1)) is amended, in the matter preceding subparagraph (A), by inserting '', or any person outside the United States if the recipient is within the United States'' after ''United States''.

SEC. 13. REGULATIONS.

(a) IN GENERAL.—The Commission may issue regulations to implement the provisions of this Act (not including the amendments made by sections 4 and 12). Any such regulations shall be issued in accordance with section 553 of title 5, United States Code.

(b) LIMITATION.—Subsection (a) may not be construed to authorize the Commission to establish a requirement pursuant to section 5(a)(5)(A) to include any specific words, characters, marks, or labels in a commercial electronic mail message, or to include the identification required by section 5(a)(5)(A) in any particular part of such a mail message (such as the subject line or body).

SEC. 14. APPLICATION TO WIRELESS.

(a) EFFECT ON OTHER LAW.—Nothing in this Act shall be interpreted to preclude or override the applicability of section 227 of the Communications Act of 1934 (47 U.S.C. 227) or the rules prescribed under section 3 of the Telemarketing and Consumer Fraud and Abuse Prevention Act (15 U.S.C. 6102). To the extent that a requirement of such Acts, or rules or regulations promulgated thereunder, is inconsistent with the requirement of this Act, the requirement of such other Acts, or rules or regulations promulgated thereunder, shall take precedence.

(b) FCC RULEMAKING.—The Federal Communications Commission, in consultation with the Federal Trade Commission, shall promulgate rules within 270 days to protect consumers from unwanted mobile service commercial messages. The rules shall, to the extent consistent with subsection (c)—

(1) provide subscribers to commercial mobile services the ability to avoid receiving mobile service commercial messages unless the subscriber has provided express prior authorization, except as provided in paragraph (3);

(2) allow recipients of mobile service commercial messages to indicate electronically a desire not to receive future mobile service commercial messages from the initiator;

(3) take into consideration, in determining whether to subject providers of commercial mobile wireless services to paragraph (1), the relationship that exists between providers of such services and their subscribers, but if the Commission determines that such providers should not be subject to paragraph (1), the rules shall require such providers, in addition to complying with the other provisions of this Act, to allow subscribers to indicate a desire not to receive future mobile service commercial messages at the time of subscribing to such service, and in any billing mechanism; and

(4) determine how initiators of mobile service commercial messages may comply with the provisions of this Act, considering the unique technical aspects, including the functional and character limitations, of devices that receive such messages.

(c) OTHER FACTORS CONSIDERED.—The Federal Communications Commission shall consider the ability of an initiator of an electronic mail message to reasonably determine that the electronic mail message is a mobile service commercial message.

(d) MOBILE SERVICE COMMERCIAL MESSAGE DEFINED.—In this section, the term ''mobile service commercial message'' means a commercial electronic mail message that contains text, graphics, or images for visual display that is transmitted directly to a wireless device that—

(1) is utilized by a subscriber of commercial mobile service (as such term is defined in section 332(d) of the Communications Act of 1934 (47 U.S.C. 332(d)) in connection with such service; and

(2) is capable of accessing and displaying such a message.

SEC. 15. SEPARABILITY.

If any provision of this Act or the application thereof to any person or circumstance is held invalid, the remainder of this Act and the application of such provision to other persons or circumstances shall not be affected.

SEC. 16. EFFECTIVE DATE.

The provisions of this Act, other than section 9, shall take effect on January 1, 2004.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Louisiana (Mr. TAUZIN) and the gentleman from Massachusetts (Mr. MARKEY) each will control 20 minutes.

The Chair recognizes the gentleman from Louisiana (Mr. TAUZIN).

GENERAL LEAVE

Mr. TAUZIN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and to insert extraneous material on S. 877.

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

There was no objection.

Mr. TAUZIN. Mr. Speaker, I ask unanimous consent that the gentleman from Wisconsin (Mr. SENSENBRENNER) be given control of 10 minutes of my time.

The SPEAKER pro tempore. Without objection, the request of the gentleman from Louisiana is granted.

There was no objection.

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

Mr. Speaker, for the second time in just a few months, Congress is on the verge of passing watershed consumer protection legislation. Less than 2

months ago, we enacted, in record time I might add, legislation that codified the ability of the Federal Trade Commission to implement the Do Not Call Registry on telemarketing phone calls. Today, we take an equivalent step in the Internet area. S. 877, with the substitute I have called up, will give millions of Americans the ability to block unwanted and unsolicited commercial e-mail, what we now derisively call spam.

The Internet has given us abilities beyond our wildest dreams; and as it continues to grow in popularity and functionality, the time will come when every American, from school kids to senior citizens, homemakers to CEOs, will rely on it for crucial aspects of their lives. I received, by the way, my first e-mail from my mom just this month. And she was thrilled, and I was thrilled to see her enter the Internet Age.

But one of the terrific aspects of the Internet, the ability to send and receive e-mail, has given us enormous headaches because of spam. It cripples computer networks and makes regular e-mail checking a seemingly endless hassle.

□ 1715

Even worse, a great deal of spam channels in pornography and other subjects not worthy of discussion on a family cable channel, and this spam frequently preys on defenseless, unsuspecting children.

Well, we are here to provide the necessary tools to end the nonsense and to bring some peace of mind back to parents around the country. The substitute before us will empower American consumers with a right to opt out of all unwanted, unsolicited commercial e-mail, or spam, and it will also provide the Federal Trade Commission with the authority to set up a Do-Not-Spam Registry based upon the Do-Not-Call Registry. The substitute grants strong protection for parents and consumers to say no to the receipt of pornographic spam, and makes it a crime subject to 5 years in prison to send fraudulent spam. And finally, it gives the FTC and State attorneys general the ability to vigorously enforce the new law.

I am pleased to report that the product before us now enjoys broad bipartisan support here in the House and also in the other body. The bill can and should go to President Bush before we adjourn the first session of the 108th Congress. Mr. Speaker, I urge my colleagues to vote for this much-needed, bipartisan bill.

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

Mr. MARKEY. Mr. Speaker, I yield 2 minutes to the gentleman from Texas (Mr. GREEN).

Mr. GREEN of Texas. Mr. Speaker, I would like to thank our ranking member on the Subcommittee on Telecommunications and the Internet for yielding me this time.

I rise in strong support of S. 877, the compromise which has been worked out on the antispam legislation.

First, I want to thank the gentlewoman from New Mexico (Mrs. WILSON) for the many years of work she has put in with me and other members of the Committee on Energy and Commerce.

I also thank the leadership of our committee, the ranking member, the gentleman from Michigan (Mr. DINGELL) and the gentleman from Louisiana (Chairman TAUZIN) for their strong commitment to this effort which the gentlewoman from New Mexico (Mrs. WILSON) and I began almost 5 years ago. She had a terrible personal experience with spam, and I heard from constituents some of the same stories, and my wife and I have received some of that same unsolicited spam on our own personal e-mail account.

This legislation will set the fair and clear standards for e-mail marketing that consumers and the Internet need desperately. The future of e-mail is at stake, and the time to act is now. Congress is delivering the enforcement tools we need.

Importantly, this compromise has clear definitions of commercial e-mail which the FTC can enforce and any individual consumer's request to not receive further commercial e-mail from a sender will have the force of the law. Spammers who lie and deceive with false header information and deceptive subject lines will be lawbreakers and will be prosecuted as such.

After we enact this legislation, spammers will no longer be able to harvest e-mail addresses from Web pages across the Internet without the threat of prosecution. There are so many good things in this bill that it is hard to go over all of them in 2 minutes.

We will come after spammers from all angles. State attorneys general are empowered, and Internet service providers are empowered to seek damages up to $250 per e-mail or $6 million total.

After the success of the FTC's Do-Not-Call list, the Do-Not-Spam registry implementation is feasible. I thank the gentleman from Louisiana (Mr. TAUZIN) and our ranking member, and I also thank the many cosponsors of our original bill, H.R. 2515, on the antispam effort.

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

Mr. Speaker, I rise in support of the House-modified version of Senate 877, and wish to thank my fellow chairman, the gentleman from Louisiana (Mr. TAUZIN), as well as the gentleman from Michigan (Mr. DINGELL) and the gentleman from Massachusetts (Mr. MARKEY) in working out this compromise which deals with a very vexatious question, and I think provides a win/win situation for everybody except the few bad actors that flood the electronic media with spam.

The Internet has revolutionized commerce and communications by permitting businesses to reach consumers in a digital, global marketplace and has allowed individuals to communicate through the speed and convenience of electronic mail. Unfortunately, the massive growth of unsolicited e-mail or ''spam'' now threatens to kill the utility of this popular media. Last year over 6 trillion e-mails were transmitted. Today, almost half of those e-mails are unsolicited or unwanted.

Commercial e-mail is good, and a necessary and valuable component of electronic commerce. It allows legitimate businesses to customize offers of products and services and transmit them immediately to customers.

However, the same features that make e-mail a valuable commercial tool also lead to its abuse by spammers. Once a portable to the global network is obtained, sending e-mail is instantaneous and virtually costless. There are no stamps in cyberspace, no per-message cost, not even a post office. The costs of delivery are borne more by the recipient and the transmission network than by the sender. The exponential growth of spam and the advancing sophistication of efforts to block it threaten to turn the information superhighway into a nightmare for every info-commuter and parent.

Like other means of communication, e-mail can be used to cheat, defraud, and deceive consumers and also has been used to distribute computer viruses that have caused millions of dollars in economic damages. Unscrupulous spammers have transformed electronic inboxes and the Internet into virtual minefields strewn with lewd and pornographic images and solicitations, imperiling a medium that can serve as a critical learning tool for children.

I am pleased to support this version of Senate 877, which is substantially similar to H.R. 2214 introduced by the gentleman from North Carolina (Mr. BURR), the gentleman from Louisiana (Mr. TAUZIN) and myself earlier this year. I believe it will provide a remedial enforcement mechanism that private, regulatory, and individual State action cannot.

The criminal provisions contained in this legislation are central to its purpose and to its effectiveness. In order to provide a credible deterrent to spammers, this legislation enhances criminal penalties for predatory spamming, and provides law enforcement personnel far more authority to prosecute spammers whose electronic presence can shift with a keystroke.

The bill provides significant criminal penalties for the most egregious spammers by making it a crime to intentionally falsify the identity of the sender or disguise the routing and source information of e-mails. Other spammer tactics made criminal under this bill include the hijacking protected computers to send spam from the addresses of unsuspecting Internet users.

The House modification of S. 877 also provides for much higher penalties and

more effective civil and criminal enforcement against spammers who send unwanted sexually explicit materials. This bill even requires special labels for this most offensive category of e-mail. The gentlewoman from Pennsylvania (Ms. HART) deserves special recognition for her work to get this provision into law.

Overall, the bill provides consumers with more information and choices to stop receiving all forms of unwanted commercial e-mail while providing law enforcement officials and providers of Internet access with the tools to go after spammers.

While S. 877 accomplishes these vital goals, there are some activities that it deliberately does not reach. Specifically, the legislation concerns only commercial and sexually explicit e-mail and is not intended to intrude on the burgeoning use of e-mail to communicate for political, news, personal and charitable purposes.

Moreover, this legislation, while preempting State spam specific laws with a uniform national standard, also preserves a role for State law enforcement officials to help combat this growing electronic menace. The bill also allows for State laws that deal with fraud and computer crimes to remain in effect. However, there is specific language in the bill limiting this authority to law enforcement officials or agencies of the State, and it is not the intent of Congress to allow outsourcing of this truly State function to the plaintiff's bar.

The House-modified legislation also contains other necessary amendments to the bill passed by the other body and reflects a thoughtful, bipartisan and bicameral approach to address the growing scourge of spam while preserving and promoting the commercial vitality of the Internet. I urge my colleagues to support this legislation.

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

Mr. MARKEY. Mr. Speaker, I yield myself 2½ minutes.

Mr. Speaker, this is a very important bill, and it would not have been possible without the good work of the gentleman from Louisiana (Mr. TAUZIN) and his staff, David Cavicke, along with the gentleman from Michigan (Mr. DINGELL) and his staff, David Schooler and Gregg Rothschild, working with the majority. I think we have come to an excellent result. It builds upon the work that the gentlewoman from New Mexico (Mrs. WILSON) and the gentleman from Texas (Mr. GREEN) have been making for years in this area. I think that the public is really going to be a beneficiary from this product this evening. I would be remiss, of course, not to single out the gentleman from Wisconsin (Mr. SENSENBRENNER) as well and his staff for their excellent work on this bill.

In addition to the other provisions mentioned by other Members, this legislation now contains a modified version of the wireless spam amendment that I had offered for inclusion. The legislation preserves important authority of the Federal Communications Commission and FTC where it serves consumer interests. It also requires the FCC to initiate a rule-making for wireless spam so that no loopholes are created, but in a way to ensure that wireless consumers have greater protection than that accorded in the underlying bill.

As we attempt to tackle the issue of spam that is sent to our desktop computers, we must also recognize that millions of wireless consumers in the United States run the risk of being inundated by wireless spam. Unsolicited wireless text messages have plagued wireless users in Europe, South Korea and Japan over the last few years as wireless companies in such countries have offered wireless messaging services.

In Japan alone, NTT DoCoMo estimates that its wireless network processes some 800 million wireless spam messages a day. That is a day. As cumbersome and annoying as spam to a desktop computer is, at least a consumer can turn off their computer and walk away. Wireless spam is even more intrusive because spam to wireless phones is the kind of spam that follows you wherever you go, and according to the U.S. wireless carriers, is already on the rise.

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

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

Mr. Speaker, I thank the gentleman from Massachusetts for thanking the majority staff. I wish I could introduce Mr. Cavicke because he has done such a great job on this bill, but he is not a Member.

Mr. Speaker, I yield 2 minutes to the gentlewoman from New Mexico (Mrs. WILSON) to speak on the bill.

Mrs. WILSON of New Mexico. Mr. Speaker, 5 years ago spam was a nuisance, and now it is a nightmare. It is interrupting people's legitimate use of the Internet and their ability to communicate without having a lot of junk to go through every morning.

I think today is a great victory for consumers and for parents. Parents should not have to worry about the kinds of things coming into their kids' inboxes. For the first time, Americans who use the Internet and get e-mail will have the right to say take me off your list, I do not want this in my house. That is a tremendous right to be given to citizens in this Nation.

I am glad we have a strong bill with strong enforcement that requires labels for sexually explicit material, and allows users to opt out without having things that are required to be viewed in order to do so.

E-mail has been called the ''killer ap'' of the Internet, the killer application. And now today, we are saying that the people who use it are going to have the right to take it back and own it without an encumbrance by spammers.

Mr. Speaker, I want to thank the gentleman from Louisiana (Mr. TAUZIN), the gentleman from Wisconsin (Mr. SENSENBRENNER), the gentleman from Texas (Mr. GREEN) with whom I have been working on this issue for over 4 years, and the gentleman from Michigan (Mr. DINGELL) who has also been a wonderful leader in this effort, as well as the gentlewoman from Pennsylvania (Ms. HART) and the gentleman from North Carolina (Mr. BURR) for their efforts. We have put together a good bill, and it is a better bill because we have all worked on it together.

Mr. MARKEY. Mr. Speaker, I yield 2 minutes to the gentleman from Texas (Mr. GREEN).

Mr. GREEN of Texas. Mr. Speaker, I would like to talk about some of the good things about this agreement that is in the bill S. 877.

Spammers who lie and deceive with false header information and deceptive subject lines will be lawbreakers and prosecuted. After we enact this legislation, spammers will no longer be able to harvest e-mail addresses from Web pages across the Internet without the threat of prosecution.

□ 1730

Our bill cracks down on automated ''dictionary'' spam attacks, the spam version of the auto-dialer that sends spam to every possible e-mail combination. Most importantly for our families, and something that the gentlewoman from New Mexico (Mrs. WILSON) experienced with her daughter, this bill requires warning labels on sexually explicit e-mail; and we will be able to refuse further e-mail without having to view the offensive content. It will go after spammers again from all angles, from the Federal Trade Commission, from the States attorneys general and also Internet service providers who, as the gentleman from Wisconsin (Mr. SENSENBRENNER) said, 50 percent of the networks oftentimes are unsolicited e-mail. They will be able to sue for damages of $250 per e-mail or a total of $6 million. It is there so our attorneys general have the ability and our ISPs will do it.

Finally, after the success of the Do-Not-Call list, the FTC is to plan a Do-Not-Spam registry within 6 months and will implement it if it is feasible.

Like my colleagues, our staff worked hard on it in both our committees, Judiciary and Energy and Commerce. I thank my personal staff, Drew Wallace, for working on this with all the folks involved.

Mr. SENSENBRENNER. Mr. Speaker, I yield 2 minutes to the gentleman from Virginia (Mr. GOODLATTE).

Mr. GOODLATTE. Mr. Speaker, I thank the gentleman from Wisconsin, chairman of the Committee on the Judiciary, and the gentleman from Louisiana, chairman of the Committee on Energy and Commerce, for their leadership in pulling these two committees together. We have been working on this

for a long time. It is that kind of teamwork that has resulted in this legislation today as well as a great deal of cooperation on the other side of the aisle. We really appreciate what it takes to write good legislation.

Spam is not just a nuisance anymore. Over half of the e-mail sent today is spam. Unsolicited e-mail, such as advertisements, solicitations, or chain letters is the junk mail of the Information Age. At best these unwanted messages burden consumers by slowing down their e-mail connections. At worst these messages bombard American families with unsolicited, sexually explicit materials and fraudulent information. It is time to can spam.

The bill before us makes it a criminal offense to send a commercial e-mail that falsifies the sender's identity. In addition, the House amendments which have been incorporated into this bill strengthen the provisions that punish spammers for failing to place warning labels on sexually explicit materials.

This bill makes the necessary changes to the Senate's ''can spam act'' to establish clear, uniform guidelines for those who send commercial e-mail and to criminalize fraudulent conduct. The bill provides State attorneys general, ISPs, the FTC, and the Department of Justice with the appropriate tools to enforce the bill against bad actors.

Because no legislation can provide a cure-all for spam, this bill is technology-friendly. It protects the ability of ISPs and small businesses to develop innovative technological solutions to combat spam and to protect consumers, such as filtering and blocking technologies. This bill establishes clear guidelines for legitimate businesses and punishes fraudulent conduct, not going after the good guys. It accomplishes these objectives without overregulating and without taking the information out of the Information Age.

I urge my colleagues to support this important legislation.

Mr. MARKEY. Mr. Speaker, I yield 5 minutes to the gentleman from Michigan (Mr. DINGELL), the ranking Democrat on the Committee on Energy and Commerce.

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

Mr. DINGELL. Mr. Speaker, we can work well together around here. I am sure that a lot of people are surprised.

I want to pay a congratulations and compliment to my distinguished friend, the gentleman from Louisiana (Mr. TAUZIN), the chairman of the committee, and also to the distinguished gentleman from Wisconsin (Mr. SENSENBRENNER) for his labors. I want to thank my good friend, the gentleman from Massachusetts (Mr. MARKEY), for his leadership in this valiant effort and undertaking, and I want to pay particular tribute to both the distinguished gentleman from Texas (Mr. GREEN) and the wonderful gentlewoman from New Mexico (Mrs. WILSON) for their outstanding leadership, for the courage and for the dedication with which they stood hitched on this difficult issue and these difficult negotiations. Congratulations to all of the above. And also to Mr. Gregg Rothschild, Mr. David Cavicke, Mr. Bryce Dustman, and Peter Filon of the staff; also David Schooler and Shannon Vildostegui for their wonderful work as members of the staff because their efforts have helped make this possible.

This is a good bill and it is worthy of our support. There are things that we could have done that would have been a little better, but it is a piece of legislation which is going to solve a concern of the American people, something which is good and is in the public interest. And it is an important first step in restoring consumers' control over their inboxes and stopping some of the evil and rascality that we are seeing in the telecommunications industry. It requires marketers to let people know who they are and where they can be located. It prohibits false and misleading transmission information so that marketers cannot hide their identity. It prohibits marketers from deceiving consumers by using false headers or subject lines. Importantly, it affords the Federal Trade Commission and the States full enforcement authority over these consumer protection provisions.

I am particularly pleased that the bill permits law enforcement to go after those who disguise sexual messages and through such deception are able to send sexual material into our homes and into the hands of our children. This is a critical first step against those who profit by sending unwanted and offensive sexual commercial messages. It will stop much wrongdoing.

I am also pleased that the House has adopted the Senate provision creating a do-not-spam registry. I expect the FTC to take their charge seriously under this provision and to do all that is necessary to implement such a registry at the earliest possible time.

Finally, I am pleased that the House has added a new provision to grant even stronger protections from spam to users of wireless cell phones. The gentleman from Massachusetts deserves the thanks of all of us for that. In connection with this provision, I commend the hard work of our dear friend, the ranking Democrat on the Subcommittee on Telecommunications and the Internet.

Mr. Speaker, I want to be clear that I do not expect this bill to solve totally the growing problem of unwanted spam. It must be recognized that the people who engage in this practice are most diligent, most able, and have a huge financial incentive to do it. It is quite possible that we will have to visit the matter again. It is regrettable that it does not contain an important deterrence against spam, citizen suits; but we can address that at a future time. It also has the regrettable practice in it of preempting stronger State laws, something which I do not favor. It is, however, a distinct improvement over the Senate-passed bill, and the hard work that has brought us to agreement on the part of those who have worked on it is something which merits the thanks of the public for work in the public interest.

I plan to work to try and expand this in future times and to do the things that are necessary to assure that our people are not abused by these people.

Mr. TAUZIN. Mr. Speaker, I thank the distinguished gentleman from Michigan for his statement and his kind friendship.

Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Michigan (Mr. UPTON), chairman of the Subcommittee on Telecommunications and the Internet.

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

Mr. UPTON. Mr. Speaker, today on the heels of our recent efforts to ensure that the do-not-call list was implemented, we are taking yet another major step forward in our efforts to protect consumers from unwanted commercial solicitations. With passage of this bill tonight, we are one more step closer to giving American consumers a Federal law which will for the first time allow them to just say no to unwanted commercial e-mails, otherwise known as spam. And we back it up with strong enforcement by the FTC, State attorneys general, and Internet service providers as well.

As the father of two young kids, I am particularly pleased that this bill requires warning labels on commercial e-mails which contain sexually oriented material, and it protects our kids from being unwittingly exposed to such garbage that might pop up in the family's inbox. As chairman of the Subcommittee on Telecommunications and the Internet, I am particularly pleased to have worked with my colleagues on this, particularly the gentleman from Massachusetts (Mr. MARKEY); the gentleman from Michigan (Mr. DINGELL); certainly the gentleman from North Carolina (Mr. BURR); and my chairman, the gentleman from Louisiana (Mr. TAUZIN), on provisions which direct the Federal Communications Commission to implement added protections against spam for cell phones and other wireless devices. What a nightmare ready to happen. On our staff I want to particularly thank Will Nordwind, who spent countless hours as we negotiated this the last number of months.

Mr. Speaker, I want to relate a small family story. When my dad came back from World War II, my mom fixed his first dinner. It was Spam. Dad said, no way. Battle of the Bulge, we had enough of that. No more are we going to have that junk. My family thankfully was spared that for 50 years. Sadly, American consumers have not been spared from that awful stuff called spam because this is spam on the Internet.

I can remember when e-mails came first off, everyone loved to get an e-mail. I thought we were finally making some headway. But lo and behold, my wife was out of town, and I did not realize she was deleting it. Every morning she would get up at 5:30 or 6 in the morning. She has been gone all week. Today just from last night, I had 150 spams.

Pass this bill. End this stuff. I cannot call it what I really think. God bless America.

Mr. MARKEY. Mr. Speaker, I yield 1 additional minute to the gentleman from Texas (Mr. GREEN).

Mr. GREEN of Texas. Mr. Speaker, I know we are getting down to the last few minutes, but, like my colleague from Michigan, I ate a lot of Spam. I am holding up my gift of Spam from my cosponsor. Like him, the only way I could ever survive Spam was with A–1 steak sauce. I remember the story that my first time, somebody showing up at a town hall meeting and saying, I'm tired of spam and I said, thank goodness I haven't had to eat it in years. But I do remember it tasted pretty good in college when I needed it.

But now as my colleague from Michigan said, spam will not have a bad name for people who use the Internet. Again, I would like to thank the gentlewoman from New Mexico (Mrs. WILSON) for providing me a can of Spam. I am not going to cook it. I am going to put it on the wall so hopefully I will not have to.

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

Mr. Speaker, after hearing about that stuff that the gentleman from Texas was waving around, let me say that we Yankees knew that Spam was bad 50 years ago. It has taken a long time for you rebels to do that.

Mr. Speaker, I yield 1 minute to the gentlewoman from Pennsylvania (Ms. HART).

Ms. HART. Mr. Speaker, I also thank the gentleman from Wisconsin (Mr. SENSENBRENNER), the gentleman from Louisiana (Mr. TAUZIN), the gentleman from Michigan (Mr. DINGELL), and the general public, really, for helping us move this bill forward. I am pleased we were able to work out a deal on this legislation. It has taken some time, but the product is well worth it. The American public has been flooded with millions of pieces of unsolicited e-mail every day. This legislation will help us provide the teeth in the law to stop this. But it is the content of certain e-mails, particularly e-mails containing sexually explicit material which is especially problematic.

I compliment the gentlewoman from New Mexico (Mrs. WILSON) for working together with us on language that is similar to the Pennsylvania law that I sponsored to help label and help us rid our computers of these sexually explicit e-mails. I am pleased this was put into the bill. We want our children to use the Internet and e-mail, but many parents fear what the children may see. Parents are stuck in the middle. They want their kids to use the educational tool of the Internet, they want them to be very capable of utilizing it, and it will help them in their schoolwork on one hand, but on the other when my Senator was sitting behind one of his children, in fact, he said to me, I could not believe what came up on the screen.

It is important for us to make sure that we control it but we allow freedom of speech. I compliment my colleagues. I look forward to a spam-free e-mail.

Mr. MARKEY. Mr. Speaker, I yield myself 2 minutes.

The reality is that this whole movement began as people several years ago saw what the impact would be of unwanted spam on their home or work computers. As the gentleman from Michigan (Mr. UPTON) pointed out, he had in one day 150 unwanted spam messages on his home computer. What this legislation does is to help every American to deal with that problem. What I ask the Members to do as well is to deal with another issue that quite likely is going to rise to a level of being a problem that eclipses even computer spam and that would be cell phone spam.

Imagine if you reach a point where there are 150 unwanted rings on your phone, your cell phone, this zone of privacy which we all have as these marketers are calling into your cell phone all day long. What this legislation does is it ensures that the Federal Communications Commission and the Federal Trade Commission take the actions which give protections against this being the new battleground. It is already a full scale epidemic in Europe, in Japan, in South Korea.

□ 1745

It is heading our way. Probably by the time the FCC has a chance to put the regulations on the books, maybe a year from now, we will have already seen its growth so those protections against these cell phones just ringing all day long becomes the epidemic that really just drives people crazy. So the bill will require the FCC to consider certain provisions with an eye towards assessing the problems and perhaps the unique capabilities or limitations of wireless devices. We have to be sure that wireless consumers and carriers can functionally implement the new legal requirements. But the Federal spam legislation ought to reflect the particular characteristics of the wireless technology and use this bill as a way to ensure that we have promulgated rules requiring a consumer opt-in for wireless e-mail messages so that the consumer has affirmatively said that they want these messages to come into their life. Otherwise, this device that is so valuable now to 170 million Americans would just be the single greatest nuisance ever invested.

Mr Speaker. I rise in support of the compromise spam legislation that we bring to the House Floor today.

Mr. Speaker, this legislation reflects a series of agreements between advocates for the two alternative House spam bills—one offered by Chairman TAUZIN, and the other offered by Ms. WILSON and Mr. GREEN of which I am an original cosponsor, as well as a series of compromises with our Senate counterparts. While not a perfect bill, I believe it merits support.

In addition, Mr. Speaker, this legislation now contains a modified version of the wireless spam amendment that I had offered for inclusion. The legislation preserves important authority of the FCC and FTC where it serves consumer interests. It also requires the FCC to initiate a rulemaking for wireless spam so that no loopholes are created but in a way to ensure that wireless consumers have greater protection than that accorded in the underlying bill.

As we attempt to tackle the issue of spam that is sent to our desktop computers, we must also recognize the millions of wireless consumers in the United States run the risk of being inundated with wireless spam. Unsolicited wireless text messages have plagued wireless users in Europe, South Korea, and Japan over the last few years as wireless companies in such countries have offered wireless messaging services. In Japan alone, NTT DoCoMo estimates that its wireless network processes some 800 million wireless spam messages a day. As cumbersome and annoying as spam to a desktop computer is, at least a consumer can turn off their computer and walk away. Wireless spam is even more intrusive because spam to wireless phones is the kind of spam that follows you wherever you go and according to U.S. wireless carriers, is already on the rise.

To prevent wireless spam from overwhelming the American wireless marketplace as it has networks in other countries, this legislation tasks the FCC to promulgate rules in order to put strong consumer protections on the books. In addition, the bill requires the FCC to consider certain provisions with an eye toward assessing them given the perhaps unique capabilities or limitations of wireless devices. We must be sure that wireless consumers and carriers can functionally implement the legal requirements. Federal spam legislation ought to reflect the particular characteristics of wireless technology and use and this bill will allow the FCC to promulgate rules requiring a consumer ''opt-in'' for wireless email messages while examining the nature of a consumer's relationship with their wireless phone and service to take into account the unique service and technical characteristics that may warrant wireless-specific rules affecting consumer and carrier rights and obligations.

The wireless spam provision of the bill offers wireless consumers relief by requiring an ''opt-in'' for spam to wireless consumers. This reflects the fact that spam to a mobile phone is more intrusive to consumers and the fact that some wireless payment plans currently charge users for the amount of text messages they receive.

The provision would require ''express prior authorization'' from the consumer before an entity could send spam to their wireless device. My intent is that this ''express prior authorization'' be implemented in a way that a

request for ''express prior authorization'' is conspicuous and easily understood by consumers and that each entity seeking to send mobile service commercial messages pursuant to Section 14(b)(1) obtain such consumer authorization. In addition, the wireless spam provision requests that the FCC consider the ability of an initiator of spam to reasonably determine whether an electronic mail message is a mobile service commercial message. Obviously, as wireless service evolves, more and more consumers will receive Internet emails via their commercial mobile service provider's network and directly to their wireless device. If a person ha an email address from their commercial mobile service provide and it can be readily identified as a wireless address, such as name@verizonwireless.net or name@wireless.net then the reasonable ability of a potential spammer to recognize that as such is relatively easy. Hopefully, commercial mobile service providers—and consumers—will see the benefit of having an email address that can be reasonably determined to be a wireless address, so that the prospect of massive amounts of spam to consumers over wireless networks can be thwarted and consumers can enjoy the benefits of entities needing their express prior authorization before sending them wireless spam.

Spam sent to desktop computer email address, and which is then forwarded over a wireless network to a wireless devices, i.e., delivered ''indirectly'' from the initiator to the wireless device, would be treated by the rest of this bill and not by the wireless specific provisions we subject to an FCC rulemaking.

This legislation also represents an improvement in other areas over the Senate-passed bill. For example, the compromise doubles the damage caps in the Senate bill. It also eliminates the knowledge standards for the Federal Communications Commission (FCC), the Federal Trade Commission (FTC) and state Attorney General injunctive relief. The bill provides for rulemaking authority to clarify and tighten the definition of what constitutes a ''commercial email.'' Requires that identifiers and a postal address musts be on all commercial emails to desktop computers. Finally, the bill also shortens the time frame from which an ''opt-out'' request would become enforceable.

All of these represent important improvements over the Senate bill.

I want to commend Chairman TAUZIN, Ranking Member Mr. DINGELL for their excellent work in this area. I want to salute Representatives HEATHER WILSON and GENE GREEN for spearheading House spam efforts in this session as well as in the previous Congress as the lead sponsors of the House bill.

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

Mr. SENSENBRENNER. Mr. Speaker, I have no further requests for time from Committee on the Judiciary, and I yield the balance of my time to the gentleman from North Carolina (Mr. BURR).

Mr. BURR. Mr. Speaker, I ask unanimous consent to control the time of the gentleman from Louisiana (Mr. TAUZIN) as well as the time of the gentleman from Wisconsin (Mr. SENSENBRENNER).

The SPEAKER pro tempore (Mr. THORNBERRY). Is there objection to the request of the gentleman from North Carolina (Mr. BURR)?

There was no objection.

The SPEAKER pro tempore. The gentleman from North Carolina (Mr. BURR) has 5 minutes remaining, and the gentleman from Massachusetts (Mr. MARKEY) has 6 minutes remaining.

Mr. BURR. Mr. Speaker, I yield myself 2 minutes. Mr. Speaker, we are here today to get rid of unwanted sexually explicit e-mail, but we are also here to protect those individuals who want to use e-mail as a commercial tool in a responsible way based upon the rules, and the challenge for us was to design something that allowed commerce to take place but that got at the heart of what all of us wanted to do, and that is to get the smut off of our screen, to make sure that the ones that were unsolicited and that we did not want to see again, that we had the opportunity to get rid of them. And I am going to tell the Members it was tough, I think we would all agree, trying to find the right language, the right word in some cases, to make sure that the right penalty was in place but it did not go too far. And I think it is safe to say today that there is no single piece of legislation that will ultimately solve the spam problem.

It is my hope that this bill is an excellent first start. I believe that it is appropriate to praise the gentleman from Louisiana (Chairman TAUZIN) and the gentleman from Michigan (Mr. DINGELL), ranking member, and Gregg Rothschild and David Cavicke and many other committee staff and personal staffs that worked tirelessly to try to come up with a solution to the problem that we had. The FTC's own estimates estimate that 20 percent of all spam contains advertising of pornography. That is not counting the spam that we received that has deceptive content and fraudulent content.

Mr. Speaker, we are here today because we think we found the right blueprint. We think those businesses that are reputable can continue, and they can live within the framework, and they can live by the rules, and, hopefully, this will help to chase those that intended not to live by the rules out of the system and off our screen.

I want to praise once again both committees, the Committee on the Judiciary and the Committee on Energy and Commerce, the staffs and the members, and urge support for this bill.

Mr. MARKEY. Mr. Speaker, I yield 1 minute to the gentleman from Michigan (Mr. DINGELL).

Mr. DINGELL. Mr. Speaker, I thank the distinguished gentleman from Massachusetts for yielding me this time.

And I just want the attention of the gentleman from North Carolina (Mr. BURR). I want to pay tribute to him for the very honorable and splendid way in which he has worked with us to bring this matter to conclusion. Without his labors and those of the gentleman from Louisiana (Mr. TAUZIN), chairman of the Committee on Energy and Commerce, we would not be here talking about this matter. And I thank both gentlemen, and I thank also Jonathan Cordone.

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

And I yield myself that time in order to conclude the debate for the Democratic side, and I would like to point out how important this bill is.

Congress many times acts in areas where most Americans say ''How does that affect me?'' This legislation will now affect every computer in the United States in the way in which it affects the user of that computer, and it will affect every user of a cell phone in the way that that cell phone is used or, to be more explicit, the way in which marketers abuse those phones and computers. So this is a great day, and the gentlewoman from New Mexico (Mrs. WILSON) and the gentleman from Texas (Mr. GREEN) did a great job in bringing it to our attention, and the gentleman from Louisiana (Chairman TAUZIN) and the gentleman from Michigan (Mr. DINGELL), in putting together an environment in which we can negotiate this bill out in a bipartisan fashion.

The litany of saints is long, and I mentioned many of them earlier. I would like to add the gentleman from Michigan (Mr. CONYERS), the ranking member of the Committee on the Judiciary. He and his staff contributed significantly to this legislation. To the gentleman from North Carolina (Mr. BURR), I want to congratulate him and his excellent work on this legislation. The consumers will be the beneficiary. I want to mention the gentlewoman from Silicon Valley, California (Ms. ESHOO) for all of her wonderful work on this legislation. The gentleman from New Jersey (Mr. HOLT), who had a deep interest in the wireless aspects of this legislation, I think he deserves credit for what is happening here today. The gentleman from Louisiana (Chairman TAUZIN), David Cavicke did a great job, and I think I should mention Howard Waltzman as well on the chairman's staff for his excellent work; on the gentleman from Michigan's (Mr. UPTON) staff, Will Nordwind, who has been working on this for several months, as well with the chairman. And I would conclude by thanking my own staff, Colin Crowell, who throughout this year had a plan to include a wireless cell phone antispam provision in the legislation, and today we see the fruition of all of his excellent work, and I think that consumers will be the beneficiary for the generation ahead. So I conclude by complimenting the chairman.

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

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

In concluding, let me, first of all, again signal the extraordinary cooperation that exists between the Committee on the Judiciary and the Committee on Energy and Commerce as we conclude this debate and also to echo

thanks and congratulations the gentleman from Massachusetts (Mr. MARKEY) has extended to so many of our staff and the members who have worked on this.

This is a consumer protection piece of legislation. Very often when we come to these consumer protection-type pieces of legislation, we will see this extraordinary bipartisanism and this ability of committees that often have conflicting versions of bills work them out as we have today. This is a huge consumer protection piece of legislation.

And I want to say something that I hope all the Federal judges of America will pay attention to tonight very carefully. This legislation specifically authorizes the Federal Trade Commission to create a Do Not Spam Registry. No one should have any doubt about it. It is as clear, it is explicit. When this legislation passes the Congress and is signed into law, the FTC will explicitly have that authority, and a Do Not Spam Registry will be available in our future.

I want to particularly thank the gentlewoman from New Mexico (Mrs. WILSON), the gentleman from North Carolina (Mr. BURR), the gentleman from Texas (Mr. GREEN). Of all the members who have put in yeoman hours in time and effort, these three members of our committee have done an extraordinary job. And I particularly, again, want to single out the gentleman from Michigan (Mr. DINGELL) and the gentleman from Massachusetts (Mr. MARKEY) with, again, the bipartisan spirit in which we worked together when we can and do work together so well. This is a good example where America will benefit because we are legislating as Americans and not as party members as we often do on this floor. And I want to thank the gentleman, again, for that respect and that spirit of cooperation that he always extended to the chair and to the management of our committee affairs.

Again, Mr. Speaker, this is an important day for consumers in America. Very soon a Do Not Spam Registry will be available to them. They will be able to call and have their names put on that registry. People who refuse to pay attention to that registry and spam them regardless will be subject to severe penalties. People who fraudulently continue to spam without identifying who they are, when they are caught, will pay a big price. Attorney Generals and the FTC are given enforcement authority under this compromise, and I think we are affording Americans with a brand new tool to protect themselves against the entry of material they do not want in their homes whether it comes in through the computer, through the telephone, or via the mail. This is a great step forward, and I urge adoption of this bill.

Ms. ESHOO. Mr. Speaker, I support the conference report and thank the chairman and ranking member for their work in this effort. I'm particularly pleased that the serious shortcomings of the bill which I've raised at our committee have been addressed.

The problem of spam has become so prolific that by the end of this year half of all e-mails sent will be spam.

The numbers are staggering: 76 billion spam e-mails will be delivered in 2003; 50 percent of kids have received e-mails containing pornographic or sexually explicit information; and U.S. businesses will spend close to $10 billion to fight spam this year.

And marketers have brazenly claimed that the success of the ''Do Not Call List'' will drive them to spam even more, costing U.S. businesses and consumers even more.

I sponsored legislation to curb the epidemic of spam and crafted the original proposal to empower the FTC to replicate the enormous success of the ''Do Not Call List'' by creating a ''Cannot Spam List.'' I'm very pleased that a version of this measure has been included in the conference report, which I hope the FTC will implement soon after enactment of this bill.

I'm also pleased that the conference report strengthens some of the weaknesses of the Senate bill, especially by giving greater authority to states to enforce these laws.

This legislation does not end the entire problem of spam. I'll continue to fight for measures to prevent unauthorized and unwanted e-mail from flooding our inboxes and our computer networks. But this is a good start and important and I urge my colleagues to support it.

Mr. HOLT. Mr. Speaker, I rise in support of the anti-spam legislation before us, S. 877.

I am glad to see that Congress has finally taken definitive action on this issue. During my first term in Congress, I worked with my colleagues GENE GREEN and HEATHER WILSON, who have shown great leadership here, on anti-spam legislation that passed the House in 2000.

Today we have before us legislation to help address the mounting problem of unsolicited e-mail advertising, or spam, which has become perhaps the biggest nuisance of the Information Age and a drain on our economy.

I am particularly pleased that this legislation includes a provision intended to combat a related problem that has gotten out of hand in some countries and is growing ever worse in the United States—spam sent to wireless phones through text messaging.

As many of my colleagues know, I introduced legislation intended to draw attention to this issue—the Wireless Telephone Spam Protection Act. This bill was intended to launch what could be called a preemptive attack against wireless spam before it spins out of control in the United States. Congress too often acts once the fire is already lit. This time, we can put the fire out before it gets out of control.

The Japanese are already fighting off a tsunami of cell phone spam. On one recent day, the 38 million customers of the largest Japanese wireless company, NTT DoCoMo, received 150 million pieces of spam. Even today, after passage of anti-spam laws in Japan, DoCoMo's subscribers still receive up to 30 million wireless spam messages each day. This has caused millions of Japanese wireless phone users to simply stop using their cell phone service.

So far, U.S. cell phone users have been largely sparred this torrent of annoying, unwanted messages. I presume this is because a lot of telemarketers don't believe there are enough text-capable cell phones in the country. Most new phones are text capably, however, and the number of text messages sent in this country has been rising rapidly, quadrupling from 250 million messages sent in December 2001 to 1 billion messages sent in December 2002. Seventeen percent of cellular customers, about 23 million people, currently use text messaging—including 45 percent of cell phone users in the lucrative 18-to-25-year-old category. Direct marketers are already beginning to salivate.

That is why I am glad to see that this legislation includes a provision instructing the Federal Trade Commission to promulgate an opt-in rule for wireless spam. I would like to thank Mr. MARKEY for his work on this issue, and I would like to salute all of those who put this legislation together. It is by no means cure-all, but it is certainly a good first step towards ending the onslaught of e-mail spam and the tsunami of wireless spam. I urge my colleagues to support this bill.

Mr. STUPAK. Mr. Speaker, for several Congresses now we have had hearings and mark-ups in the Energy and Commerce Committee on the nuisance of spam, but no progress has been made. I am pleased that a bill has finally come forward that looks headed for passage into law.

Through all this time, the flood of unsolicited e-mails has only grown, ISPs have become more and more overwhelmed, and consumers more aggravated.

I know that this bill will come as a welcome relief to many who are fed up with opening their e-mail accounts only have to unwanted commercial e-mails clogging up their Internet mailboxes.

Consumers have to waste time deleting numerous spam emails, and even worse, if they do unsuspectingly open one of these e-mails, they are often faced with offensive pornography.

I commend the members of the Judiciary and Energy and Commerce Committees for their ongoing efforts to address this problem, and I am pleased to support this bill.

I do believe that the bill falls short in one area, in that it does not provide a private right of action for individual consumers to seek their own remedies. But this legislation does much to strengthen enforcement, provide protection from harmful pornographic e-mails, and to set up a Do Not Spam Registry, which I can only guess will be as popular as the Do Not Call Registry.

I hope that this bill will put control over Internet mailboxes back in the hands of consumers, so that they can choose to receive e-mails that they want, and to get rid of e-mails that they do not.

And to those businesses and individuals that violate these provisions and send out spam illegally, this bill will provide the Federal Trade Commission, state attorney generals, and Internet Service Providers with the tools to crack down on these violators.

As the House attempts to wrap up its work for the session, there have been several bills coming to the floor that I do not believe have merit. This bill, however, shows that when we want to, Congress can truly act for the public benefit.

Mr. STEARNS. Mr. Speaker, I am pleased to join Chairman TAUZIN, Chairman SENSENBRENNER, Messrs. DINGELL and BURR, and

Mrs. WILSON in supporting a good consumer protection bill that I hope will help us, as consumers, fight the scourge that is spam.

No one disputes the great utility of e-mail, the fact that it has brought great efficiency and productivity gains, not only to our professional lives but also our personal lives. Nonetheless, our daily routine of scouring through and reviewing our e-mail also tells us that e-mail as a critical communications medium is under assault from unwanted e-mail—most peddling goods or services ranging from the real to the absurd. I do not have a problem with e-marketing per se, after all, our consumer based economy is highly dependent on marketing. However, e-mail communications make accountability more difficult. Therefore, unscrupulous people use it to advance fraudulent and deceptive acts and even good commercial actors are tempted to take advantage of this lack of accountability.

Effective and narrowly tailored legislation, like the one before us today, can help bring greater accountability to e-mail solicitations. That greater accountability is achieved by making sure that fraud and deception is prosecuted and subjected to severe penalties.

Legislation is only part of the solution, and in my view a smaller part. Rather, technology, consumer education, and industry cooperation, in my view, are the key tools in combating spam and injecting real and effective accountability. Finally, combating spam requires international cooperation. I think my bi-partisan bill, H.R. 3143, which strengthens the Federal Trade Commission's ability to address the growing problem of transnational fraud, will go a long way in fighting spam that is not home grown.

Mr. TAUZIN. 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 Louisiana (Mr. TAUZIN) that the House suspend the rules and pass the Senate bill, S. 877, 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. TAUZIN. 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.

CONFERENCE REPORT ON H.R. 2622, FAIR AND ACCURATE CREDIT TRANSACTIONS ACT OF 2003

Mr. OXLEY (during consideration of H. Res. 458) submitted the following conference report and statement on the bill (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 for other purposes:

CONFERENCE REPORT (H. REPT. 108–396)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (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 for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

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

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Fair and Accurate Credit Transactions Act of 2003''.

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

Sec. 1. Short title; table of contents.
Sec. 2. Definitions.
Sec. 3. Effective dates.

TITLE I—IDENTITY THEFT PREVENTION AND CREDIT HISTORY RESTORATION

Subtitle A—Identity Theft Prevention

Sec. 111. Amendment to 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. 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.
Sec. 157. Study on the use of technology to combat identity theft.

TITLE II—IMPROVEMENTS IN USE OF AND CONSUMER ACCESS TO CREDIT INFORMATION

Sec. 211. Free consumer reports.
Sec. 212. Disclosure of 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.
Sec. 217. Requirement to disclose communications to a consumer reporting agency.

TITLE III—ENHANCING THE ACCURACY OF CONSUMER REPORT INFORMATION

Sec. 311. Risk-based pricing notice.
Sec. 312. Procedures to enhance the accuracy and integrity of information furnished to consumer reporting agencies.
Sec. 313. FTC and consumer reporting agency action concerning complaints.
Sec. 314. Improved disclosure of the results of reinvestigation.
Sec. 315. Reconciling addresses.
Sec. 316. Notice of dispute through reseller.
Sec. 317. Reasonable reinvestigation required.
Sec. 318. FTC study of issues relating to the Fair Credit Reporting Act.
Sec. 319. FTC study of the accuracy of consumer reports.

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. Studies by the Comptroller General.
Sec. 518. The national public service multimedia campaign to enhance the state of financial literacy.
Sec. 519. Authorization of appropriations.

TITLE VI—PROTECTING EMPLOYEE MISCONDUCT INVESTIGATIONS

Sec. 611. Certain employee investigation communications excluded from definition of consumer report.

TITLE VII—RELATION TO STATE LAWS

Sec. 711. Relation to State laws.

TITLE VIII—MISCELLANEOUS

Sec. 811. Clerical amendments.

SEC. 2. DEFINITIONS.

As used in this Act—

(1) the term ''Board'' means the Board of Governors of the Federal Reserve System;

(2) the term ''Commission'', other than as used in title V, means the Federal Trade Commission;

(3) 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

(4) the term ''affiliates'' means persons that are related by common ownership or affiliated by corporate control.

SEC. 3. EFFECTIVE DATES.

Except as otherwise specifically provided in this Act and the amendments made by this Act—

(1) before the end of the 2-month period beginning on the date of enactment of this Act, the Board and the Commission shall jointly prescribe regulations in final form establishing effective dates for each provision of this Act; and

(2) the regulations prescribed under paragraph (1) shall establish effective dates that are as early as possible, while allowing a reasonable time for the implementation of the provisions of this Act, but in no case shall any such effective date be later than 10 months after the date of issuance of such regulations in final form.

TITLE I—IDENTITY THEFT PREVENTION AND CREDIT HISTORY RESTORATION

Subtitle A—Identity Theft Prevention

SEC. 111. AMENDMENT TO 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; and

''(B) is presented in a manner that facilitates a clear and conspicuous view of the statement described in subparagraph (A) by any person requesting such consumer report.

''(3) IDENTITY THEFT.—The term 'identity theft' means a fraud committed using the identifying information of another person, subject to such further definition as the Commission may prescribe, by regulation.

''(4) IDENTITY THEFT REPORT.—The term 'identity theft report' has the meaning given that term by rule of the Commission, and means, at a minimum, a report—

''(A) that alleges an identity theft;

''(B) that is a copy of an official, valid report filed by a consumer with an appropriate Federal, State, or local law enforcement agency, including the United States Postal Inspection Service, or such other government agency deemed appropriate by the Commission; and

''(C) 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.

''(5) NEW CREDIT PLAN.—The term 'new credit plan' means a new account under an open end credit plan (as defined in section 103(i) of the Truth in Lending Act) or a new credit transaction not under an open end credit plan.

''(r) CREDIT AND DEBIT RELATED TERMS—

''(1) CARD ISSUER.—The term 'card issuer' means—

''(A) a credit card issuer, in the case of a credit card; and

''(B) a debit card issuer, in the case of a debit card.

''(2) CREDIT CARD.—The term 'credit card' has the same meaning as in section 103 of the Truth in Lending Act.

''(3) 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.

''(4) 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.

''(5) CREDIT AND CREDITOR.—The terms 'credit' and 'creditor' have the same meanings as in section 702 of the Equal Credit Opportunity Act.

''(s) FEDERAL BANKING AGENCY.—The term 'Federal banking agency' has the same meaning as in section 3 of the Federal Deposit Insurance Act.

''(t) 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 a transaction account (as defined in section 19(b) of the Federal Reserve Act) belonging to a consumer.

''(u) 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.

''(v) COMMISSION.—The term 'Commission' means the Federal Trade Commission.

''(w) NATIONWIDE SPECIALTY CONSUMER REPORTING AGENCY.—The term 'nationwide specialty consumer reporting agency' means a consumer reporting agency that compiles and maintains files on consumers on a nationwide basis relating to—

''(1) medical records or payments;

''(2) residential or tenant history;

''(3) check writing history;

''(4) employment history; or

''(5) insurance claims.''.

SEC. 112. FRAUD ALERTS AND ACTIVE DUTY ALERTS.

(a) FRAUD 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 direct request of a consumer, or an individual acting on behalf of or as a personal representative 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, and also provide that alert along with any credit score generated in using that file, for a period of not less than 90 days, beginning on the date of such request, unless the consumer or such representative 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 direct request of a consumer, or an individual acting on behalf of or as a personal representative 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, and also provide that alert along with any credit score generated in using that file, during the 7-year period beginning on the date of such request, unless the consumer or such representative 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 5-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 or such representative 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) 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 direct request of an active duty military consumer, or an individual acting on behalf of or as a personal representative 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, and also provide that alert along with any credit score generated in using that file, during a period of not less than 12 months, or such longer period as the Commission shall determine, by regulation, beginning on the date of the request, unless the active duty military consumer or such representative 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 2-year 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 inform consumers of the availability of initial, extended, and active duty alerts and procedures that allow consumers and active duty military consumers to request initial, extended, or active duty alerts (as applicable) in a simple and easy manner, including by telephone.

''(e) REFERRALS OF 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 (2) 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 Commission and the consumer reporting agencies described in section 603(p) to obtain more detailed information and request alerts under this section.

''(h) LIMITATIONS ON USE OF INFORMATION FOR CREDIT EXTENSIONS..—

''(1) REQUIREMENTS FOR INITIAL AND ACTIVE DUTY ALERTS.—

''(A) NOTIFICATION.—Each initial fraud alert and active duty alert under this section shall include information that notifies all prospective users of a consumer report on the consumer to which the alert relates that the consumer does not authorize the establishment of any new credit plan or extension of credit, other than under an open-end credit plan (as defined in section 103(i)), in the name of the consumer, or issuance of an additional card on an existing credit account requested by a consumer, or any increase in credit limit on an existing credit account requested by a consumer, except in accordance with subparagraph (B).

''(B) LIMITATION ON USERS.—

''(i) IN GENERAL.—No prospective user of a consumer report that includes an initial fraud alert or an active duty alert in accordance with this section may establish a new credit plan or extension of credit, other than under an open-end credit plan (as defined in section 103(i)), in the name of the consumer, or issue an additional card on an existing credit account requested by a consumer, or grant any increase in credit limit on an existing credit account requested by a consumer, unless the user utilizes reasonable policies and procedures to form a reasonable belief that the user knows the identity of the person making the request.

''(ii) VERIFICATION.—If a consumer requesting the alert has specified a telephone number to be used for identity verification purposes, before authorizing any new credit plan or extension described in clause (i) in the name of such consumer, a user of such consumer report shall contact the consumer using that telephone number or take reasonable steps to verify the consumer's identity and confirm that the application for a new credit plan is not the result of identity theft.

''(2) REQUIREMENTS FOR EXTENDED ALERTS.—

''(A) NOTIFICATION.—Each extended alert under this section shall include information that provides all prospective users of a consumer report relating to a consumer with—

''(i) notification that the consumer does not authorize the establishment of any new credit plan or extension of credit described in clause (i), other than under an open-end credit plan (as defined in section 103(i)), in the name of the consumer, or issuance of an additional card on an existing credit account requested by a consumer, or any increase in credit limit on an existing credit account requested by a consumer, except in accordance with subparagraph (B); and

''(ii) a telephone number or other reasonable contact method designated by the consumer.

''(B) LIMITATION ON USERS.—No prospective user of a consumer report or of a credit score generated using the information in the file of a consumer that includes an extended fraud alert in accordance with this section may establish a new credit plan or extension of credit, other than under an open-end credit plan (as defined in section 103(i)), in the name of the consumer, or issue an additional card on an existing credit account requested by a consumer, or any increase in credit limit on an existing credit account requested by a consumer, unless the user contacts the consumer in person or using the contact method described in subparagraph (A)(ii) to confirm that the application for a new credit plan or increase in credit limit, or request for an additional card is not the result of identity theft.''.

(b) RULEMAKING.—The Commission shall prescribe regulations to define what constitutes appropriate proof of identity for purposes of sections 605A, 605B, and 609(a)(1) of the Fair Credit Reporting Act, as amended by this Act.

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 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 number or the expiration date upon any receipt provided to the cardholder at the point of the sale or transaction.

''(2) LIMITATION.—This subsection shall apply only to receipts that are electronically printed, and shall 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.

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 Commission shall jointly, with respect to the entities that are subject to their respective enforcement authority under section 621—

''(A) establish and maintain guidelines for use by each financial institution and each creditor 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 creditor to establish reasonable policies and procedures for implementing the guidelines established pursuant to subparagraph (A), to identify possible risks to account holders or customers or to the safety and soundness of the institution or customers; and

''(C) prescribe regulations applicable to card issuers to ensure that, if a card issuer receives notification of a change of address for an existing account, and within a short period of time (during at least the first 30 days after such notification is received) receives a request for an additional or replacement card for the same account, the card issuer may not issue the additional or replacement card, unless the card issuer, in accordance with reasonable policies and procedures—

''(i) 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;

''(ii) notifies the cardholder of the request by such other means of communication as the cardholder and the card issuer previously agreed to; or

''(iii) 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 subparagraph (B).

''(2) CRITERIA.—

''(A) IN GENERAL.—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.

''(B) INACTIVE ACCOUNTS.—In developing the guidelines required by paragraph (1)(A), the agencies described in paragraph (1) shall consider including reasonable guidelines providing that when a transaction occurs with respect to a credit or deposit account that has been inactive for more than 2 years, the creditor or financial institution shall follow reasonable policies and procedures that provide for notice to be given to a consumer in a manner reasonably designed to reduce the likelihood of identity theft with respect to such account.

''(3) CONSISTENCY WITH VERIFICATION REQUIREMENTS.—Guidelines established pursuant to paragraph (1) shall not be inconsistent with the policies and procedures required under section 5318(l) of title 31, United States Code.''.

SEC. 115. 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.—

(1) SUMMARY.—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 Commission, in consultation with the Federal banking agencies and the National Credit Union Administration, shall prepare a model 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, an electronic fund transfer, or an account or transaction at or with a financial institution or other creditor.

''(2) SUMMARY OF RIGHTS AND CONTACT INFORMATION.—Beginning 60 days after the date on which the model summary of rights is prescribed in final form by the Commission pursuant to paragraph (1), 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 or other creditor, the consumer reporting agency shall, in addition to any other action that the agency may take, provide the consumer with a summary of rights that contains all of the information required by the 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 30 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 government 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, otherwise has a high degree of confidence that it knows 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 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;

''(B) be mailed to an address specified by the business entity, if any; and

''(C) if asked by the business entity, include relevant information about any transaction alleged to be a result of identity theft to facilitate compliance with this section including—

''(i) if known by the victim (or if readily obtainable by the victim), the date of the application or transaction; and

''(ii) if known by the victim (or if readily obtainable by the victim), any other identifying information such as an account or transaction number.

''(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) after reviewing the information provided pursuant to paragraph (2), the business entity does not have a high degree of confidence in knowing the true identity of the individual requesting the information;

''(C) 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

''(D) 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) LIMITATION ON CIVIL LIABILITY.—No business entity may be held civilly liable under any provision of Federal, State, or other law for disclosure, made in good faith pursuant to this subsection.

''(8) 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.

''(9) RULE OF CONSTRUCTION.—

''(A) IN GENERAL.—No provision of subtitle A of title V of Public Law 106–102, 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.

''(10) 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 reasonably available.

''(11) 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, an identity theft or a similar crime.

''(12) EFFECTIVE DATE.—This subsection shall become effective 180 days after the date of enactment of this subsection.

''(13) EFFECTIVENESS STUDY.—Not later than 18 months after the date of enactment of this subsection, the Comptroller General of the United States shall submit a report to Congress assessing the effectiveness of this provision.''.

(2) RELATION TO STATE LAWS.—Section 625(b)(1) of the Fair Credit Reporting Act (15 U.S.C. 1681t(b)(1), as so redesignated) is amended by adding at the end the following new subparagraph:

''(G) section 609(e), relating to information available to victims under section 609(e);''.

(b) PUBLIC CAMPAIGN TO PREVENT IDENTITY THEFT.—Not later than 2 years after the date of enactment of this Act, the Commission shall establish and implement a media and distribution campaign to teach the public how to prevent identity theft. Such campaign shall include existing 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.

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 4 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;

''(3) the identification of such information by the consumer; and

''(4) a statement by the consumer that the information is not information relating to any transaction 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 by the consumer 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 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 4 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 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 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.—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) DUTIES OF FURNISHERS UPON NOTICE OF IDENTITY THEFT-RELATED INFORMATION.—

''(A) REASONABLE PROCEDURES.—A person that furnishes information to any consumer reporting agency shall 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.

''(B) INFORMATION ALLEGED TO RESULT FROM IDENTITY THEFT.—If a consumer submits an identity theft report to a person who furnishes information to a consumer reporting agency at the address specified by that person for receiving such reports stating that information maintained by such person that purports to relate to the consumer resulted from identity theft, the person may not furnish such information that purports to relate to the consumer to any consumer reporting agency, unless the person subsequently knows or is informed by the consumer that the information is correct.''.

(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:

''(f) 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 the pledging of a portfolio of debt as collateral in connection with a borrowing; 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:

''(g) 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.''.

SEC. 157. STUDY ON THE USE OF TECHNOLOGY TO COMBAT IDENTITY THEFT.

(a) STUDY REQUIRED.—The Secretary of the Treasury shall conduct a study of the use of biometrics and other similar technologies to reduce the incidence and costs to society of identity theft by providing convincing evidence of who actually performed a given financial transaction.

(b) CONSULTATION.—The Secretary of the Treasury shall consult with Federal banking agencies, the Commission, and representatives of financial institutions, consumer reporting agencies, Federal, State, and local government agencies that issue official forms or means of identification, State prosecutors, law enforcement agencies, the biometric industry, and the general public in formulating and conducting the study required by subsection (a).

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of the Treasury for fiscal year 2004, such sums as may be necessary to carry out the provisions of this section.

(d) REPORT REQUIRED.—Before the end of the 180-day period beginning on the date of enactment of this Act, the Secretary shall submit a report to Congress containing the findings and conclusions of the study required under subsection (a), together with such recommendations for legislative or administrative actions as may be appropriate.

TITLE II—IMPROVEMENTS IN USE OF AND CONSUMER ACCESS TO CREDIT INFORMATION

SEC. 211. FREE CONSUMER 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) NATIONWIDE CONSUMER REPORTING AGENCIES.—

''(A) IN GENERAL.—All consumer reporting agencies described in subsections (p) and (w) of section 603 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.

''(B) CENTRALIZED SOURCE.—Subparagraph (A) shall apply with respect to a consumer reporting agency described in section 603(p) only if the request from the consumer is made using the centralized source established for such purpose in accordance with section 211(c) of the Fair and Accurate Credit Transactions Act of 2003.

''(C) NATIONWIDE SPECIALTY CONSUMER REPORTING AGENCY.—

''(i) IN GENERAL.—The Commission shall prescribe regulations applicable to each consumer reporting agency described in section 603(w) to require the establishment of a streamlined process for consumers to request consumer reports under subparagraph (A), which shall include, at a minimum, the establishment by each such agency of a toll-free telephone number for such requests.

''(ii) CONSIDERATIONS.—In prescribing regulations under clause (i), the Commission shall consider—

''(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; and

''(III) the ease by which consumers should be able to contact consumer reporting agencies with respect to access to such consumer reports.

''(iii) DATE OF ISSUANCE.—The Commission shall issue the regulations required by this subparagraph in final form not later than 6 months after the date of enactment of the Fair and Accurate Credit Transactions Act of 2003.

''(iv) CONSIDERATION OF ABILITY TO COMPLY.—The regulations of the Commission under this subparagraph shall establish an effective date by which each nationwide specialty consumer reporting agency (as defined in section 603(w)) shall be required to comply with subsection (a), which effective date—

''(I) shall be established after consideration of the ability of each nationwide specialty consumer reporting agency to comply with subsection (a); and

''(II) shall be not later than 6 months after the date on which such regulations are issued in final form (or such additional period not to exceed 3 months, as the Commission determines appropriate).

''(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.

''(4) EXCEPTION FOR FIRST 12 MONTHS OF OPERATION.—This subsection shall not apply to a consumer reporting agency that has not been furnishing consumer reports to third parties on a continuing basis during the 12-month period preceding a request under paragraph (1), with respect to consumers residing nationwide.'';

(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)(2) 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) CIRCUMVENTION PROHIBITED.—The Fair Credit Reporting Act (15 U.S.C. 1681 et seq.) is amended by adding after section 628, as added by section 216 of this Act, the following new section:

''§ 629. Corporate and technological circumvention prohibited

''The Commission shall prescribe regulations, to become effective not later than 90 days after the date of enactment of this section, to prevent a consumer reporting agency from circumventing or evading treatment as a consumer reporting agency described in section 603(p) for purposes of this title, including—

''(1) by means of a corporate reorganization or restructuring, including a merger, acquisition, dissolution, divestiture, or asset sale of a consumer reporting agency; or

''(2) by maintaining or merging public record and credit account information in a manner that is substantially equivalent to that described in paragraphs (1) and (2) of section 603(p), in the manner described in section 603(p).''.

(c) 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 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;

''(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 Commission prescribed under section 211(c) of the Fair and Accurate Credit Transactions Act of 2003; and

''(vi) the method by which a consumer can contact, and obtain a consumer report from, a consumer reporting agency described in section 603(w), as provided in the regulations of the Commission prescribed under section 612(a)(1)(C).

''(C) AVAILABILITY OF SUMMARY OF RIGHTS.—The 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 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.''.

(d) RULEMAKING REQUIRED.—

(1) IN GENERAL.—The 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 such consumer reporting agency, 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 section); and

(B) a standardized form for a consumer to make such a request for a consumer report by mail or through an Internet website.

(2) CONSIDERATIONS.—In prescribing regulations under paragraph (1), the Commission shall consider—

(A) the significant demands that may be placed on consumer reporting agencies in providing such consumer reports;

(B) 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; and

(C) the ease by which consumers should be able to contact consumer reporting agencies with respect to access to such consumer reports.

(3) CENTRALIZED SOURCE.—The centralized source for a request for a consumer report from a consumer required by this subsection shall provide for—

(A) a toll-free telephone number for such purpose;

(B) use of an Internet website for such purpose; and

(C) a process for requests by mail for such purpose.

(4) TRANSITION.—The regulations of the Commission under paragraph (1) shall provide for an orderly transition by consumer reporting agencies described in section 603(p) of the Fair Credit Reporting Act to the centralized source for consumer report distribution required by section 612(a)(1)(B), as amended by this section, in a manner that—

(A) does not temporarily overwhelm such consumer reporting agencies with requests for disclosures of consumer reports beyond their capacity to deliver; and

(B) does not deny creditors, other users, and consumers access to consumer reports on a time-sensitive basis for specific purposes, such as home purchases or suspicions of identity theft, during the transition period.

(5) 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.

(6) SCOPE OF REGULATIONS.—

(A) IN GENERAL.—The Commission shall, by rule, determine whether to require a consumer reporting agency that compiles and maintains files on consumers on substantially a nationwide basis, other than one described in section 603(p) of the Fair Credit Reporting Act, to make free consumer reports available upon consumer request, and if so, whether such consumer reporting agencies should make such free reports available through the centralized source described in paragraph (1)(A).

(B) CONSIDERATIONS.—Before making any determination under subparagraph (A), the Commission shall consider—

(i) the number of requests for consumer reports to, and the number of consumer reports generated by, the consumer reporting agency, in comparison with consumer reporting agencies described in subsections (p) and (w) of section 603 of the Fair Credit Reporting Act;

(ii) the overall scope of the operations of the consumer reporting agency;

(iii) the needs of consumers for access to consumer reports provided by consumer reporting agencies free of charge;

(iv) the costs of providing access to consumer reports by consumer reporting agencies free of charge; and

(v) the effects on the ongoing competitive viability of such consumer reporting agencies if such free access is required.

SEC. 212. DISCLOSURE OF CREDIT SCORES.

(a) STATEMENT ON AVAILABILITY OF CREDIT SCORES.—Section 609(a) of the Fair Credit Reporting Act (15 U.S.C. 1681g(a)) is amended by adding at the end the following new paragraph:

''(6) If the consumer requests the credit file and not the credit score, a statement that the consumer may request and obtain a credit score.''.

(b) DISCLOSURE OF CREDIT SCORES.—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) DISCLOSURE OF CREDIT SCORES.—

''(1) IN GENERAL.—Upon the request of a consumer for a credit score, a consumer reporting agency shall supply to the consumer a statement indicating that the information and credit scoring model may be different than the credit score that may be used by the lender, and a notice which shall include—

''(A) the current credit score of the consumer or the most recent credit score of the consumer that was previously calculated by the credit reporting agency for a purpose related to the extension of credit;

''(B) the range of possible credit scores under the model used;

''(C) all of the key factors that adversely affected the credit score of the consumer in the model used, the total number of which shall not exceed 4, subject to paragraph (9);

''(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 credit file upon which the credit score was created.

''(2) DEFINITIONS.—For purposes of this subsection, the following definitions shall apply:

''(A) CREDIT SCORE.—The term 'credit score'—

''(i) means a numerical value or a categorization derived from a statistical tool or modeling system used by a person who makes or arranges a loan to predict the likelihood of certain credit behaviors, including default (and the numerical value or the categorization derived from such analysis may also be referred to as a 'risk predictor' or 'risk score'); and

''(ii) does not include—

''(I) any mortgage score or rating of an automated underwriting system that considers one 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) any other elements of the underwriting process or underwriting decision.

''(B) KEY FACTORS.—The term 'key factors' means all relevant elements or reasons adversely affecting the credit score for the particular individual, listed in the order of their importance based on their effect on the credit score.

''(3) TIMEFRAME AND MANNER OF DISCLOSURE.—The information required by this subsection shall be provided in the same timeframe and manner as the information described in subsection (a).

''(4) APPLICABILITY TO CERTAIN USES.—This subsection shall not be construed so as to compel a consumer reporting agency to develop or disclose a score if the agency does not—

''(A) distribute scores that are used in connection with residential real property loans; or

''(B) develop scores that assist credit providers in understanding the general credit behavior of a consumer and predicting the future credit behavior of the consumer.

''(5) APPLICABILITY TO CREDIT SCORES DEVELOPED BY ANOTHER PERSON.—

''(A) IN GENERAL.—This subsection shall not be construed to require a consumer reporting agency that distributes credit scores developed by another person or entity to provide a further explanation of them, or to process a dispute arising pursuant to section 611, except that the consumer reporting agency shall provide the consumer with the name and address and website for contacting the person or entity who developed the score or developed the methodology of the score.

''(B) EXCEPTION.—This paragraph shall not apply to a consumer reporting agency that develops or modifies scores that are developed by another person or entity.

''(6) MAINTENANCE OF CREDIT SCORES NOT REQUIRED.—This subsection shall not be construed to require a consumer reporting agency to maintain credit scores in its files.

''(7) COMPLIANCE IN CERTAIN CASES.—In complying with this subsection, a consumer reporting agency shall—

''(A) supply the consumer with a credit score that is derived from a credit scoring model that is widely distributed to users by that consumer reporting agency in connection with residential real property loans or with a credit score that assists the consumer in understanding the credit scoring assessment of the credit behavior of the consumer and predictions about the future credit behavior of the consumer; and

''(B) a statement indicating that the information and credit scoring model may be different than that used by the lender.

''(8) FAIR AND REASONABLE FEE.—A consumer reporting agency may charge a fair and reasonable fee, as determined by the Commission, for providing the information required under this subsection.

''(9) USE OF ENQUIRIES AS A KEY FACTOR.—If a key factor that adversely affects the credit score of a consumer consists of the number of enquiries made with respect to a consumer report, that factor shall be included in the disclosure pursuant to paragraph (1)(C) without regard to the numerical limitation in such paragraph.''.

(c) DISCLOSURE OF CREDIT SCORES BY CERTAIN MORTGAGE LENDERS.—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:

''(g) DISCLOSURE OF CREDIT SCORES BY CERTAIN MORTGAGE LENDERS.—

''(1) IN GENERAL.—Any person who makes or arranges loans and who uses a consumer credit score, as defined in subsection (f), in connection with an application initiated or sought by a consumer for a closed end loan or the establishment of an open end loan for a consumer purpose that is secured by 1 to 4 units of residential real property (hereafter in this subsection referred to as the 'lender') shall provide the following to the consumer as soon as reasonably practicable:

''(A) INFORMATION REQUIRED UNDER SUBSECTION (f).—

''(i) IN GENERAL.—A copy of the information identified in subsection (f) that was obtained from a consumer reporting agency or was developed and used by the user of the information.

''(ii) NOTICE UNDER SUBPARAGRAPH (D).—In addition to the information provided to it by a third party that provided the credit score or scores, a lender is only required to provide the notice contained in subparagraph (D).

''(B) DISCLOSURES IN CASE OF AUTOMATED UNDERWRITING SYSTEM.—

''(i) IN GENERAL.—If a person that is subject to this subsection uses an automated underwriting system to underwrite a loan, that person may satisfy the obligation to provide a credit score by disclosing a credit score and associated key factors supplied by a consumer reporting agency.

''(ii) NUMERICAL CREDIT SCORE.—However, if a numerical credit score is generated by an automated underwriting system used by an enterprise, and that score is disclosed to the person, the score shall be disclosed to the consumer consistent with subparagraph (C).

''(iii) ENTERPRISE DEFINED.—For purposes of this subparagraph, the term 'enterprise' has the same meaning as in paragraph (6) of section 1303 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992.

''(C) DISCLOSURES OF CREDIT SCORES NOT OBTAINED FROM A CONSUMER REPORTING AGENCY.—A person that is subject to the provisions of this subsection and that uses a credit score, other than a credit score provided by a consumer reporting agency, may satisfy the obligation to provide a credit score by disclosing a credit score and associated key factors supplied by a consumer reporting agency.

''(D) NOTICE TO HOME LOAN APPLICANTS.—A copy of the following notice, which shall include the name, address, and telephone number of each consumer reporting agency providing a credit score that was used:

''''NOTICE TO THE HOME LOAN APPLICANT

''''In connection with your application for a home loan, the lender must disclose to you the score that a consumer reporting agency distributed to users and the lender used in connection with your home loan, and the key factors affecting your credit scores.

''''The credit score is a computer generated summary calculated at the time of the request and based on information that a consumer reporting agency or lender has on file. The scores are based on data about your credit history and payment patterns. Credit scores are important because they are used to assist the lender in determining whether you will obtain a loan. They may also be used to determine what interest rate you may be offered on the mortgage. Credit scores can change over time, depending on your conduct, how your credit history and payment patterns change, and how credit scoring technologies change.

''''Because the score is based on information in your credit history, it is very important that you review the credit-related information that is being furnished to make sure it is accurate. Credit records may vary from one company to another.

''''If you have questions about your credit score or the credit information that is furnished to you, contact the consumer reporting agency at the address and telephone number provided with this notice, or contact the lender, if the lender developed or generated the credit score. The consumer reporting agency plays no part in the decision to take any action on the loan application and is unable to provide you with specific reasons for the decision on a loan application.

''''If you have questions concerning the terms of the loan, contact the lender.'.

''(E) ACTIONS NOT REQUIRED UNDER THIS SUBSECTION.—This subsection shall not require any person to—

''(i) explain the information provided pursuant to subsection (f);

''(ii) disclose any information other than a credit score or key factors, as defined in subsection (f);

''(iii) disclose any credit score or related information obtained by the user after a loan has closed;

''(iv) provide more than 1 disclosure per loan transaction; or

''(v) provide the disclosure required by this subsection when another person has made the disclosure to the consumer for that loan transaction.

''(F) NO OBLIGATION FOR CONTENT.—

''(i) IN GENERAL.—The obligation of any person pursuant to this subsection shall be limited solely to providing a copy of the information that was received from the consumer reporting agency.

''(ii) LIMIT ON LIABILITY.—No person has liability under this subsection for the content of that information or for the omission of any information within the report provided by the consumer reporting agency.

''(G) PERSON DEFINED AS EXCLUDING ENTERPRISE.—As used in this subsection, the term 'person' does not include an enterprise (as defined in paragraph (6) of section 1303 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992).

''(2) PROHIBITION ON DISCLOSURE CLAUSES NULL AND VOID.—

''(A) IN GENERAL.—Any provision in a contract that prohibits the disclosure of a credit score by a person who makes or arranges loans or a consumer reporting agency is void.

''(B) NO LIABILITY FOR DISCLOSURE UNDER THIS SUBSECTION.—A lender shall not have liability under any contractual provision for disclosure of a credit score pursuant to this subsection.''.

(d) INCLUSION OF KEY FACTOR IN CREDIT SCORE INFORMATION IN CONSUMER REPORT.—Section 605(d) of the Fair Credit Reporting Act (15 U.S.C. 1681c(d)) is amended—

(1) by striking ''DISCLOSED.—Any consumer reporting agency'' and inserting ''DISCLOSED.—

''(1) TITLE 11 INFORMATION.—Any consumer reporting agency''; and

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

''(2) KEY FACTOR IN CREDIT SCORE INFORMATION.—Any consumer reporting agency that furnishes a consumer report that contains any credit score or any other risk score or predictor on any consumer shall include in the report a clear and conspicuous statement that a key factor (as defined in section 609(f)(2)(B)) that adversely affected such score or predictor was the number of enquiries, if such a predictor was in fact a key factor that adversely affected such score. This paragraph shall 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, but only to the extent that such company is engaged in such activities.''.

(e) TECHNICAL AND CONFORMING AMENDMENTS.—Section 625(b) of the Fair Credit Reporting Act (15 U.S.C. 1681t(b)), as so designated by section 214 of this Act, is amended—

(1) by striking ''or'' at the end of paragraph (2); and

(2) by striking paragraph (3) and inserting the following:

''(3) with respect to the disclosures required to be made under subsection (c), (d), (e), or (g) of section 609, or subsection (f) of section 609 relating to the disclosure of credit scores for credit granting purposes, except that this paragraph—

''(A) shall not apply with respect to sections 1785.10, 1785.16, and 1785.20.2 of the California Civil Code (as in effect on the date of enactment of the Fair and Accurate Credit Transactions Act of 2003) and section 1785.15 through section 1785.15.2 of such Code (as in effect on such date);

''(B) shall not apply with respect to sections 5–3–106(2) and 212–14.3–104.3 of the Colorado Revised Statutes (as in effect on the date of enactment of the Fair and Accurate Credit Transactions Act of 2003); and

''(C) shall not be construed as limiting, annulling, affecting, or superseding any provision of the laws of any State regulating the use in an insurance activity, or regulating disclosures concerning such use, of a credit-based insurance score of a consumer by any person engaged in the business of insurance;

''(4) with respect to the frequency of any disclosure under section 612(a), except that this paragraph shall not apply—

''(A) with respect to section 12–14.3–105(1)(d) of the Colorado Revised Statutes (as in effect on the date of enactment of the Fair and Accurate Credit Transactions Act of 2003);

''(B) with respect to section 10–1–393(29)(C) of the Georgia Code (as in effect on the date of enactment of the Fair and Accurate Credit Transactions Act of 2003);

''(C) with respect to section 1316.2 of title 10 of the Maine Revised Statutes (as in effect on the date of enactment of the Fair and Accurate Credit Transactions Act of 2003);

''(D) with respect to sections 14–1209(a)(1) and 14–1209(b)(1)(i) of the Commercial Law Article of the Code of Maryland (as in effect on the date of enactment of the Fair and Accurate Credit Transactions Act of 2003);

''(E) with respect to section 59(d) and section 59(e) of chapter 93 of the General Laws of Massachusetts (as in effect on the date of enactment of the Fair and Accurate Credit Transactions Act of 2003);

''(F) with respect to section 56:11–37.10(a)(1) of the New Jersey Revised Statutes (as in effect on the date of enactment of the Fair and Accurate Credit Transactions Act of 2003); or

''(G) with respect to section 2480c(a)(1) of title 9 of the Vermont Statutes Annotated (as in effect on the date of enactment of the Fair and Accurate Credit Transactions Act of 2003); or''.

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 to be simple and easy to understand, as established by the 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 ''5-year period''.

(d) PUBLIC AWARENESS CAMPAIGN.—The 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) of the Fair Credit Reporting Act (15 U.S.C. 1681b(e)), and otherwise take measures to increase public awareness regarding the availability of the right to opt out of prescreening.

(e) ANALYSIS OF FURTHER RESTRICTIONS ON OFFERS OF CREDIT OR INSURANCE.—

(1) IN GENERAL.—The Board shall conduct a study of—

(A) the ability of consumers to avoid receiving written offers of credit or insurance in connection with transactions not initiated by the consumer; and

(B) the potential impact that any further restrictions on providing consumers with such written offers of credit or insurance would have on consumers.

(2) REPORT.—The Board shall submit a report summarizing the results of the study required under paragraph (1) to the Congress not later than 12 months after the date of enactment of this Act, together with such recommendations for legislative or administrative action as the Board may determine to be appropriate.

(3) CONTENT OF REPORT.—The report described in paragraph (2) shall address the following issues:

(A) The current statutory or voluntary mechanisms that are available to a consumer to notify lenders and insurance providers that the consumer does not wish to receive written offers of credit or insurance.

(B) The extent to which consumers are currently utilizing existing statutory and voluntary mechanisms to avoid receiving offers of credit or insurance.

(C) The benefits provided to consumers as a result of receiving written offers of credit or insurance.

(D) Whether consumers incur significant costs or are otherwise adversely affected by the receipt of written offers of credit or insurance.

(E) Whether further restricting the ability of lenders and insurers to provide written offers of credit or insurance to consumers would affect—

(i) the cost consumers pay to obtain credit or insurance;

(ii) the availability of credit or insurance;

(iii) consumers' knowledge about new or alternative products and services;

(iv) the ability of lenders or insurers to compete with one another; and

(v) the ability to offer credit or insurance products to consumers who have been traditionally underserved.

SEC. 214. AFFILIATE SHARING.

(a) LIMITATION.—The Fair Credit Reporting Act (15 U.S.C. 1601 et seq.) is amended—

(1) by redesignating sections 624 (15 U.S.C. 1681t), 625 (15 U.S.C. 1681u), and 626 (15 U.S.C. 6181v) as sections 625, 626, and 627, respectively; and

(2) by inserting after section 623 the following:

''§ 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, but for clauses (i), (ii), and (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 solicitations referred to in such paragraph, 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) shall be clear, conspicuous, and concise, and any method provided under paragraph (1)(B) shall be simple. The regulations prescribed to implement this section shall provide specific guidance regarding how to comply with such standards.

''(3) DURATION.—

''(A) IN GENERAL.—The election of a consumer pursuant to paragraph (1)(B) to prohibit the making of solicitations shall be effective for at least 5 years, beginning on the date on which the person receives the election of the consumer, unless the consumer requests that such election be revoked.

''(B) NOTICE UPON EXPIRATION OF EFFECTIVE PERIOD.—At such time as the election of a consumer pursuant to paragraph (1)(B) is no longer effective, a person may not use information that the person receives in the manner described in paragraph (1) to make any solicitation for marketing purposes to the consumer, unless the consumer receives a notice and an opportunity, using a simple method, to extend the opt-out for another period of at least 5 years, pursuant to the procedures described in paragraph (1).

''(4) 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 facilitate communications to an individual for whose benefit the person provides employee benefit or other services pursuant to a contract with an employer related to and arising out of the current employment relationship or status of the individual as a participant or beneficiary of an employee benefit plan;

''(C) 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 be construed as permitting 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);

''(D) using information in response to a communication initiated by the consumer;

''(E) using information in response to solicitations authorized or requested by the consumer; or

''(F) if compliance with this section by that person would prevent compliance by that person with any provision of State insurance laws pertaining to unfair discrimination in any State in which the person is lawfully doing business.

''(5) NO RETROACTIVITY.—This subsection shall not prohibit the use of information to send a solicitation to a consumer if such information was received prior to the date on which persons are required to comply with regulations implementing this subsection.

''(b) NOTICE FOR OTHER PURPOSES PERMISSIBLE.—A notice or other disclosure under this section may be coordinated and consolidated with any other notice required to be issued under any other provision of law by a person that is subject to this section, and 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).

''(c) USER REQUIREMENTS.—Requirements with respect to the use by a person of information received from another person related to it by common ownership or affiliated by corporate control, such as the requirements of this section, constitute requirements with respect to the exchange of information among persons affiliated by common ownership or common corporate control, within the meaning of section 625(b)(2).

''(d) DEFINITIONS.—For purposes of this section, the following definitions shall apply:

''(1) PRE-EXISTING BUSINESS RELATIONSHIP.—The term 'pre-existing business relationship' means a relationship between a person, or a person's licensed agent, and a consumer, based on—

''(A) a financial contract between a person and a consumer which is in force;

''(B) the purchase, rental, or lease by the consumer of that person's goods or services, or a financial transaction (including holding an active account or a policy in force or having another continuing relationship) between the consumer and that person during the 18-month period immediately preceding the date on which the consumer is sent a solicitation covered by this section;

''(C) 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 is sent a solicitation covered by this section; or

''(D) any other pre-existing customer relationship defined in the regulations implementing this section.

''(2) SOLICITATION.—The term 'solicitation' means the marketing of a product or service initiated by a person to a particular consumer that is based on an exchange of information described in subsection (a), and is intended to encourage the consumer to purchase such product or service, but does not include communications that are directed at the general public or determined not to be a solicitation by the regulations prescribed under this section.''.

(b) RULEMAKING REQUIRED.—

(1) IN GENERAL.—The Federal banking agencies, the National Credit Union Administration, and the Commission, with respect to the entities that are subject to their respective enforcement authority under section 621 of the Fair Credit Reporting Act and the Securities and Exchange Commission, and in coordination as described in paragraph (2), shall 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, each agency referred to in paragraph (1) 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;

(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; and

(C) ensure that notices and disclosures may be coordinated and consolidated, as provided in subsection (b) of that section 624.

(4) TIMING.—Regulations required by this subsection shall—

(A) be issued in final form not later than 9 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.

(c) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) DEFINITIONS.—Section 603(d)(2)(A) of the Fair Credit Reporting Act (15 U.S.C. 1681(d)(2)(A)) is amended by inserting ''subject to section 624,'' after ''(A)''.

(2) RELATION TO STATE LAWS.—Section 625(b)(1) of the Fair Credit Reporting Act (15 U.S.C. 1681t(b)(1)), as so designated by subsection (a) of this section, is amended—

(A) by striking ''or'' after the semicolon at the end of subparagraph (E); and

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

''(H) section 624, relating to the exchange and use of information to make a solicitation for marketing purposes; or''.

(3) CROSS REFERENCE CORRECTION.—Section 627(d) of the Fair Credit Reporting Act (15 U.S.C. 1681v(d)), as so designated by subsection (a) of this section, is amended by striking ''section 625'' and inserting ''section 626''.

(4) TABLE OF SECTIONS.—The table of sections for title VI of the Consumer Credit Protection Act (15 U.S.C. 1601 et seq.) is amended by striking the items relating to sections 624 through 626 and inserting the following:

''624. Affiliate sharing.
''625. Relation to State laws.
''626. Disclosures to FBI for counterintelligence purposes.
''627. Disclosures to governmental agencies for counterintelligence purposes.''

(e) STUDIES OF INFORMATION SHARING PRACTICES.—

(1) IN GENERAL.—The Federal banking agencies, the National Credit Union Administration, and the 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 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 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 consumer reports for such decisions.

SEC. 215. STUDY OF EFFECTS OF CREDIT SCORES AND CREDIT-BASED INSURANCE SCORES ON AVAILABILITY AND AFFORDABILITY OF FINANCIAL PRODUCTS.

(a) STUDY REQUIRED.—The Commission and the Board, in consultation with the Office of Fair Housing and Equal Opportunity of the Department of Housing and Urban Development, 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 statistical relationship, utilizing a multivariate analysis that controls for prohibited factors under the Equal Credit Opportunity Act and other known risk factors, between credit scores and credit-based insurance scores and the quantifiable risks and actual losses experienced by businesses;

(3) the extent to which, if any, the use of credit scoring models, credit scores, and credit-based insurance scores impact on the availability and affordability of credit and insurance to the extent information is currently available or is available through proxies, by geography, income, ethnicity, race, color, religion, national origin, age, sex, marital status, and creed, including the extent to which the consideration or lack of consideration of certain factors by credit scoring systems could result in negative or differential treatment of protected classes under the Equal Credit Opportunity Act, and the extent to which, if any, the use of underwriting systems relying on these models could achieve comparable results through the use of factors with less negative impact; 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.

(b) PUBLIC PARTICIPATION.—The Commission shall seek public input about the prescribed methodology and research design of the study described in subsection (a), including from relevant Federal regulators, State insurance regulators, community, civil rights, consumer, and housing groups.

(c) REPORT REQUIRED.—

(1) IN GENERAL.—Before the end of the 24-month period beginning on the date of enactment of this Act, the Commission shall submit a detailed report on the study conducted pursuant to subsection (a) 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 OF REPORT.—The report submitted under paragraph (1) shall include the findings and conclusions of the Commission, recommendations to address specific areas of concerns addressed in the study, and recommendations for legislative or administrative action that the Commission may determine to be necessary to ensure that credit and credit-based insurance scores are used appropriately and fairly to avoid negative effects.

SEC. 216. DISPOSAL OF CONSUMER REPORT INFORMATION AND RECORDS.

(a) IN GENERAL.—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:

"§ 628. Disposal of records

"(a) REGULATIONS.—

"(1) IN GENERAL.—Not later than 1 year after the date of enactment of this section, the Federal banking agencies, the National Credit Union Administration, and the Commission with respect to the entities that are subject to their respective enforcement authority under section 621, and the Securities and Exchange Commission, and in coordination as described in paragraph (2), 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) COORDINATION.—Each agency required to prescribe regulations under paragraph (1) shall—

"(A) consult and coordinate with each other such agency so that, to the extent possible, the regulations prescribed by each such agency are consistent and comparable with the regulations by each such other agency; and

"(B) ensure that such regulations are consistent with the requirements and regulations issued pursuant to Public Law 106–102 and other provisions of Federal law.

"(3) EXEMPTION AUTHORITY.—In issuing regulations under this section, the Federal banking agencies, the National Credit Union Administration, the Commission, and the Securities and Exchange Commission may exempt any person or class of persons from application of those regulations, as such agency deems appropriate to carry out the purpose of this section.

"(b) RULE OF CONSTRUCTION.—Nothing in this section shall be construed—

"(1) to require a person to maintain or destroy any record pertaining to a consumer that is not imposed under other law; or

"(2) to alter or affect any requirement imposed under any other provision of law to maintain or destroy such a record.".

(b) CLERICAL AMENDMENT.—The table of sections for title VI of the Consumer Credit Protection Act (15 U.S.C. 1601 et seq.) is amended by inserting after the item relating to section 627, as added by section 214 of this Act, the following:

"628. Disposal of records.
"629. Corporate and technological circumvention prohibited.".

SEC. 217. REQUIREMENT TO DISCLOSE COMMUNICATIONS TO A CONSUMER REPORTING AGENCY.

(a) IN GENERAL.—Section 623(a) of the Fair Credit Reporting Act (15 U.S.C. 1681s–2(a)) as amended by this Act, is amended by inserting after paragraph (6), the following new paragraph:

"(7) NEGATIVE INFORMATION.—

"(A) NOTICE TO CONSUMER REQUIRED.—

"(i) IN GENERAL.—If any financial institution that extends credit and regularly and in the ordinary course of business furnishes information to a consumer reporting agency described in section 603(p) furnishes negative information to such an agency regarding credit extended to a customer, the financial institution shall provide a notice of such furnishing of negative information, in writing, to the customer.

"(ii) NOTICE EFFECTIVE FOR SUBSEQUENT SUBMISSIONS.—After providing such notice, the financial institution may submit additional negative information to a consumer reporting agency described in section 603(p) with respect to the same transaction, extension of credit, account, or customer without providing additional notice to the customer.

"(B) TIME OF NOTICE.—

"(i) IN GENERAL.—The notice required under subparagraph (A) shall be provided to the customer prior to, or no later than 30 days after, furnishing the negative information to a consumer reporting agency described in section 603(p).

"(ii) COORDINATION WITH NEW ACCOUNT DISCLOSURES.—If the notice is provided to the customer prior to furnishing the negative information to a consumer reporting agency, the notice may not be included in the initial disclosures provided under section 127(a) of the Truth in Lending Act.

"(C) COORDINATION WITH OTHER DISCLOSURES.—The notice required under subparagraph (A)—

"(i) may be included on or with any notice of default, any billing statement, or any other materials provided to the customer; and

"(ii) must be clear and conspicuous.

"(D) MODEL DISCLOSURE.—

"(i) DUTY OF BOARD TO PREPARE.—The Board shall prescribe a brief model disclosure a financial institution may use to comply with subparagraph (A), which shall not exceed 30 words.

"(ii) USE OF MODEL NOT REQUIRED.—No provision of this paragraph shall be construed as requiring a financial institution to use any such model form prescribed by the Board.

"(iii) COMPLIANCE USING MODEL.—A financial institution shall be deemed to be in compliance with subparagraph (A) if the financial institution uses any such model form prescribed by the Board, or the financial institution uses any such model form and rearranges its format.

"(E) USE OF NOTICE WITHOUT SUBMITTING NEGATIVE INFORMATION.—No provision of this paragraph shall be construed as requiring a financial institution that has provided a customer with a notice described in subparagraph (A) to furnish negative information about the customer to a consumer reporting agency.

"(F) SAFE HARBOR.—A financial institution shall not be liable for failure to perform the duties required by this paragraph if, at the time of the failure, the financial institution maintained reasonable policies and procedures to comply with this paragraph or the financial institution reasonably believed that the institution is prohibited, by law, from contacting the consumer.

"(G) DEFINITIONS.—For purposes of this paragraph, the following definitions shall apply:

"(i) NEGATIVE INFORMATION.—The term 'negative information' means information concerning a customer's delinquencies, late payments, insolvency, or any form of default.

"(ii) CUSTOMER; FINANCIAL INSTITUTION.—The terms 'customer' and 'financial institution' have the same meanings as in section 509 Public Law 106–102.".

(b) MODEL DISCLOSURE FORM.—Before the end of the 6-month period beginning on the date of enactment of this Act, the Board shall adopt the model disclosure required under the amendment made by subsection (a) after notice duly given in the Federal Register and an opportunity for public comment in accordance with section 553 of title 5, United States Code.

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:

"(h) DUTIES OF USERS IN CERTAIN CREDIT TRANSACTIONS.—

"(1) IN GENERAL.—Subject to rules prescribed as provided in paragraph (6), if any person uses a consumer report in connection with an application for, or 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 an oral, written, or electronic notice to the consumer in the form and manner required by regulations prescribed in accordance with this subsection.

"(2) TIMING.—The notice required under paragraph (1) may be provided at the time of an application for, or a grant, extension, or other provision of, credit or the time of communication of an approval of an application for, or grant, extension, or other provision of, credit, except as provided in the regulations prescribed under paragraph (6).

"(3) 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.

"(4) 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.

"(5) CONTENT AND DELIVERY OF NOTICE.—A notice under this subsection shall, at a minimum—

"(A) include a statement informing the consumer that the terms offered to the consumer are set based on information from a consumer report;

"(B) identify the consumer reporting agency furnishing the report;

"(C) include 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) include 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)).

"(6) RULEMAKING.—

"(A) RULES REQUIRED.—The Commission and the Board shall jointly prescribe rules.

"(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;

"(iv) a model notice that may be used to comply with this subsection; and

"(v) the timing of the notice required under paragraph (1), including the circumstances under which the notice must be provided after the terms offered to the consumer were set based on information from a consumer report.

"(7) COMPLIANCE.—A person shall not be liable for failure to perform the duties required by this section if, at the time of the failure, the person maintained reasonable policies and procedures to comply with this section.

"(8) ENFORCEMENT.—

"(A) NO CIVIL ACTIONS.—Sections 616 and 617 shall not apply to any failure by any person to comply with this section.

"(B) ADMINISTRATIVE ENFORCEMENT.—This section shall be enforced exclusively under section 621 by the Federal agencies and officials identified in that section.".

(b) RELATION TO STATE LAWS.—Section 625(b)(1) of the Fair Credit Reporting Act (15 U.S.C. 1681t(b)(1)), as so designated by section 214 of this Act, is amended by adding at the end the following:

''(I) section 615(h), 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 INTEGRITY 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 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 integrity 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 integrity 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 assure the accuracy and integrity of information furnished 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) DUTY OF FURNISHERS TO PROVIDE ACCURATE INFORMATION.—Section 623(a)(1) of the Fair Credit Reporting Act (15 U.S.C. 1681s–2(a)(1)) is amended—

(1) in subparagraph (A), by striking ''knows or consciously avoids knowing that the information is inaccurate'' and inserting ''knows or has reasonable cause to believe that the information is inaccurate''; and

(2) by adding at the end the following:

''(D) DEFINITION.—For purposes of subparagraph (A), the term 'reasonable cause to believe that the information is inaccurate' means having specific knowledge, other than solely allegations by the consumer, that would cause a reasonable person to have substantial doubts about the accuracy of the information.''.

(c) ABILITY OF CONSUMER TO DISPUTE INFORMATION DIRECTLY WITH FURNISHER.—Section 623(a) of the Fair Credit Reporting Act (15 U.S.C. 1681s–2(a)), as amended by this Act, is amended by adding at the end the following:

''(8) ABILITY OF CONSUMER TO DISPUTE INFORMATION DIRECTLY WITH FURNISHER.—

''(A) IN GENERAL.—The Federal banking agencies, the National Credit Union Administration, and the Commission shall jointly prescribe regulations that shall identify the circumstances under which a furnisher shall be required to reinvestigate a dispute concerning the accuracy of information contained in a consumer report on the consumer, based on a direct request of a consumer.

''(B) CONSIDERATIONS.—In prescribing regulations under subparagraph (A), the agencies shall weigh—

''(i) the benefits to consumers with the costs on furnishers and the credit reporting system;

''(ii) the impact on the overall accuracy and integrity of consumer reports of any such requirements;

''(iii) whether direct contact by the consumer with the furnisher would likely result in the most expeditious resolution of any such dispute; and

''(iv) the potential impact on the credit reporting process if credit repair organizations, as defined in section 403(3), including entities that would be a credit repair organization, but for section 403(3)(B)(i), are able to circumvent the prohibition in subparagraph (G).

''(C) APPLICABILITY.—Subparagraphs (D) through (G) shall apply in any circumstance identified under the regulations promulgated under subparagraph (A).

''(D) SUBMITTING A NOTICE OF DISPUTE.—A consumer who seeks to dispute the accuracy of information shall provide a dispute notice directly to such person at the address specified by the person for such notices that—

''(i) identifies the specific information that is being disputed;

''(ii) explains the basis for the dispute; and

''(iii) includes all supporting documentation required by the furnisher to substantiate the basis of the dispute.

''(E) DUTY OF PERSON AFTER RECEIVING NOTICE OF DISPUTE.—After receiving a notice of dispute from a consumer pursuant to subparagraph (D), the person that provided the information in dispute to a consumer reporting agency shall—

''(i) conduct an investigation with respect to the disputed information;

''(ii) review all relevant information provided by the consumer with the notice;

''(iii) complete such person's investigation of the dispute and report the results of the investigation to the consumer before the expiration of the period under section 611(a)(1) within which a consumer reporting agency would be required to complete its action if the consumer had elected to dispute the information under that section; and

''(iv) if the investigation finds that the information reported was inaccurate, promptly notify each consumer reporting agency to which the person furnished the inaccurate information of that determination and provide to the agency any correction to that information that is necessary to make the information provided by the person accurate.

''(F) FRIVOLOUS OR IRRELEVANT DISPUTE.—

''(i) IN GENERAL.—This paragraph shall not apply if the person receiving a notice of a dispute from a consumer reasonably determines that the dispute is frivolous or irrelevant, including—

''(I) by reason of the failure of a consumer to provide sufficient information to investigate the disputed information; or

''(II) the submission by a consumer of a dispute that is substantially the same as a dispute previously submitted by or for the consumer, either directly to the person or through a consumer reporting agency under subsection (b), with respect to which the person has already performed the person's duties under this paragraph or subsection (b), as applicable.

''(ii) NOTICE OF DETERMINATION.—Upon making any determination under clause (i) that a dispute is frivolous or irrelevant, the person shall notify the consumer of such determination not later than 5 business days after making such determination, by mail or, if authorized by the consumer for that purpose, by any other means available to the person.

''(iii) CONTENTS OF NOTICE.—A notice under clause (ii) shall include—

''(I) the reasons for the determination under clause (i); and

''(II) identification of any information required to investigate the disputed information, which may consist of a standardized form describing the general nature of such information.

''(G) EXCLUSION OF CREDIT REPAIR ORGANIZATIONS.—This paragraph shall not apply if the notice of the dispute is submitted by, is prepared on behalf of the consumer by, or is submitted on a form supplied to the consumer by, a credit repair organization, as defined in section 403(3), or an entity that would be a credit repair organization, but for section 403(3)(B)(i).''.

(d) 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 to a consumer reporting agency 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.''.

(e) 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, including any regulations issued thereunder;

''(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; or

''(3) subsection (e) of section 615.

''(d) LIMITATION ON ENFORCEMENT.—The provisions of law described in paragraphs (1) through (3) of subsection (c) (other than with respect to the exception described in paragraph (2) 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 (3) of section 623(c)''; and

(B) in paragraph (5)—

(i) in each of subparagraphs (A) and (B), by striking ''of section 623(a)(1)'' each place that term appears and inserting ''described in any of paragraphs (1) through (3) of section 623(c)''; and

(ii) by amending the paragraph heading to read as follows:

''(5) LIMITATIONS ON STATE ACTIONS FOR CERTAIN VIOLATIONS.—''.

(f) 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. FTC AND CONSUMER REPORTING AGENCY ACTION CONCERNING COMPLAINTS.

(a) IN GENERAL.—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 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 Commission pursuant to its investigative authority under the Federal Trade Commission Act shall not be subject to paragraph (1).

''(3) AGENCY RESPONSIBILITIES.—Each consumer reporting agency described in section 603(p) that receives a complaint transmitted by the 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 Commission may prescribe regulations, as appropriate to implement this subsection.

''(5) ANNUAL REPORT.—The 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.''.

(b) PROMPT INVESTIGATION OF DISPUTED CONSUMER INFORMATION.—

(1) STUDY REQUIRED.—The Board and the Commission shall jointly study the extent to which, and the manner in which, consumer reporting agencies and furnishers of consumer information to consumer reporting agencies are complying with the procedures, time lines, and requirements under the Fair Credit Reporting Act for the prompt investigation of the disputed accuracy of any consumer information, the completeness of the information provided to consumer reporting agencies, and the prompt correction or deletion, in accordance with such Act, of any inaccurate or incomplete information or information that cannot be verified.

(2) REPORT REQUIRED.—Before the end of the 12-month period beginning on the date of enactment of this Act, the Board and the Commission shall jointly submit a progress report to the Congress on the results of the study required under paragraph (1).

(3) CONSIDERATIONS.—In preparing the report required under paragraph (2), the Board and the Commission shall consider information relating to complaints compiled by the Commission under section 611(e) of the Fair Credit Reporting Act, as added by this section.

(4) RECOMMENDATIONS.—The report required under paragraph (2) shall include such recommendations as the Board and the Commission jointly determine to be appropriate for legislative or administrative action, to ensure that—

(A) consumer disputes with consumer reporting agencies over the accuracy or completeness of information in a consumer's file are promptly and fully investigated and any incorrect, incomplete, or unverifiable information is corrected or deleted immediately thereafter;

(B) furnishers of information to consumer reporting agencies maintain full and prompt compliance with the duties and responsibilities established under section 623 of the Fair Credit Reporting Act; and

(C) consumer reporting agencies establish and maintain appropriate internal controls and management review procedures for maintaining full and continuous compliance with the procedures, time lines, and requirements under the Fair Credit Reporting Act for the prompt investigation of the disputed accuracy of any consumer information and the prompt correction or deletion, in accordance with such Act, of any inaccurate or incomplete information or information that cannot be verified.

SEC. 314. 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(a)(5)(A)) 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 information disputed by a consumer is found to be inaccurate or incomplete or cannot be verified after any reinvestigation under paragraph (1), for purposes of reporting to a consumer reporting agency only, as appropriate, based on the results of the reinvestigation promptly—

''(i) modify that item of information;

''(ii) delete that item of information; or

''(iii) permanently block the reporting of that item of information.''.

SEC. 315. 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 Commission shall jointly, with respect to the entities that are subject to their respective enforcement authority under section 621, 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) 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. 316. NOTICE OF DISPUTE THROUGH RESELLER.

(a) REQUIREMENT FOR REINVESTIGATION OF DISPUTED INFORMATION UPON NOTICE FROM A RESELLER.—Section 611(a) of the Fair Credit Reporting Act (15 U.S.C. 1681i(a)(1)(A)) is amended—

(1) in paragraph (1)(A)—

(A) by striking ''If the completeness'' and inserting ''Subject to subsection (f), if the completeness'';

(B) by inserting '', or indirectly through a reseller,'' after ''notifies the agency directly''; and

(C) by inserting ''or reseller'' before the period at the end;

(2) in paragraph (2)(A)—

(A) by inserting ''or a reseller'' after ''dispute from any consumer''; and

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

(3) in paragraph (2)(B), by inserting ''or the reseller'' after ''from the consumer''.

(b) REINVESTIGATION REQUIREMENT APPLICABLE TO RESELLERS.—Section 611 of the Fair Credit Reporting Act (15 U.S.C. 1681i), as amended by this Act, is amended by adding at the end the following:

''(f) REINVESTIGATION REQUIREMENT APPLICABLE TO RESELLERS.—

''(1) EXEMPTION FROM GENERAL REINVESTIGATION REQUIREMENT.—Except as provided in paragraph (2), a reseller shall be exempt from the requirements of this section.

''(2) ACTION REQUIRED UPON RECEIVING NOTICE OF A DISPUTE.—If a reseller receives a notice from a consumer of a dispute concerning the completeness or accuracy of any item of information contained in a consumer report on such consumer produced by the reseller, the reseller shall, within 5 business days of receiving the notice, and free of charge—

''(A) determine whether the item of information is incomplete or inaccurate as a result of an act or omission of the reseller; and

''(B) if—

''(i) the reseller determines that the item of information is incomplete or inaccurate as a result

of an act or omission of the reseller, not later than 20 days after receiving the notice, correct the information in the consumer report or delete it; or

''(ii) if the reseller determines that the item of information is not incomplete or inaccurate as a result of an act or omission of the reseller, convey the notice of the dispute, together with all relevant information provided by the consumer, to each consumer reporting agency that provided the reseller with the information that is the subject of the dispute, using an address or a notification mechanism specified by the consumer reporting agency for such notices.

''(3) RESPONSIBILITY OF CONSUMER REPORTING AGENCY TO NOTIFY CONSUMER THROUGH RESELLER.—Upon the completion of a reinvestigation under this section of a dispute concerning the completeness or accuracy of any information in the file of a consumer by a consumer reporting agency that received notice of the dispute from a reseller under paragraph (2)—

''(A) the notice by the consumer reporting agency under paragraph (6), (7), or (8) of subsection (a) shall be provided to the reseller in lieu of the consumer; and

''(B) the reseller shall immediately reconvey such notice to the consumer, including any notice of a deletion by telephone in the manner required under paragraph (8)(A).

''(4) RESELLER REINVESTIGATIONS.—No provision of this subsection shall be construed as prohibiting a reseller from conducting a reinvestigation of a consumer dispute directly.''.

(c) TECHNICAL AND CONFORMING AMENDMENT.—Section 611(a)(2)(B) of the Fair Credit Reporting Act (15 U.S.C. 1681i(a)(2)(B)) is amended in the subparagraph heading, by striking ''FROM CONSUMER''.

SEC. 317. REASONABLE REINVESTIGATION REQUIRED.

Section 611(a)(1)(A) of the Fair Credit Reporting Act (15 U.S.C. 1681i(a)(1)(A)) is amended by striking ''shall reinvestigate free of charge'' and inserting ''shall, free of charge, conduct a reasonable reinvestigation to determine whether the disputed information is inaccurate''.

SEC. 318. FTC STUDY OF ISSUES RELATING TO THE FAIR CREDIT REPORTING ACT.

(a) STUDY REQUIRED.—

(1) IN GENERAL.—The 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 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 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 1 year after the date of enactment of this Act, the chairman of the 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.

SEC. 319. FTC STUDY OF THE ACCURACY OF CONSUMER REPORTS.

(a) STUDY REQUIRED.—Until the final report is submitted under subsection (b)(2), the Commission shall conduct an ongoing study of the accuracy and completeness of information contained in consumer reports prepared or maintained by consumer reporting agencies and methods for improving the accuracy and completeness of such information.

(b) BIENNIAL REPORTS REQUIRED.—

(1) INTERIM REPORTS.—The Commission shall submit an interim report to the Congress on the study conducted under subsection (a) at the end of the 1-year period beginning on the date of enactment of this Act and biennially thereafter for 8 years.

(2) FINAL REPORT.—The Commission shall submit a final report to the Congress on the study conducted under subsection (a) at the end of the 2-year period beginning on the date on which the final interim report is submitted to the Congress under paragraph (1).

(3) CONTENTS.—Each report submitted under this subsection shall contain a detailed summary of the findings and conclusions of the Commission with respect to the study required under subsection (a) and such recommendations for legislative and administrative action as the Commission may determine to 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) the information to be furnished pertains solely to transactions, accounts, or balances relating to debts arising from the receipt of medical services, products, or devises, where such information, other than account status or amounts, is restricted or reported using codes that do not identify, or do not provide information sufficient to infer, the specific provider or the nature of such services, products, or devices, as provided in section 605(a)(6).

''(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 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 (and which shall include permitting actions necessary for administrative verification purposes), 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 Fair and Accurate Credit Transactions 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—

''(A) medical information;

''(B) an individualized list or description based on the payment transactions of the consumer for medical products or services; or

''(C) 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'—

''(1) means information or data, whether oral or recorded, in any form or medium, created by or derived from a health care provider or the consumer, that relates to—

''(A) the past, present, or future physical, mental, or behavioral health or condition of an individual;

''(B) the provision of health care to an individual; or

''(C) the payment for the provision of health care to an individual.

''(2) does not include the age or gender of a consumer, demographic information about the consumer, including a consumer's residence address or e-mail address, or any other information about a consumer that does not relate to the physical, mental, or behavioral health or condition of a consumer, including the existence or value of any insurance policy.''.

(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) of this section) 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) 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)), as amended by this Act, is amended by adding at the end the following:

''(9) 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 Commission determines that a person described in paragraph (9) 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 through development of a national strategy to promote financial literacy and education.

(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 Federal 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 decisionmaking 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;

(H) increase awareness of the particular financial needs and financial transactions (such as the sending of remittances) of consumers who are targeted in multilingual financial literacy and education programs and improve the development and distribution of multilingual financial literacy and education materials;

(I) promote bringing individuals who lack basic banking services into the financial mainstream by opening and maintaining an account with a financial institution; and

(J) improve financial literacy and education through all other related skills, including personal finance and related economic education,

with the primary goal of programs not simply to improve knowledge, but rather to improve consumers' financial choices and outcomes.

(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, the Strategy for Assuring Financial Empowerment (''SAFE Strategy''), 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) the national strategy for financial literacy and education, as described under subsection (f);

(B) information concerning the implementation of the duties of the Commission under subsections (a) through (g);

(C) an assessment of the success of the Commission in implementing the national strategy developed under subsection (f);

(D) an assessment of the availability, utilization, and impact of Federal financial literacy and education materials;

(E) 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);

(F) 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 decisionmaking;

(G) a brief summary of any hearings conducted by the Commission, including a list of witnesses who testified at such hearings;

(H) information about the activities of the Commission planned for the next fiscal year;

(I) 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

(J) 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 annually provide 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.—

(1) IN GENERAL.—The Commission shall hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Commission deems appropriate to carry out this title.

(2) PARTICIPATION.—In hearings held under this subsection, the Commission shall consider inviting witnesses from, among other groups—

(A) other Federal Government officials;

(B) State and local government officials;

(C) consumer and community groups;

(D) nonprofit financial literacy and education groups (such as those involved in personal finance and economic education); and

(E) the financial services industry.

(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.

(d) MULTILINGUAL.—The Commission may take any action to develop and promote financial literacy and education materials in languages other than English, as the Commission deems appropriate, including for the website established under section 514(b), at the toll-free number established under section 514(c), and in the materials developed and disseminated under section 514(d).

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. STUDIES BY THE COMPTROLLER GENERAL.

(a) EFFECTIVENESS STUDY.—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.

(b) STUDY AND REPORT ON THE NEED AND MEANS FOR IMPROVING FINANCIAL LITERACY AMONG CONSUMERS.—

(1) STUDY REQUIRED.—The Comptroller General of the United States shall conduct a study to assess the extent of consumers' knowledge and awareness of credit reports, credit scores, and the dispute resolution process, and on methods for improving financial literacy among consumers.

(2) FACTORS TO BE INCLUDED.—The study required under paragraph (1) shall include the following issues:

(A) The number of consumers who view their credit reports.

(B) Under what conditions and for what purposes do consumers primarily obtain a copy of their consumer report (such as for the purpose of ensuring the completeness and accuracy of the contents, to protect against fraud, in response to an adverse action based on the report, or in response to suspected identity theft) and approximately what percentage of the total number of consumers who obtain a copy of their consumer report do so for each such primary purpose.

(C) The extent of consumers' knowledge of the data collection process.

(D) The extent to which consumers know how to get a copy of a consumer report.

(E) The extent to which consumers know and understand the factors that positively or negatively impact credit scores.

(3) REPORT REQUIRED.—Before the end of the 12-month period beginning on the date of enactment of this Act, the Comptroller General shall submit a report to Congress on the findings and conclusions of the Comptroller General pursuant to the study conducted under this subsection, together with such recommendations for legislative or administrative action as the Comptroller General may determine to be appropriate, including recommendations on methods for improving financial literacy among consumers.

SEC. 518. THE NATIONAL PUBLIC SERVICE MULTIMEDIA CAMPAIGN TO ENHANCE THE STATE OF FINANCIAL LITERACY.

(a) IN GENERAL.—The Secretary of the Treasury (in this section referred to as the ''Secretary''), after review of the recommendations of the Commission, as part of the national strategy, shall develop, implement, and conduct a pilot national public service multimedia campaign to enhance the state of financial literacy and education in the United States.

(b) PROGRAM REQUIREMENTS.—

(1) PUBLIC SERVICE CAMPAIGN.—The Secretary, after review of the recommendations of the Commission, shall select and work with a nonprofit organization or organizations that are especially well-qualified in the distribution of public service campaigns, and have secured private sector funds to produce the pilot national public service multimedia campaign.

(2) DEVELOPMENT OF MULTIMEDIA CAMPAIGN.—The Secretary, after review of the recommendations of the Commission, shall develop, in consultation with nonprofit, public, or private organizations, especially those that are well qualified by virtue of their experience in the field of financial literacy and education, to develop the financial literacy national public service multimedia campaign.

(3) FOCUS OF CAMPAIGN.—The pilot national public service multimedia campaign shall be consistent with the national strategy, and shall promote the toll-free telephone number and the website developed under this title.

(c) MULTILINGUAL.—The Secretary may develop the multimedia campaign in languages other than English, as the Secretary deems appropriate.

(d) PERFORMANCE MEASURES.—The Secretary shall develop measures to evaluate the effectiveness of the pilot national public service multimedia campaign, as measured by improved financial decision making among individuals.

(e) REPORT.—For each fiscal year for which there are appropriations pursuant to the authorization in subsection (e), the Secretary shall submit a report to the Committee on Banking, Housing, and Urban Affairs and the Committee on Appropriations of the Senate and the Committee on Financial Services and the Committee on Appropriations of the House of Representatives, describing the status and implementation of the provisions of this section and the state of financial literacy and education in the United States.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary, not to exceed $3,000,000 for fiscal years 2004, 2005, and 2006, for the development, production, and distribution of a pilot national public service multimedia campaign under this section.

SEC. 519. 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—PROTECTING EMPLOYEE MISCONDUCT INVESTIGATIONS

SEC. 611. CERTAIN EMPLOYEE INVESTIGATION COMMUNICATIONS EXCLUDED FROM DEFINITION OF CONSUMER REPORT.

(a) IN GENERAL.—Section 603 of the Fair Credit Reporting Act (15 U.S.C. 1681a), as amended by this Act is amended by adding at the end the following:

''(x) EXCLUSION OF CERTAIN COMMUNICATIONS FOR EMPLOYEE INVESTIGATIONS.—

''(1) COMMUNICATIONS DESCRIBED IN THIS SUBSECTION.—A communication is described in this subsection if—

''(A) but for subsection (d)(2)(D), the communication would be a consumer report;

''(B) the communication is made to an employer in connection with an investigation of—

''(i) suspected misconduct relating to employment; or

''(ii) compliance with Federal, State, or local laws and regulations, the rules of a self-regulatory organization, or any preexisting written policies of the employer;

''(C) the communication is not made for the purpose of investigating a consumer's credit worthiness, credit standing, or credit capacity; and

''(D) the communication is not provided to any person except—

''(i) to the employer or an agent of the employer;

''(ii) to any Federal or State officer, agency, or department, or any officer, agency, or department of a unit of general local government;

''(iii) to any self-regulatory organization with regulatory authority over the activities of the employer or employee;

''(iv) as otherwise required by law; or

''(v) pursuant to section 608.

''(2) SUBSEQUENT DISCLOSURE.—After taking any adverse action based in whole or in part on a communication described in paragraph (1), the employer shall disclose to the consumer a summary containing the nature and substance of the communication upon which the adverse action is based, except that the sources of information acquired solely for use in preparing what would be but for subsection (d)(2)(D) an investigative consumer report need not be disclosed.

''(3) SELF-REGULATORY ORGANIZATION DEFINED.—For purposes of this subsection, the term 'self-regulatory organization' includes any self-regulatory organization (as defined in section 3(a)(26) of the Securities Exchange Act of 1934), any entity established under title I of the Sarbanes-Oxley Act of 2002, any board of trade designated by the Commodity Futures Trading Commission, and any futures association registered with such Commission.''.

(b) TECHNICAL AND CONFORMING AMENDMENT.—Section 603(d)(2)(D) of the Fair Credit Reporting Act (15 U.S.C. 1681a(d)(2)(D)) is amended by inserting ''or (x)'' after ''subsection (o)''.

TITLE VII—RELATION TO STATE LAWS

SEC. 711. RELATION TO STATE LAWS.

Section 625 of the Fair Credit Reporting Act (15 U.S.C. 1681t), as so designated by section 214 of this Act, is amended—

(1) in subsection (a), by inserting ''or for the prevention or mitigation of identity theft,'' after ''information on consumers,'';

(2) in subsection (b), by adding at the end the following:

''(5) with respect to the conduct required by the specific provisions of—

''(A) section 605(g);

''(B) section 605A;

''(C) section 605B;

''(D) section 609(a)(1)(A);

''(E) section 612(a);

''(F) subsections (e), (f), and (g) of section 615;

''(G) section 621(f);

''(H) section 623(a)(6); or

''(I) section 628.''; and

(3) in subsection (d)—

(A) by striking paragraph (2);

(B) by striking ''(c)—'' and all that follows through ''do not affect'' and inserting ''(c) do not affect''; and

(C) by striking ''1996; and'' and inserting ''1996.''.

TITLE VIII—MISCELLANEOUS

SEC. 811. 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.

And the Senate agreed to the same.

For consideration of the House bill and the Senate amendment, and modifications committed to conference:

MICHAEL G. OXLEY,
DOUG BEREUTER,
SPENCER BACHUS,
MIKE CASTLE,
ED ROYCE,
ROBERT W. NEY,
SUE KELLY,
PAUL GILLMOR,
STEVEN C. LATOURETTE,
JUDY BIGGERT,
PETE SESSIONS,
BARNEY FRANK,
PAUL E. KANJORSKI,
MELVIN L. WATT,
LUIS V. GUTIERREZ,
DARLENE HOOLEY,
DENNIS MOORE,
Managers on the Part of the House.

RICHARD SHELBY,
ROBERT F. BENNETT,
WAYNE ALLARD,
MICHAEL B. ENZI,
PAUL SARBANES,
CHRISTOPHER J. DODD,
TIM JOHNSON,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (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 for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment to the text of the bill struck all of the House bill after the enacting clause and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate with an amendment that is a substitute for the House bill and the Senate amendment. The Committee of Conference met on November

21, 2003 (the Senate Chairing) and resolved their differences. The differences between the House bill, the Senate amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clerical changes.

The Fair Credit Reporting Act was enacted in 1970, and substantially amended in 1996. The amendments made at that time were necessary to make the law relevant in an information age. Included in the 1996 amendment were a number of provisions that explicitly preempt state laws. These preemptions expire on January 1, 2004.

Since 1996, the national credit markets have undergone significant change. Most of these changes were the result of technological innovations. Technology has expanded the availability of credit, and permitted instant credit decisions. Mortgage financing that once took weeks now takes hours, and home ownership rates are at historic highs. Consumer credit can be obtained at the point of sale for major items like automobiles. Technology and the prudently-regulated free flow of consumer information under the FCRA has made much of this possible. We live in a mobile society in which 40 million Americans move annually. The FCRA permits consumers to transport their credit with them wherever they go. Both Committees of jurisdiction have developed detailed records regarding the benefits that our national credit reporting system has visited upon consumers of financial products.

Despite the myriad benefits of technology to the American consumer, there has been one drawback. Namely, the free flow information has enabled the explosive growth of a new crime—identity theft. Both Committees developed comprehensive hearing records regarding the growth of this crime, and the havoc it visits upon the lives of its victims. Law enforcement professionals are cognizant of the growth of this crime, and have worked with the affected industries to combat it. While criminal prosecutions and strict fraud detection protocols can curtail identity theft, and punish the wrongdoers, not enough had been done heretofore to aid the real victims of this crime—the consumer whose identity is assumed, and can spend months or years trying to rehabilitate their credit and re-order their affairs.

The House bill and the Senate amendment contain a number of identical provisions. In other instances, the provisions in the respective bills addressed the same issue in a slightly different manner. Both the House bill and the Senate amendment addressed the provisions of the FCRA that preempted state laws, and are due to expire on January 1, 2004. Both bills addressed identity theft, medical information privacy and promote greater consumer access to their credit reports.

The House bill, H.R. 2622, and the bill that served as the core of the Senate amendment (S. 1753) are each the result of an extensive deliberative and legislative process with a three-fold purpose: to assist the victims of identity theft; modernize the FCRA and; enhance the national credit reporting system. Readers should refer to the Committee Reports for the respective bills for further elaboration. The conference agreement contains provisions to accomplish these goals. It is the conferees' belief that this legislation will assist the victims of identity theft, and ensure the operational efficiency of our national credit system by creating a number of preemptive national standards.

For consideration of the House bill and the Senate amendment, and modifications committed to conference:

MICHAEL G. OXLEY,
DOUG BEREUTER,
SPENCER BACHUS,
MIKE CASTLE,
ED ROYCE,
ROBERT W. NEY,
SUE KELLY,
PAUL GILLMOR
STEVEN C. LATOURETTE,
JUDY BIGGERT,
PETE SESSIONS,
BARNEY FRANK,
PAUL E. KANJORSKI,
MELVIN L. WATT,
LUIS V. GUTIERREZ,
DARLENE HOOLEY,
DENNIS MOORE,
Managers on the Part of the House.

RICHARD SHELBY,
ROBERT F. BENNETT,
WAYNE ALLARD,
MICHAEL B. ENZI,
PAUL SARBANES,
CHRISTOPHER J. DODD,
TIM JOHNSON,
Managers on the Part of the Senate.

Mr. OXLEY. Mr. Speaker, I move to suspend the rules and agree to the conference report on the bill (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 for other purposes.

The Clerk read the title of the bill.

(For conference report and statement, see prior proceedings of the House of today.)

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Ohio (Mr. OXLEY) and the gentleman from Massachusetts (Mr. FRANK) each will control 20 minutes.

The Chair recognizes the gentleman from Ohio (Mr. OXLEY).

GENERAL LEAVE

Mr. OXLEY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the conference report and insert extraneous material thereon.

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

There was no objection.

Mr. OXLEY. Mr. Speaker, I yield myself 6 minutes.

Mr. Speaker, I am proud to bring before the House today the conference report on H.R. 2622, the Fair and Accurate Credit Transactions Act of 2003. This is a bipartisan bill that will foster economic growth and development throughout this country. When 9/11 hit our country, Congress responded quickly with the passage of the USA PATRIOT Act and the Terrorism Risk Insurance Act. When corporate scandals threatened to undermine the integrity of the stock market, we responded with the passage of the Sarbanes-Oxley Act. And today, as the laws governing our national credit markets are set to expire, we must again respond swiftly and responsibly with the passage of this bipartisan solution to keep the American economy stable and growing and assure that the American consumer continues to enjoy the benefits of a robust national credit granting system.

□ 1800

One of the hallmarks of the modern U.S. economy is quick and convenient access to consumer credit. Though it would seem unimaginable a generation ago, consumers can now qualify for a mortgage over the telephone, walk into a showroom and finance the purchase of a car in one sitting, and get department store credit within minutes. As the distinguished Federal Trade Commission chairman Tim Muris has stated, the ''miracle of instant credit'' created by our national credit reporting system has given American consumers a level of access to financial services and products that is unrivaled anywhere in the world. The protection and growth of these services, as provided for in this legislation, are critical to the success of our economy.

Since the Fair Credit Reporting Act's uniform national standards were established in 1996, we have achieved some of the lowest mortgage rates and credit rates on record, with more competition and more offerings for consumers than ever before. This has led to the record level of credit available today to all Americans, regardless of income level. Over the past 30 years, the availability of nonmortgage credit to households in the lowest income bracket has increased by nearly 70 percent, including a nearly threefold increase in the number of low-income households owning credit cards just in this last decade. The increase of available credit, coupled with the declining price of this credit, has also fueled the record homeownership levels we are experiencing today, again with the largest gains achieved by low- and moderate-income groups. These improvements in the credit and mortgage systems have saved consumers nearly $100 billion annually, according to some estimates.

In addition to preserving our vital national credit system, this legislation is an extremely comprehensive consumer protection bill. The protections are designed to meet head-on the growing crime of identity theft which has accompanied the expanding credit market in our country. The FTC released a study in early September which revealed the damaging extent of this crime in our country. Ten million Americans were victimized by identity thieves last year alone, costing consumers and businesses over $55 billion, not counting the 300 million hours spent by victims to try to repair damaged credit records. The financial costs are staggering, with over $10,000 stolen in the average fraud.

The Committee on Financial Services has worked tirelessly to explore and find solutions to this destructive crime. Over 100 witnesses have come before the committee since last April to discuss the renewal of the Fair Credit Reporting Act, and many of them focused their statements on the urgent

need to increase safeguards designed to protect consumers and businesses alike from this crime. With the bipartisan support in the House, as well as valuable input and assistance from our friends in the Senate, we have a bill before us today that empowers both consumers and businesses as we attempt to eliminate this terrible crime. Congress needs to pass strong, uniform identity theft protection; and it needs to do it now.

This conference report preserves many key elements designed to fight identity theft from the bill that passed the House with close to 400 votes. These strong new identity theft provisions standards established by the bill will be national, ensuring uniform protection for consumers in all 50 States.

This legislation includes provisions that allow consumers to place fraud alerts, allowing consumers to block information from being given to a credit bureau, providing identity theft victims with a summary of their rights, giving consumers the right to see their credit scores, giving all consumers the right to a free copy of their credit report, restricting access to consumers' sensitive health information, simplifying the way consumers can limit unsolicited marketing offers, ensuring improved accuracy of credit reporting procedures, and providing consumers with one-call-for-all protection by requiring credit bureaus to share consumer calls on identity theft, including requested fraud alert blocking.

This legislation also provides valuable tools and resources to financial institutions to ensure accuracy and prevent identity theft. These provisions include requiring creditors to take certain precautions before extending credit to consumers who have placed fraud alerts in their files; prohibiting merchants from printing more than the last five digits of a payment card on an electronic receipt, and others.

Mr. Speaker, this is a rather lengthy and long statement, and I will submit this for the RECORD.

I want to thank my ranking member, the gentleman from Massachusetts, for taking on this challenging and important legislation. Also to the chairman of our Subcommittee on Financial Institutions, the gentleman from Alabama (Mr. BACHUS), who sat through hours of hearings, over 100 witnesses in eight separate hearings; to Chairman SHELBY who chaired the conference committee and also, of course, is the chairman of the Banking Committee in the Senate, as well as Ranking Member Sarbanes for working in good faith on this effort.

Mr. Speaker, this was indeed truly a bipartisan, bicameral effort. We worked very closely with the White House and the Treasury to put together this conference report. This is good public policy. It is good for the country's economy, maintaining this constant flow of credit that we have come to take for granted. This is positive legislation, and I urge all Members to give it their strong support.

This legislation also provides valuable tools and resources to financial institutions to ensure accuracy and prevent identity theft. These provisions include:

Requiring creditors to take certain precautions before extending credit to consumers who have placed ''fraud alerts'' in their files; prohibiting merchants from printing more than the last 5 digits of a payment card on an electronic receipt; requiring banks to develop policies and procedures to identify potential instances of identity theft; and requiring financial institutions to reconcile potentially fraudulent consumer address information.

It is our duty to protect our national credit system and the economic growth that this system promotes by continuing to provide Americans with the most affordable and accessible credit market in the world today. We must ensure that the U.S. remains the engine of growth for the global economy.

I want to thank my ranking member from Massachusetts, Mr. FRANK, for taking on this challenging and imperative legislative project and for engaging all the major stakeholders in crafting a bipartisan piece of well balanced, highly effective legislation. I would also like to thank my friends from the Senate Banking Committee, Chairman SHELBY and Ranking Member SARBANES, for working in good faith to resolve differences between the House and Senate products. And finally, a huge debt of gratitude is owed by Members of this body to the gentleman from Alabama, SPENCER BACHUS, who wrote the House version of this bill; presided over countless hearings in his capacity as Chairman of the Financial Institutions and Consumer Credit Subcommittee; and helped lead the House conferees to a successful outcome in our negotiations with the Senate. Without the gentleman from Alabama, we would not be standing on the House floor today about to pass this historic consumer protection legislation.

The final FCRA legislation states that no requirement or prohibition may be imposed under the laws of any State with respect to the conduct required under the nine specific provisions included in the new identity theft preemption provision of the law. Accordingly, States cannot act to impose any requirements or prohibitions with respect to the conduct addressed by any of these provisions or the conduct addressed by any of the federal regulations adopted under these nine provisions. All of the rules and requirements governing the conduct of any person in these areas are governed solely by federal law and any State that attempts to impose requirements or prohibitions in these areas would be preempted.

I should note that the legislation lists the provisions to be preempted. However, to the extent such provisions would enjoy preemption under another provision in the FCRA, the other provision would control.

One of the central elements of the approach taken by the bill that the House passed overwhelmingly last September was to make the new fraud prevention and mitigation provisions contained in the legislation the new uniform national standards on those subject matters. The bill was drafted in this way because identity theft is a national concern, not only because of its impact on our system of granting credit, but because it knows no boundaries. The consumer victim may be in one State, the financial institution victim in another State, and the perpetrator may be in a third State. The credit bureaus that receive and report information relating to a fraudulent account may be in yet a fourth State.

In drafting the House bill, we were careful to stipulate—and to clarify in a colloquy on the House floor among the gentleman from Massachusetts, Mr. FRANK, the gentleman from Alabama, Mr. BACHUS, and myself—that the uniform national standards for identity theft were limited to the subject matters that the bill's provisions actually address, such as fraud alerts, blocking bad credit information, and truncating credit card account numbers at the point of sale. Thus, for example, this national uniformity would not affect State criminal statutes, or State laws governing the public display of social security numbers.

The conference committee further refined this standard, by providing that the new uniform national standards on identity theft created by this legislation apply with respect to the conduct required by those specific provisions.

I strongly urge my colleagues to vote for this Conference Report.

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

Mr. FRANK of Massachusetts. Mr. Speaker, I am glad to yield 2½ minutes to the gentlewoman from Oregon (Ms. HOOLEY), a member of this committee who really did extraordinarily good work here and who early on became our task force head on identity theft, and this bill is really path-breaking in what it does for identity theft.

Ms. HOOLEY of Oregon. Mr. Speaker, I thank my good friend, the gentleman from Massachusetts, for yielding me this time.

During floor debate of the Fair and Accurate Credit Transaction Act back in September, I told a story of a constituent who had her purse stolen and ended up spending hours trying to clean up her credit files as a result. It got so bad, in fact, that the police officer suggested it would be easier for her to change her name than to deal with the damage caused by the result of a theft. At that time, I continued on to say that something is wrong with the law when a law enforcement official suggests changing your identity in order to protect yourself from identity theft.

Well, I am ecstatic to report to everyone that after 4 years' struggle, the law is changing. Today the House and Senate conferees met and approved the Fair and Accurate Credit Transaction Act, a bill that will do many things to protect consumers and safeguard our Nation's credit system. Above all, however, this legislation will put in place landmark protections against identity theft, the fastest-growing crime in the United States.

This legislation has been a long time coming and is the result of a lot of hard work by a number of Members of Congress. I would especially like to thank the gentleman from Massachusetts (Mr. FRANK) and the gentleman from Ohio (Mr. OXLEY) for all of their incredible work; Senator SARBANES and Senator SHELBY for the leadership they have shown through a bipartisan conference process; and a special thanks to

the gentleman from Alabama (Mr. BACHUS) and the gentleman from Ohio (Mr. LATOURETTE) for the long hours they put in on this piece of legislation. Because of these leaders' work and the incredible staff that worked with us, we have a conference report that takes the best provisions from the Senate and the best provisions from the House to pass this piece of legislation.

I will share a few of the consumer protections it provides, and I will insert the remainder of this list in the CONGRESSIONAL RECORD.

First of all, it provides consumers with a free credit report, gives consumers the right to see their credit scores, provides consumers with broad new medical privacy rights, gives the consumers the ability to opt out of information-sharing between affiliated companies for marketing purposes, and establishes a financial literacy commission. Those are just a few.

I am proud of how the committee worked together. I think we were the poster child of how this process should be run. I am proud of the substance of this conference report that is good for consumers and good for businesses. I urge all of my colleagues on both sides of the aisle to support our Nation's consumers by voting ''yes'' for the conference report.

The agreement reached by conferees today will:

General Provisions:

Provide consumers with a free credit report every year from each of the three national credit bureaus, from a single centralized source;

Give consumers the right to see their credit scores;

Provide consumers with broad new medical privacy rights;

Give consumers the ability to opt-out of information sharing between affiliated companies for marketing purposes;

Establish a financial literacy commission and a national financial literacy campaign;

Ensure that consumers are notified if merchants are going to report negative information to the credit bureaus about them; and

Extend the seven expiring provisions of the Fair Credit Reporting Act.

Identify Theft Provisions:

Allow consumers to place ''fraud alerts'' in their credit reports to prevent identify thieves from opening accounts in their names; including special provisions to protect active duty military personnel;

Require creditors to take certain precautions before extending credit to consumers who have placed ''fraud alerts'' in their files;

Allow consumers to block information from being given to a credit bureau and from being reported by a credit bureau if such information results from identify theft;

Provide identify theft victims with a summary of their rights;

Provide consumers with one-call-for-all protection by requiring credit bureaus to share consumer calls on identify theft, including requested fraud alert blocking.

Prohibiting merchants from printing more than the last 5 digits of a payment care on an electronic receipt;

Require banks to develop policies and procedures to identify potential instances of identify theft;

Require financial institutions to reconcile potentially fraudulent consumer address information; and

Require lenders to disclose their contact information on consumer reports.

Mr. OXLEY. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Alabama (Mr. BACHUS), the chairman of the Subcommittee on Financial Institutions and Consumer Credit, who has done such a wonderful job on this bill.

Mr. BACHUS. Mr. Speaker, I thank the chairman for yielding me this time.

I am going to limit my time to thanking Members, because this legislation I think more than anything is a testimony of what we as Members do when we all work in the best interests of the American public.

This bill contains sweeping new protections against identity fraud. It also will enable consumers, which make up 70 percent of our economy, to have available more credit and more choices. And as important as that is, it does a third thing. It has many different tools to ensure that our credit information is accurately reported and that our private information and confidential information such as medical records are not shared.

At this time, I would like to thank the cosponsors. This bill was introduced by me; the gentlewoman from Oregon (Ms. HOOLEY), whom we have heard from; the gentlewoman from Illinois (Mrs. BIGGERT); and the gentleman from Kansas (Mr. MOORE). The gentlewoman from Oregon (Ms. HOOLEY), the gentlewoman from Illinois (Mrs. BIGGERT), and the gentleman from Kansas (Mr. MOORE) all had significant input into this legislation. The gentleman from Ohio (Mr. LATOURETTE), a lot of the fraud provisions were drafted by him or the gentlewoman from Oregon (Ms. HOOLEY). The gentleman from Pennsylvania (Mr. KANJORSKI), the gentleman from Delaware (Mr. CASTLE), the gentlewoman from New York (Mrs. MALONEY), the gentleman from Arizona (Mr. SHADEGG), the gentleman from Tennessee (Mr. FORD), the gentleman from Ohio (Mr. TIBERI), the gentleman from Texas (Mr. HINOJOSA), the gentleman from Texas (Mr. HENSARLING), the gentleman from New York (Mr. CROWLEY), the gentleman from Texas (Mr. SESSIONS), the gentleman from Arizona (Mr. ROSS), the gentleman from Utah (Mr. MATHESON), the gentleman from Alabama (Mr. DAVIS), the gentleman from Louisiana (Mr. BAKER), the gentleman from New York (Mr. KING), the gentleman from Oklahoma (Mr. LUCAS), and the gentleman from Kentucky (Mr. LUCAS), the gentleman from Ohio (Mr. NEY), the gentlewoman from New York (Mrs. KELLY), the gentleman from North Carolina (Mr. JONES), the gentleman from New York (Mr. ISRAEL), the gentlewoman from Pennsylvania (Ms. HART), the gentleman from North Carolina (Mr. MILLER), the gentlewoman from West Virginia (Mrs. CAPITO), the gentlewoman from New York (Mrs. MCCARTHY), the gentleman from South Carolina (Mr. BARRETT), the gentleman from Florida (Mr. FEENEY), and the gentlewoman from Florida (Ms. HARRIS).

All of these Members participated in this process, and the bill, which was passed almost unanimously by the House, went over to the Senate; and I would like to credit the other body for working, I think, in a professional manner and improving what we thought was a wonderful bill. And then, in conference, I would finally like to salute the gentleman from Ohio (Chairman OXLEY), first, for giving me the opportunity of working on this legislation; and secondly, I would like to salute him and the gentleman from Massachusetts (Mr. FRANK), our conferees, Mr. SARBANES and Chairman SHELBY. All of the people I have named deserve particular praise for a wonderful piece of legislation.

Mr. Speaker, I rise in strong support of the conference report to H.R. 2622, the Fair and Accurate Credit Transactions Act (''FACT Act''). H.R. 2622 represents the culmination of my efforts, and those of my colleagues, to craft legislation to strengthen our economy and to provide consumers with meaningful identity theft protections. The FACT Act is the bi-partisan product of a thorough review of the Fair Credit Reporting Act (''FCRA''), identity theft, and related issues, Indeed, the legislation was approved overwhelmingly in the House by a vote of 392–30 and in the Senate by a vote of 95–2.

I want to express my deepest sense of gratitude to Chairman OXLEY who gave me the opportunity to introduce this landmark piece of legislation and then skillfully guided it through the legislative process. In my career as a legislator, it is only on a rare occasion when you get the chance to draft legislation in such a bipartisan and cooperative atmosphere. The Chairman deserves a lot of credit for establishing such a collegial process, and I think our legislative product is better because of his efforts.

As Chairman of the Subcommittee on Financial Institutions and Consumer Credit. I conducted 8 hearings on the FCRA and related issues over the past year, receiving testimony from nearly one hundred witnesses including consumer groups, businesses, law enforcement, and various government regulators. On June 26, 2003, I introduced H.R. 2622 with Representatives HOOLEY, BIGGERT, and MOORE. The FACT Act—a byproduct of our hearings and bipartisan cooperation—passed its version of FCRA legislation—S. 1753—by a vote of 95–2. This week, the conference report to H.R. 2622 was approved almost unanimously by the conferees from both the House and Senate. H.R. 2622 is supported by a broad coalition of interested parties, including large financial institutions, community banks, credit unions, retailers as well as the Administration.

H.R. 2622 will benefit consumers and our economy by ensuring the continuity of our national uniform credit system. Indeed, our economy depends on several national delivery systems—each represented by incredible amounts of investment and infrastructure. For example, the national interstate highway system and our telecommunications networks are all critical to our national economy. Today we can drive from state to state without worrying

about whether a road will come to an abrupt end at the state line. Our consumer credit system is similar to these examples—we do not really think about it, we just expect that it will work. Although not perfect, our consumer credit system makes life better, easier, and cheaper for American consumers.

Just as our highway and telecommunications networks have improved and become more efficient over the years, so has our credit system. Creditors have always needed to evaluate the likelihood that a borrower would repay a loan. As a result of the framework established by the FCRA, creditors, no longer need to ''eyeball'' an applicant and review application materials for days or weeks. Rather, our national credit system has produced a virtually seamless system whereby consumers can apply for, and receive a decision on, credit within minutes. The national uniform system has also lowered costs and increased choice and convenience for American consumers. By far the most striking result of our national credit system is the dramatically increased availability of credit—or the ''democratization'' of credit. However, this system could be put in jeopardy if the state law uniform standards in the FCRA were permitted to expire on January 1, 2004. H.R. 2622 would ensure the continuity of our national credit system by making these standards permanent.

The conference report also directly addresses the problem of identity theft.

Sec. 151 of the conference report requires that the FTC and the federal banking regulators provide identify theft victims with a summary of their rights. It is important for the agencies to let consumers know that identity thieves target home computers because they contain a goldmine of personal financial information about individuals. In educating the public about how to avoid becoming a victim of identity theft, the FTC and the federal banking regulators should inform consumers about the risks associated with having an 'always on' Internet connection not secured by a firewall, not protecting against viruses or other malicious codes, using peer-to-peer file trading software that might expose diverse contents of their hard drives without their knowledge, or failing to use safe computing practices in general.

Identity theft occurs when a criminal obtains enough information about an individual to allow the criminal to ''assume'' that individual's identity for nefarious purposes. My Subcommittee heard from two identity theft victims. Their stories were truly nightmarish, and we need to work to prevent countless others from joining the ranks of identity theft victims. Not only does identity theft harm the direct victims, but it also has an impact on all consumers. Financial institutions lose millions of dollars each year as a result of identity theft. This increased cost on financial institutions is absorbed, at least in part, through increased costs of financial products and services to all consumers.

H.R. 2622 will also improve consumers' access and understanding of their credit information by allowing consumers to request a free credit report annually from each credit bureau. In addition, consumers will have the opportunity to obtain their credit scores from credit bureaus. Transparency in the credit granting and reporting process will increase consumers' financial literacy and improve their confidence in the financial services system in general.

I want to commend Chairman OXLEY for the tremendous leadership he has shown in steering this complex bill through the legislative process. I also want to thank the Ranking Member of the Committee, Mr. FRANK, for his support of this important piece of legislation. In addition, let me commend Ms. HOOLEY, Ms. BIGGERT, Mr. MOORE, Mr. LATOURETTE and the Members of the Financial Services Committee on each of their efforts. I also appreciate the efforts of Mr. SANDERS, the Ranking Member on my subcommittee, for his work on this issue. Lastly, I want to mention my appreciation for the input we received from the Administration, particularly from Treasury Secretary John Snow and Treasury Assistant Secretary for Financial Institutions Wayne Abernathy.

Let me also take this opportunity to thank the staff members on the House Financial Services Committee who worked on this legislation. Both Chairman OXLEY and Ranking Member FRANK are to be commended for assembling such a talented group of staff to work on H.R. 2622. On the majority side, I would like to thank Bob Foster, Hugh Halpern, Carter McDowell, Jim Clinger; Robert Gordon, Charles Symington, Karen Lynch—who no longer works for the committee but did a lot of work on this issue before leaving—and Dina Ellis, my designee on the Committee. I would also like to thank Warren Tryon of my staff for his work on this issue. On the minority staff, I would like to thank the following staff members: Jeanne Roslanowick, Jaime Lizarraga, Ken Swab, Erika Jeffers, Dean Sagar and Warren Gunnels.

In conclusion, I would like to note that I am proud of the work we have done in crafting H.R. 2622. This has been, by necessity, a long and thorough process. I believe H.R. 2622 presents a solid achievement in protecting the security of consumers' personal information, enhancing the transparency of the credit reporting process, and ensuring continued access to a wide variety of financial products at low cost.

Mr. Speaker, our economy today is important to all of us. That goes without saying. But what a lot of people do not realize is that two-thirds of our economy is consumer spending. That is the driver in our economy today. And consumer spending today is contingent upon maintaining a national uniform credit reporting system. I urge all of my colleagues to support our economy by voting for H.R. 2622.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. THORNBERRY). The Chair would remind all Members it is inappropriate to characterize the other body, even in positive terms.

Mr. FRANK of Massachusetts. Mr. Speaker, I yield 2½ minutes to the gentleman from Vermont (Mr. SANDERS), the ranking member of the subcommittee from which this bill came.

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

Mr. Speaker, this bill has a number of important and positive provisions. The idea that consumers will receive free credit reports is important. The provision strengthening identity theft is also very important.

But basically, the positive provisions in this bill do not outweigh the negative. And, in my view, this bill should be defeated. It should be defeated because it preempts States throughout this country from going forward with stronger consumer protections. And to my mind, States, in fact, are the laboratories of democracy; and it is a bad idea, especially from our conservative friends, who year after year have told us how bad it was for the Federal Government to have all this power, to now give power to the Federal Government and tell the State of Vermont, the State of California, that if you have specific needs dealing with consumer issues, you may not go forward. That is wrong. And for that reason alone, this legislation should be defeated, sent back, and strengthened in terms of consumer needs.

I would point out that virtually every consumer organization in America, the Consumer Federation of America, U.S. Public Interest Research Group, et cetera, oppose the preemption aspects of this legislation.

Second of all, Mr. Speaker, one of the great rip-offs that is taking place in America now deals with credit cards which, at a time of very, very low interest rates, are charging people up to 25 or 29 percent interest. And one way they do it, Mr. Speaker, is they send out notices and they say, come in and sign up: zero interest rate. What they forget to tell the consumer is that for any reason whatsoever, through a bait-and-switch scam, they can raise interest rates. So 5 years before, you were late on a student loan, you were late on an automobile payment, suddenly, you are going to be paying 15, 20 percent interest, and you do not know it.

This legislation rejected any effort to protect consumers in that way, not only outlawing this bait-and-switch scam, but even preventing strong disclosure. This legislation should be defeated, sent back, and improved.

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Mr. OXLEY. Mr. Speaker, I yield 2 minutes to the gentlewoman from New York (Mrs. KELLY), the chairwoman of the Subcommittee on Oversight and Investigations.

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

Mrs. KELLY. Mr. Speaker, it happens I do not agree with the previous speaker. I rise in strong support of the conference report before us. I would like to commend the gentleman from Ohio (Chairman OXLEY) and the gentleman from Massachusetts (Ranking Member FRANK) and their counterparts in the Senate for moving this legislation with great thoroughness, deliberation, and really in a strong spirit of bipartisanship.

At the heart of the legislation is the permanent reauthorization of the Fair Credit Reporting Act. It has provided a national uniform credit reporting system that has effectively lowered the cost of credit. And it has increased the choice and convenience for millions of Americans across the country.

The FCRA has helped to address other vital security issues such as combating identity theft and blocking terrorist financing under the U.S.A. Patriot Act, both issues that I have held hearings on in my subcommittee.

Combating identity theft and drying up terrorist financing requires a collaborative effort of law enforcement and regulatory agencies, consumers, and financial institutions, all with access to appropriate information.

We have also made some other important improvements to the FCRA in order to protect the sanctity of privacy for the American people throughout the credit granting process. I believe that one of the most important pieces of that is medical information. The medical information of consumers should be kept private. It does not need to be shared or be distributed by creditors or listed on credit reports.

Individuals should know that their personal medical information belongs to them and it is not released for any other purposes, whether it is for the credit-granting process or employee background checks. And we have done that with our legislation by coding the information.

I would like to thank the gentleman from Arkansas (Mr. ROSS) and the gentleman from North Carolina (Mr. WATT) for working with me on this amendment that will protect medical information of individuals without disrupting the access to low-cost credit and the security of information.

By allowing consumers to benefit from reporting the financial aspects of their transactions to credit bureaus while maintaining the sanctity of their medical privacy, this legislation is a real win for all Americans.

Finally, I am pleased we were able to include a new title in the legislation, which creates a Commission on Financial Literacy and Education, or the SAFE Act. As a result of that strategy, we will have a clear vision of the future financial literacy that will be the benefit of all Americans.

Mr. Speaker, I strongly support this legislation.

Mr. Speaker, I rise in strong support of the Conference Report before us.

I would like to commend Chairman OXLEY and Ranking Member FRANK—and their counterparts in the Senate—for moving this legislation with great thoroughness and deliberation and in the spirit of bipartisanship.

The legislation, ''The FACT Act'', is the result of a dozen hearings, one hundred witnesses, and months of deliberations by my colleagues on both sides of the aisle, and both sides of the Capitol.

At the heart of the legislation is the permanent reauthorization of the Fair Credit Reporting Act, or FCRA. FCRA has provided a national uniform credit reporting system that has effectively lowered the cost of credit, and increased choice and convenience for millions of Americans across the country.

As a conferee on this report, I can tell you that we worked with many diverse interests before we reached a unified, solid product. And in this product, we have built on the framework of FCRA to ensure that the legislation continues to lower the cost of credit and help fuel our economy—while also creating new opportunities for populations who have never had access. That's why this legislation has overwhelmingly bipartisan support.

FCRA has also helped address other vital security issues, such as combating identity theft and blocking of terrorist financing under the USA PATRIOT Act—both issues which I have held numerous hearings on in my Oversight Subcommittee. Combating identity theft and drying up terrorist financing requires the collaborative effort of law enforcement and regulatory agencies, consumers and financial institutions—all with access to appropriate information.

I am extremely pleased that this conference report addresses these important issues, and improves our ability to combat identity theft and help law enforcement officials track down illicit money. The information-sharing under this legislation is essential to protecting the American people by detecting suspicious activity and weeding out wrongdoers.

The national uniform standards under FCRA have also facilitated a financial institution's ability to utilize additional authentications and identity verifications to protect consumer security. And the increased protections incorporated in this legislation are critically important in enabling victims to correct the damage to their credit histories created by identity thieves.

This legislation will further help law enforcement combat financial fraud and track down criminals and terrorists. And it adds new protections that are important to achieving these goals.

We have also made other important improvements to FCRA in order to protect the sanctity of privacy for the American people throughout the credit-granting process.

I believe the medical information of consumers should be kept private, and it does not need to be shared or distributed by creditors or listed on credit reports. Individuals should know that their personal medical information belongs to them and is not released for other purposes, whether it is for the credit granting process or employee background checks. And we have done this in our legislation by coding this information.

I would like to thank Reps. ROSS and WATT for working with me on an amendment that will protect the medical information of individuals without disrupting access to low cost credit and the security of information.

By allowing consumers to benefit from reporting the financial aspects of their transactions to credit bureaus while maintaining the sanctity of their medical privacy, this legislation is a real win for all Americans.

Finally, I am pleased that we were able to include a new title in the legislation, which creates a Commission on Financial Literacy and Education to improve the financial literacy of millions of Americans of all ages.

At the crux of this language is the creation of the first ever national strategy for financial literacy—which will facilitate new public, private and nonprofit partnerships to help educate all Americans in financial literacy. The national strategy, and its subsequent report to Congress, will be known as ''The Strategy for Assuring Financial Empowerment'' or ''SAFE strategy'', based on legislation that I introduced—H.R. 3520, ''The SAFE Act''.

As as result, the ''SAFE strategy'' will provide a clear vision for the future of financial literacy. The vision will provide a systematic approach to identify effective ways to increase the general education level of current, and future, consumers of financial services and products. The Commission and the ''SAFE strategy'' will be goal-oriented and subject to reviews by Congress through annual testimony.

Mr. Speaker, I strongly support this legislation that is crucial to the economy and the security of the American people.

I thank you for addressing these important issues and urge my colleagues to support this conference report.

Mr. FRANK of Massachusetts. Mr. Speaker, I yield 1½ minutes to the gentleman from Pennsylvania (Mr. KANJORSKI), who is the second ranking member of the full committee and the ranking member of the Subcommittee on Capital Markets, Insurance and Government Sponsored Enterprises and who has a major input to this bill.

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

Mr. KANJORSKI. Mr. Speaker, just as an aside, if I may, I urge all my colleagues on this side of the aisle and on the other side of the aisle to support one of the most bipartisan pieces of legislation. I want to congratulate the chairman of the committee, the gentleman from Ohio (Mr. OXLEY), the ranking member of the committee, the gentleman from Massachusetts (Mr. FRANK), and the chairman of the subcommittee, the gentleman from Alabama (Mr. BACHUS), and the ranking member of the subcommittee on our side of the aisle for a job well done.

And the fact that we set a new course of activity here in the House as to how this function of legislation should be done from not only the subcommittee, the full committee, the House and Senate, and the conference committee, but now as they work back today, I urge all my colleagues to support the legislation.

Mr. Speaker, I would like to enter into a colloquy with the gentleman from Alabama (Mr. BACHUS) on the Federal FTC advertising campaign.

Section 213 of the bill directs the Federal Trade Commission to increase public awareness regarding the availability of consumer rights to opt out of receiving prescreened credit offer solicitations. Is that his understanding as well?

I yield to the gentleman from Alabama.

Mr. BACHUS. Mr. Speaker, it is, yes.

Mr. KANJORSKI. Mr. Speaker, does the gentleman share with me the understanding that the FTC's public awareness campaign is to be designed to increase public awareness, not only of the right to opt out of receiving prescreened solicitations, but also of the benefits and consequences of opting out?

Mr. BACHUS. Mr. Speaker, yes, I share that understanding. Not only

should consumers know they can opt out of getting these offers, they should also know that opting out or not affects their chances of getting additional credit offers with competitive terms.

Mr. KANJORSKI. Mr. Speaker, and if the FTC's public awareness campaign increases their understanding of the opt-out, consumers will make more informed better decisions. Does the gentleman agree?

Mr. BACHUS. Mr. Speaker, yes, I agree.

Mr. KANJORSKI. Mr. Speaker, I thank the gentleman from Alabama (Mr. BACHUS).

Mr. Speaker, I rise in very strong support of the conference report for H.R. 2622, the Fair and Accurate Credit Transactions Act.

The bill before us is an excellent piece of legislation. It advances consumer protection. It combats identity theft. And it allows businesses to operate efficiently when offering credit.

Moreover, the bill before us is a model of how the legislative process should work on a bipartisan basis. We held numerous hearings on the legislation. We deliberated on these matters thoroughly. We worked with one another on a bipartisan basis. The results of our efforts produced a bill that originally passed the House overwhelmingly.

If we fail to extend the expiring provisions of the Fair Credit Reporting Act before the end of this year, conflicting state laws could place financial institutions in a difficult compliance position, and the current efficiencies in obtaining credit could significantly decrease. We would, moreover, create more difficulties for our already struggling economy.

The Fair Credit Reporting Act and its 1996 amendments, in my view, have created a nationwide consumer credit system that works increasingly well. This law has expanded access to credit, lowered the price of credit, and accelerated decisions to grant credit. One reason that the law works so well is the establishment of a uniform system of national standards for credit reporting. As my colleagues may recall, Mr. Speaker, I strongly supported creating these state preemptions in the early 1990s. I also believe that we should extend them now.

In addition to extending the expiring preemptions of state law, H.R. 2622 will make a number of important improvements to current law with respect to consumer protection. These provisions, among other things, will improve the accuracy of and correction process for credit reports, and establish strong privacy protections for consumers' sensitive medical information.

Furthermore, identity theft is a growing problem in our country. A recent report by the Federal Trade Commission found that 27.3 million Americans have been victims of identity theft in the last five years. I am therefore particularly pleased that H.R. 2622 includes several provisions designed to combat these crimes and aid consumers.

Before I close, Mr. Speaker, I want to again commend the Ranking Member of the Committee [Mr. FRANK] for his work leading to a very strong bill, as well as the gentlelady from Oregon [Ms. HOOLEY] for her important work on identity theft. As I have already noted, we also worked on a bipartisan basis and in a pragmatic way with the Chairman of the Committee [Mr. OXLEY] and the Chairman of the Subcommittee [Mr. BACHUS] to produce a very worthwhile legislative product in the House and in the conference with the Senate on which I served.

Mr. Speaker, H.R. 2622 contains many important consumer protection provisions in a framework of uniform national standards. It is a good bill. I encourage my colleagues to support its passage.

Mr. OXLEY. Mr. Speaker, I yield 2 minutes to the gentlewoman from Illinois (Mrs. BIGGERT).

Mrs. BIGGERT. Mr. Speaker, I would like to commend the hard work that the gentleman from Ohio (Chairman OXLEY) and the gentleman from Alabama (Mr. BACHUS), subcommittee chairman, the gentleman from Massachusetts (Ranking Member FRANK), and the committee staff have done on this extremely important piece of legislation.

Mr. Speaker, to its sponsors and its cosponsors, every bill is an important bill. But there are few bills that we will take up this session or this Congress that are as critically important to our economy as reauthorizing and making permanent the expiring protections contained in the Fair Credit Reporting Act.

The FCRA may not be a household word, but it nonetheless touches virtually every aspect of our lives and our economy.

Without this reauthorization, there can be no national credit system, without a national credit system there will be less credit, slower credit, inaccurate credit, inefficient credit, and in some cases, no credit at all. Less, slower, inefficient and no credit will lead inevitably to less spending, slower growth, lower incomes, and fewer jobs.

That would be noticed by the American consumer and it would be a disaster for the American economy. That is why FCRA is a must-pass bill for this session.

This conference report addresses the challenges and problems created by new technologies as well. Chief among these are the provisions addressing identity theft. I am particularly pleased that this conference report contains language addressing the challenges of financial literacy.

As a member of the Committee on Financial Services and the Committee on Education and the Workforce, I have come to recognize the positive impact that a marriage of financial literacy and basic economics can have on millions of future investors.

I especially want to thank Senators Enzi and Sarbanes for working with me to perfect this language included in this conference report. H.R. 2622 is a good bill that provides important new protections for consumers and stops identity theft before it happens. I urge my colleagues to support this legislation and yield back the balance of my time.

Mr. FRANK of Massachusetts. Mr. Speaker, I yield 1½ minutes to the gentleman from Illinois (Mr. EMANUEL), who was very active particularly with regard to the medical privacy provision of this bill.

Mr. EMANUEL. Mr. Speaker, I would like to commend the Members on both sides of the aisle who worked in a bipartisan way to draft a good, strong bill with new identity theft protections and consumer protection. A special thanks to the gentleman from Ohio (Chairman OXLEY), to the gentleman from Massachusetts (Mr. FRANK), and to my colleague, the gentleman from California (Mr. OSE) for cosponsoring the amendment ensuring that this conference report has landmark provisions preventing banks and insurance companies from accessing and using the most sensitive private information of a consumer, medical information.

This medical privacy bill gives consumers a safe harbor they deserve by blacking out the use of medical information and making it off limits to banks and insurance companies. They cannot access it, period. This agreement makes that the law.

These new protections should go a long way to addressing America's concerns that their medical, mental health, or DNA information could be shared or used against them by banks and credit bureaus, when they apply for a mortgage, rent an apartment, or join a club. No one applying for a home should have to worry about a bank using their past cancer treatments against them. When this becomes law, they will not have to. This is a win for consumers and for the financial services industry.

Mr. OXLEY. Mr. Speaker, I yield 3 minutes to the gentlewoman from Florida (Ms. HARRIS).

Ms. HARRIS. Mr. Speaker, I want to discuss some of the exciting opportunities in the FCRA, specifically the aspects that Florida has engaged in. And I would like to enter a colloquy with the gentleman from Alabama (Mr. BACHUS) to discuss those.

Mr. Speaker, I would yield to the gentleman from Alabama (Mr. BACHUS).

Mr. BACHUS. Mr. Speaker, if the gentlewoman would yield, I would be glad to engage in a colloquy. I think what the gentlewoman from Florida (Ms. HARRIS) was inquiring into was that the Florida Banking Association has created a system that permits banks to combat identity theft, check fraud, and other criminal activity. And as I understand it, this system it produces reports that banks use exclusively to fight fraud not for the purpose, either in whole or part, of determining an individual's eligibility for credit insurance and employment.

And she has asked me to confirm that information that is provided for the exclusive purpose of detecting, preventing, or deterring a financial crime identity theft, or the funding of a criminal activity does not constitute a consumer report under the Fair Credit Reporting Act, even as amended by

this bill. And my response to that is that is correct. Such information was not a consumer report under the Fair Credit Reporting Act as it existed before this legislation, nor will it constitute a consumer report as amended by this bill.

Ms. HARRIS. Mr. Speaker, reclaiming my time, I think that many people were confused by that, so I really appreciate the clarification that this information is not a consumer report under the Fair Credit Act neither before it was passed nor after it has been amended. So I really appreciate that clarification.

In fact, I think one of the biggest problems has been that the fraud and identity theft has created billions of dollars of losses in the U.S. economy and continues to create serious problems for individuals. The technology allows criminals to perpetuate this fraud with increasing rapidity.

Financial institutions and law enforcement need to fight the increases in fraud and identity theft with technology. So the proposed amendment would free the antifraud networks from compliance with certain requirements of the Fair Credit Reporting Act. But the amendment preserves the consumer protection features in the Fair Credit Reporting Act because it requires a notice to consumers and an opportunity to respond.

What is exciting about the Florida bankers is they actually created something called Fraud Net in 2000 and it was implemented in 2002. This is really sort of a neighborhood watch for bankers, if you will. Because banks post alerts when they experience a fraudulent or criminal act. It does not deal with individual transactions, opening accounts, credit insurance, or employment. Today 14 States are employing the specific program, and they expect 10 additional users next year.

So I thank the gentleman from Alabama (Mr. BACHUS) for clarifying.

Mr. FRANK of Massachusetts. Mr. Speaker, I yield 2 minutes to the gentlewoman from Indiana (Ms. CARSON), one of our most active and energetic members of our committee.

Ms. CARSON of Indiana. Mr. Speaker, I would like to thank the gentleman from Massachusetts (Mr. FRANK) and the gentleman from Alabama (Mr. BACHUS) for the bipartisan spirit to move the bill to the floor.

Mr. Speaker, the Fair Credit Reporting Act has been crucial to extending credit services to underserved populations and in protecting consumers from egregious abuses of their financial and personal privacy. However, the violations and abuses continue to persist. I have assisted a number of constituents who have had credit problems because of inaccurate credit reporting. In many instances, people have no idea there is a problem until they try to secure a loan or credit.

What I found especially troubling is larger than expected numbers of inaccuracies credit reporting agencies have on consumers. So H.R. 2622 provides a number of new important consumer protections that will make credit reports less frustrating for our consumers. The bill would give every person in America the ability to consider request an annual free credit report.

I certainly hope every American takes advantage of this. The bill deals a tremendous blow to identity thieves whose crimes are rising rapidly. Consumers will be able to place fraud alerts on their credit report when erroneous information is present. I applaud the leadership on this bill, a very needed bill. I encourage the Members to support it.

Mr. OXLEY. Mr. Speaker, I yield 1 minute to the gentleman from Texas (Mr. SESSIONS), a distinguished member of the Committee on Rules, who has an important measure in this legislation.

Mr. SESSIONS. Mr. Speaker, I wish to thank the great chairman of the committee, the gentleman from Ohio (Mr. OXLEY), and also the gentleman from Massachusetts (Mr. FRANK) for working with me on an important aspect of this Fair Credit Reporting Act.

I learned, Mr. Speaker, from one of my constituents, Bill Asher back in Dallas, Texas, during a town hall meeting about how the Federal Trade Commission had applied privacy rules to workplace misconduct which meant that in a workplace misconduct circumstance, a person who violated another person or who broke the law would actually have to be given information about any investigation that might take place against that individual under privacy rules and regulations passed by and supported by the Federal Trade Commission.

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This Federal Trade Commission now will be reversed; their ruling will be reversed by this Fair Credit Reporting Act to make sure that misconduct in a workplace, privacy rules do not apply.

I want to thank the gentleman from Massachusetts (Mr. FRANK) for his work on this, to ensure this became law, and also our great chairman, the gentleman from Alabama (Mr. BACHUS), and our great chairman, the gentleman from Ohio (Mr. OXLEY).

Mr. FRANK of Massachusetts. Mr. Speaker, I yield 1½ minutes to the gentleman from New York (Mr. CROWLEY), another member of our committee who played a very active role in this.

Mr. CROWLEY. Mr. Speaker, I would like to call this the comity before the storm. It is interesting that we have such comity here in the House on the floor dealing with the FACT Act, the Fair Credit Reporting Act. This has been a bipartisan piece of legislation.

It is interesting that we will take up a bill later on this evening that will not be as bipartisan, and it certainly will be a more partisan bill. I want to thank the gentleman from Ohio (Mr. OXLEY) for his extension of his arm. I wish the other committee, the Committee on Ways and Means, would act in kind; and hopefully that will happen at some point.

I want to thank the ranking member, the gentleman from Massachusetts (Mr. FRANK), for his work on this bill; the gentleman from Alabama (Mr. BACHUS), the subcommittee chairman; the ranking member, the gentleman from Vermont (Mr. SANDERS). Although he has indicated he will not support the bill, he certainly acted in a very bipartisan manner in helping to craft the legislation.

This bill represents the best of the House where Democrats, Republicans, and Independents work together to craft a bill that addresses real problems. But besides good procedure, this bill is also good policy.

It will provide permanency to our Nation's credit grantors to ensure the easy and available flow of capital to our constituents. It toughens up the law with respect to identity theft and ensures that health information is walled off and cannot be used in any credit-making decisions, ensuring the integrity of one's health privacy.

This bill is good for American consumers, and I am pleased to support it. I only wish that later on this evening I could also support a Medicare bill that was bipartisan as well.

Mr. OXLEY. Mr. Speaker, I yield 1 minute to the gentleman from Ohio (Mr. GILLMOR), a valuable member of the committee.

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

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

I want to commend both the chairman and the subcommittee chairman, as well as the ranking members, for the great job they did on this bill.

I rise in strong support of the conference report. Passage of this legislation is essential to maintaining our current national credit reporting system. This legislation maintains the free flow of credit reporting information to lenders, financial services providers, while it also creates some strong new consumer protections.

It also includes a provision that I introduced, H.R. 2622, to improve the transparency of the credit scoring systems by mandating that if the number of credit inquiries on a consumers account negatively affect their score, it must be disclosed in their consumer report. This ensures a consumer and a prospective lender are fully informed; and this important new requirement will allow conscientious consumers to shop around for the best loans and rates.

I urge my colleagues to support the report.

Mr. FRANK of Massachusetts. Mr. Speaker, I yield 1½ minutes to the gentlewoman from New York (Mrs. MALONEY), who played an important role in this bill.

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

Mrs. MALONEY. Mr. Speaker, I thank the gentleman for yielding me time. I thank our ranking member and chair and my colleagues.

I rise in support of this legislation that permanently reauthorizes the Fair Credit and Reporting Act, which is extremely important to our economy and our national credit system. It also greatly enhances legal protections for identity theft victims, protects medical information, and provides groundbreaking new limits on the sharing of private consumer information among the affiliates of financial services companies.

My constituents need this legislation because New York City claims the sad distinction of having the largest number of identity theft cases of any city in the entire country. The FACT Act helps break the cycle of identity theft with new consumer protections including the right to a free annual credit report, a new consumer-initiated fraud alert system, new protections that will prevent the recycling or repollution of consumer information that is known to be the product of fraud, mandatory truncation of credit and debt card numbers to prevent theft.

In addition to identity theft, this bill contains groundbreaking limits on how financial services companies can share the sensitive consumer financial information among affiliates. These are important consumer protections given that some of today's largest financial companies have more than 1,000 affiliates. While the identity theft and privacy provisions will have the most direct impact on our constituents, the FACT Act also ensures the long-term viability of our national credit market by extending the FCRA beyond the end of the year.

Today I rise in support of legislation that permanently reauthorizes the Fair Credit Reporting Act (FCRA) which is very important to our economy and our national credit system. It also greatly enhances legal protections for identity theft victims, protects medical information, and provides groundbreaking new limits on the sharing of private consumer information among the affiliates of financial services companies.

My constituents need this legislation because New York City claims the sad distinction of having the largest number of identity theft cases of any city in the country.

In addition, this bill contains groundbreaking limits on how financial services companies can share their sensitive customer financial information among affiliates.

These are important consumer protections given that some of today's largest financial companies have more than 1,000 affiliates.

Finally, while the identity theft and privacy provisions will have the most direct impact on our constituents, the FACT Act also ensures the long-term viability of our national credit market by extending the FCRA beyond the end of this year.

Mr. OXLEY. Mr. Speaker, I yield 1 minute to the gentleman from Ohio (Mr. LATOURETTE), a former prosecutor, who has done such great work, particularly in the identity theft part of the legislation.

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

Mr. LATOURETTE. Mr. Speaker, I want to first begin by commending the gentleman from Ohio (Mr. OXLEY) and the ranking member, the gentleman from Massachusetts (Mr. FRANK), for their hard work together with the conferees. I think the gentlewoman from Illinois (Mrs. BIGGERT) said earlier that this is the most important piece of legislation to come out of this committee this year, and I agree.

I also want to pay special tribute to the gentlewoman from Oregon (Ms. HOOLEY). When we began working in the 106th Congress on identity theft, some people had not heard of it. Today, I think every Member has a horror story about identity theft. In my district it was Maureen Mitchell. She and her husband found out that they owned not one, but two, luxury SUVs in the period of a couple of hours in Chicago, Illinois, that they had not participated in or purchased.

I think the conferees have produced a good bill. They have not only produced a good bill; they have produced a bill that does not have a one-size-fits-all remedy, and it still gives the regulators flexibility to deal with the ever-evolving strategies that identify thieves come up with.

Lastly, I want to pay tribute to the gentleman from Alabama (Mr. BACHUS), the chairman of the subcommittee, because he sat through hours and hours of hearings to make sure that we got it right; and, lastly, the ranking member, the gentleman from Vermont (Mr. SANDERS), I think he had some excellent ideas on bait and switch. I hope we revisit that in the next Congress.

Mr. FRANK of Massachusetts. Mr. Speaker, I yield 1½ minutes to the gentleman from Texas (Mr. HINOJOSA), another active member of our committee.

Mr. HINOJOSA. Mr. Speaker, I rise in strong support of the conference report to accompany the Fair and Accurate Transactions Act of 2003. And I congratulate the gentleman from Ohio (Mr. OXLEY) and the ranking member, the gentleman from Massachusetts (Mr. FRANK), the subcommittee chairman, the gentleman from Alabama (Mr. BACHUS), and the ranking member, the gentleman from Vermont (Mr. SANDERS), and all the committee staff for the wonderful work they did in completing this conference report.

This conference report will strengthen the provisions of the Fair Credit Reporting Act. I am proud to have been an original co-sponsor of this legislation, to have supported it in committee, and to have voted in favor of it on the House floor.

Let me take this opportunity to thank the conferees for including in the financial literacy provision of the legislation language that will allow the financial literacy commission the bill creates to take any action to develop and promote financial literacy and educational materials in languages other than English. This will apply to the hot line, Web site, and educational materials the commission produces or recommends.

It is imperative that financial literacy materials be created and disseminated in languages other than English to recognize the diversity of our great Nation. I especially want to thank the ranking member, the gentleman from Massachusetts (Mr. FRANK), for his assistance with this language and Jaime Lizarraga of his staff.

Rest assured that the Congressional Hispanic Caucus and the Hispanic community appreciate your efforts and the language you inserted into the conference report.

Mr. Speaker, I rise in strong support of the conference report to accompany The Fair and Accurate Transactions Act of 2003. I congratulate Chairman OXLEY and Ranking Member FRANK, Subcommittee Chairman BACHUS and Ranking Member SANDERS and all the House and Senate conferees on completing this conference report.

This conference report will strengthen the provisions of the Fair Credit Reporting Act. I am proud to have been an original cosponsor of this legislation, to have supported it in Committee and to have voted in favor of it on the House floor.

I want to read at this time a portion of a letter Federal Reserve Board Chairman Alan Greenspan sent to me dated February 28, 2003. Chairman Greenspan was responding to a question I submitted to him in writing asking what would happen to the U.S. economy if the exceptions to the Fair Credit Reporting Act were allowed to expire after January 1, 2004. In his letter, Chairman Greenspan warned that: ''Limits on the flow of information among financial market participants, or increased costs resulting form restrictions that differ based on geography, may lead to an increase in the price or a reduction in the availability of credit, as well as a reduction in the optimal sharing of risk and reward.''

I am very pleased that this conference report heeded Chairman Greenspan's warning, and I believe that its passage will help our struggling economy to improve.

Let me take this opportunity to thank the conferees for including in the financial literacy provision of the legislation language that will allow the Financial Literacy Commission the bill creates to ''take any action to develop and promote financial literacy and education materials in languages other than English.'' This will apply to the hotline, website, and educational materials the Commission produces or recommends. It is imperative that financial literacy materials be created and disseminated in languages other than English to recognize the diversity of our great nation.

I especially want to thank Ranking Member FRANK for his assistance with this language and Jaime Lizarraga of his staff. Rest assured that the Congressional Hispanic Caucus and the Hispanic community appreciate your efforts and the language you inserted into the conference report.

The SPEAKER pro tempore (Mr. THORNBERRY). The gentleman from Ohio (Mr. OXLEY) has 1 minute remaining. The gentleman from Massachusetts (Mr. FRANK) has 6 minutes remaining.

Mr. OXLEY. Mr. Speaker, does the gentleman have any further speakers?

Mr. FRANK of Massachusetts. Mr. Speaker, I have several.

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

I have the right to close, is that correct, Mr. Speaker?

The SPEAKER pro tempore. The gentleman is correct.

Mr. FRANK of Massachusetts. Mr. Speaker, I yield 1¼ minutes to the gentleman from Massachusetts (Mr. MARKEY), who has been so active on the privacy issue.

Mr. MARKEY. Mr. Speaker, I thank my friend, and I congratulate him for all the good things that are in this bill, all the credit report and the negative statement issues that are dealt with.

But there is one concern which I have which is consumers are, by this bill, going to see the California privacy law preempted, as they are going to see as well other States who want to make stronger privacy protection for their constituents something that is part of the law.

My concern is that increasingly what we see with companies like TransUnion and Equifax is that they are sending the records off shore. For example, TransUnion, one of the three major credit reporting agencies' spokesman said last month, 100 percent of our mail regarding customer disputes is going to India at some point. We expect to sign that contract by the end of the year.

My hope is that as the years go by we will be able to return to this issue because the globalization of the information marketplace is going to make clear that Americans are going to want more protection as their information is going to be put in the hands of foreigners with no laws on the books or the ability to police them.

I rise to opposition to this legislation.

I understand that some good things have been done in this bill, such as the provisions granting consumers free access to copies of their credit report, notice of negative statements being added to their credit reports, or adverse credit decisions being made based on their credit report. I support these provisions, and I also support stronger protections against identify theft.

The problem is that consumers are being asked to pay a price for these provisions—their privacy. As I read this bill, we are permanently pre-empting any stronger state privacy laws, such as the California law, in favor of a federal standard that provides consumers with only a very narrow ''opt-out'' right to block affiliate sharing of the consumer's information for marketing purposes. I do not believe that an ''Opt Out'' is appropriate. Companies should have to obtain the affirmative consent of the consumer—an ''Opt In'' before they share information about their transactions or experiences with the consumer with other affiliates or with unaffiliated third parties.

Moreover, I am concerned that by limiting the ability of a consumer to exercise their Opt-Out solely to marketing, this bill allows affiliates to share information about the consumers for other purposes without any consumer right to say ''No.'' I am also concerned that even after a consumer has ''opted out,'' their decision to do so gets sunsetted after 5 years and they have to ''opt out'' again. If the consumer has said no, that should mean no illness and until the consumer says yes.

I also want to raise a concern about some statements I have seen in the press from the credit reporting agencies suggesting that if these companies are forced to provide consumers with free credit reports, they will accelerate their current efforts to transfer their databases and back office operations off-shore.

TransUnion and Equifax, two out of the three major credit reporting agencies already are in the process of offshoring the processing of detailed credit files on 220 million U.S. consumers.

Earlier this month, a TransUnion spokesman said that ''A hundred percent of our mail regarding customer disputes is going to go to India at some point. We expect to sign that contract by the end of the year.''

Equifax has had a vendor in Jamaica for four years, where Jamacian workers handle data entry at the beginning of the reinvestigation process for disputed credit reports.

Experian, the third of the three major credit reporting agencies, is considering whether to offshore some of its operations: ''We definitely are evaluating every option on the table, and offshoring is one of them. I don't want to be quoted as saying we'll never do it.''

Privacy experts are concerned about offshoring of the Social Security numbers, addresses and other personal information contained in credit reports:

''Consumers should be worried. The infrastructure to protect information just isn't there in a lot of these places.'' (Beth Givens, director, Privacy Rights Clearing House)

''The problem is not that they're in India, the problem is that American laws are not going to be enforced in India.'' (Chris Hoofnagle, Electronic Privacy Information Center)

''If you're an international crime ring, and you want Social Security numbers for identity theft, you're going to look at the weakest link, and that's quite possibly these overseas companies.'' (Beth Givens)

In October, a Pakistani woman threatened to post UCSF patient files on the Internet, unless she was paid for the medical transcription services she had performed. In the email she sent to UCSF, the woman wrote: ''Your patient records are out in the open to be exposed, so you better track that person and make him pay my dues or otherwise I will expose all the voice files and patient records on the Internet.''

That is the future that we are looking at with the credit reporting agencies. Consumers may be able to call up to get a free copy of their credit report, but the person on the other end of the line may be in Karachi or New Delhi, where U.S. privacy standards do not apply.

Indeed, this bill may provide Americans with the most expensive ''free'' credit report they'll ever get. They'll pay with their privacy.

That is why I think that we need to put the consumer back in control of their own information. We need an ''opt-in'' not a limited ''opt-out'', and we need to ensure that American's privacy does not get offshored at the same time that their jobs are getting offshored.

I urge the defeat of this legislation.

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

Mr. Speaker, I want to begin by saying that if we on the Democratic side were in the majority, this would be a different bill. We are not, so we have the bill that we have here.

Given that, given that there are some differences, I must tell you that this is a better bill than I had hoped we would see. And I am very appreciative of my colleagues on the other side. They did not give in on any issues of principle that are important to them. We have on both sides of the aisle a strong commitment to making sure that the free-market system in this country can work.

These credit allocations have become a very important part of that free-mark system. And this bill, I believe, preserves that system, the credit allocation system for individuals as well as need be.

We also, though, have, as we often do with the free market, a situation where the market does well what it is supposed to do, but it does not do everything. There are areas where we need to step in and help the market. What is important is for us to do that in ways that do not impinge on the market function.

I believe that working together we have come closer in doing that in this bill than I had thought. I would like if there had been fewer preemptions in the field, for instance, of identity theft; but as a result of a meeting which we had this morning, I think we agreed to preserve the integrity of the identity theft provisions that we have in there, to make sure that they can function without interference and without distraction, but did not unduly preempt if the States want to be additive in other areas. So there is, in fact, room for States to do something as long as the scheme that has been set forward in this bill is not interfered with, detracted from, and in particular, companies are not subjected to conflicting or confusing multiple requirements.

We have done other things. People, as a result of this, will be able to get a lot more information. Until recently, credit and credit scoring have been kind of mystical things to a lot of people. Consumers, home buyers, automobile buyers, others have found their lives affected financially by factors of which they were only dimly aware. As a result of several provisions in this bill, the system will be allowed to work, but consumers will have a lot more information about it. And they will get that information in many cases early enough to act on it.

Frankly, one of the things that some of our friends in the business community were skeptical of I think will wind up helping them. A requirement that people be notified if something they have either done or failed to do will cause them to have a negative comment on the credit report, I think that will have an incentivizing effect. I think the first time someone is late unneccessarily with a payment for a mortgage and is notified that this will

be on your credit report, you are likely to see much less lateness. We also took steps to improve the accuracy of the data.

The system on the whole works very well, but no system works perfectly. I think this credit system was a little bit flawed in that it did not adequately give people a chance to correct errors. We do a much better job of this. I would have liked there to have been a sunset on the preemptions.

I think this bill benefits from the fact that it was here today. Congress did this 7 years ago. There was a sunset. And as a result, we are here today doing what everybody agrees is improving the bill. I would have liked, and my colleague from Pennsylvania (Mr. KANJORSKI) offered an amendment to give us a chance to do that again. We lost on the floor, and that is the way the votes went. But I do hope and I believe that we may very well from experience learn that more has to be done or things have to be done differently.

□ 1845

When this bill was passed in 1996, identity theft was not a big issue. The fact that it was sunsetted gave us a chance to deal with identity theft I think in a very effective way. This will not be the last time that the crooked people in this world will think of a way to swindle the great majority of the honest ones.

So I just want to make it clear that while we will not have this automatically coming up, I hope we are all committed, and I believe we are, that as new problems come up we will be able to deal with them.

Given the fact that the majority is the majority, I believe that we did a good job, not a perfect one, in adding consumer protections and safety factors to this general system of allowing the credit allocation to individuals to work, and for that reason, I would urge Members to vote for the bill.

Mr. OXLEY. Mr. Speaker, I yield myself the remaining time.

First of all, I want to thank the staff. I always tend to forget to do that, and we have been through a lot on this bill. This is a complicated piece of legislation that got more complicated as we took on this whole issue of identity theft, and throughout this process, the staff on both sides of the aisle have been just superb, working late nights and early mornings to get us where we are today, and I want to personally thank them for their efforts. They know who they are, and I know who they are and we most appreciate it, and also to the Members, I think this is, Mr. Speaker, perhaps a textbook example of how the legislative process ought to work in terms of hearings, in terms of everybody having an opportunity to have their say, involving Members on both sides of the aisle, many of them newer Members, freshmen Members, to really get their feet wet on an important piece of legislation that we bring to the floor today and this conference report that will close it out.

This is truly a historic day, and I think in the real traditional way that we have started in the Committee on Financial Services of turning out good legislation in a bipartisan manner, and for that, I am very thankful to all concerned.

Mr. BEREUTER. Mr. Speaker, as a member of the Financial Services Committee and a conferee, this member rises today to express his strong support for the conference report of H.R. 2622, the Fair and Accurate Credit Transactions Act of 2003 (FACT Act). This important legislation permanently extends those provisions in the Fair Credit Reporting Act (FCRA) which relate to the preemption of State laws—a very necessary step in this instance. The current provisions in the FCRA are set to expire on December 31, 2003. Thus when this conference report is enacted into law, it will continue the nationwide credit system while providing important consumer protections.

This member would like to thank the distinguished gentleman from Alabama, Mr. BACHUS, the chairman of the House Financial Services Subcommittee on Financial Institutions and Consumer Credit on which this member serves, for introducing the legislation on which this conference report is largely based. Furthermore, this member would like to thank both the distinguished gentleman from Ohio, Mr. OXLEY, the chairman of the House Financial Services Committee, and the distinguished gentleman from Massachusetts, Mr. FRANK, the ranking member of this committee, for their outstanding effort in bringing this excellent conference report to the House floor. As was suggested at the conclusion of the conference, this may be an instance where most of the conferees from both the House and Senate believe the conference report is better than either original Chamber's product.

The FCRA is the Federal law which governs the furnishing of reports on the credit worthiness of consumers. This member supports this conference report which would permanently extend the FCRA for many reasons. However, he would like to focus on the following three reasons.

First, this conference report provides for a free credit report annually for consumers. Typically, credit reporting agencies charge consumers up to $9 for the disclosure of the information in their credit files. Under current law, a consumer may receive a free consumer report from a reporting agency only under certain circumstances, such as when a consumer receives a notice of an adverse action by a reporting agency. The FACT Act would provider a free credit report annually for consumers for any reason. This member believes that this provision will promote consumer awareness of a person's credit history as well as provide an opportunity for the consumer to correct any inaccurate information on one's credit report.

Second, this conference report provides important provisions to curb identity theft. To illustrate the need for these provisions, the Federal Trade Commission (FTC) released a survey at the beginning of September of this year which showed that a staggering 27.3 million Americans had been victims of identity theft in the last 5 years, including 9.9 million people in the last year alone. This conference report, among other things, allows consumers to place ''fraud alerts'' in their credit reports to prevent identity thieves from opening accounts in their names.

Lastly, this conference report continues the Federal preemption of State laws as it relates to the corporate affiliate sharing of financial information. During the consideration of the 1996 amendments to the FCRA, this member authored a provision, which was signed into law, that required a consumer opt-out when nontransactional information is shared among corporate affiliates. Examples of nontransaction information include data from a consumer credit report and information on an application such as a consumer's income or assets. This provision on consumer notice is very important as it was the first consumer ''opt out'' on the sharing of financial information that this member is aware of that was signed into Federal Law.

Mr. Speaker, in conclusion, for the reasons stated above and many others, this member encourages his colleagues to support the conference report of H.R. 2622.

Mr. CANTOR. Mr. Speaker, I rise today on behalf of the Fair and Accurate Credit Transactions Act, H.R. 2622. This sound piece of legislation will aid in the prevention of identity theft. Additionally, it will guarantee that consumers have access to affordable credit.

I do have one concern, and I would like to clarify congressional intent in regard to this legislation. It is vitally important for consumers that the information reported about them to credit bureaus is accurate. When errors occur, they must be corrected. The overwhelming majority of disputes are properly handled through existing procedures as defined in section 611 of the Fair Credit Reporting Act. Nevertheless, a very small percentage of unusual disputes are not completely resolved through the reinvestigation process. Section 312 of the conference report for the bill provides a means by which some of these cases could be submitted directly to the furnisher for possible resolution.

I recognize that there are potential risks in the adoption of this section. For example, I am very concerned that any mechanism designed to address these few cases is not burdensome. If it becomes burdensome, furnishers may become discouraged from reporting complete and accurate information in the first instance. Additionally, this could lead to misuse by credit repair clinics to overwhelm furnishers in an attempt to cause them to change accurate information.

The conference report for H.R. 2622 has charged the relevant agencies with issuing rules only after they have determined the benefits of a direct resolution process. Congress has provided the agencies with four criteria to review in connection with any rulemaking pertaining to the direct reinvestigation of consumer disputes with furnishers. This criteria must be satisfied before any rules are to be issued.

I believe it is a positive piece of legislation that will give consumers the tools to fight identity theft and continue to access affordable credit.

Mr. Speaker, I urge passage of this legislation.

The SPEAKER pro tempore (Mr. THORNBERRY). The question is on the motion offered by the gentleman from Ohio (Mr. OXLEY) that the House suspend the rules and agree to the conference report on the bill, H.R. 2622.

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. SANDERS. 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.

FURTHER MESSAGE FROM THE SENATE

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

S. 1741. An act to provide a site for the National Women's History Museum in the District of Columbia.

The message also announced that the Senate agrees 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. 2115) ''An Act to amend title 49, United States Code, to reauthorize programs for the Federal Aviation Administration, and for other purposes.''

VITIATION OF MOTION TO INSTRUCT CONFEREES ON H.R. 1, MEDICARE PRESCRIPTION DRUG AND MODERNIZATION ACT OF 2003

The SPEAKER pro tempore. Under clause 8 of rule XX, the filing of the conference report on H.R. 1 has vitiated the motion to instruct conferees offered by the gentleman from Washington (Mr. INSLEE) which was debated yesterday and on which further proceedings were postponed.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, and the Chair's prior announcement, the Chair will now put each question on which further proceedings were postponed earlier today in the following order:

Previous question on H. Res. 459, by the yeas and nays;

H. Res. 459, if ordered;

Previous question on H. Res. 458, by the yeas and nays;

H. Res. 458, if ordered;

H. Con. Res. 206, by the yeas and nays.

The Chair will reduce to 5 minutes the time for any electronic vote after the first such vote in this series.

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

The SPEAKER pro tempore. The pending business is the vote on ordering the previous question on H. Res. 459, on which the yeas and nays are ordered.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on ordering the previous question.

The vote was taken by electronic device, and there were—yeas 225, nays 202, not voting 7, as follows:

[Roll No. 659]

YEAS—225

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

NAYS—202

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

NOT VOTING—7

DeMint
Fletcher
Fossella
Gephardt
Marshall
Murtha
Ruppersberger

□ 1909

Mrs. MALONEY and Messrs. WYNN, MORAN of Virginia, SCOTT of Georgia, PALLONE, ALLEN, and COSTELLO changed their vote from ''yea'' to ''nay.''

So the previous question was ordered.

The result of the vote was announced as above recorded.

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

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

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

The yeas and nays were ordered.

The SPEAKER pro tempore. This is a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 228, nays 200, not voting 6, as follows:

[Roll No. 660]

YEAS—228

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

NAYS—200

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

NOT VOTING—6

DeMint
Fletcher
Gephardt
Goode
Marshall
Ruppersberger

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

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

□ 1919

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.

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

The SPEAKER pro tempore (Mr. THORNBERRY). The pending business is the vote on ordering the previous question on H. Res. 458, on which the yeas and nays are ordered.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on ordering the previous question.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 225, nays 202, not voting 7, as follows:

[Roll No. 661]

YEAS—225

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

NAYS—202

Abercrombie
Ackerman
Alexander
Allen
Andrews
Baca
Baird
Baldwin
Ballance
Becerra
Bell
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boswell
Boucher
Boyd
Brady (PA)
Brown (OH)
Brown, Corrine
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Case
Clay
Clyburn
Conyers
Cooper
Costello
Cramer
Crowley
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Doggett
Dooley (CA)
Doyle

Emanuel
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank (MA)
Frost
Gonzalez
Gordon
Green (TX)
Grijalva
Gutierrez
Hall
Harman
Hastings (FL)
Hill
Hinchey
Hinojosa
Hoeffel
Holden
Holt
Honda
Hooley (OR)
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
John
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kind
Kleczka
Kucinich
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Lucas (KY)
Lynch
Majette
Maloney
Markey
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McIntyre
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Michaud
Millender-McDonald
Miller (NC)
Miller, George
Mollohan
Moore
Moran (VA)
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Rodriguez
Ross
Rothman
Roybal-Allard
Rush
Ryan (OH)
Sabo
Sanchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Schakowsky
Schiff
Scott (GA)
Scott (VA)
Serrano
Sherman
Skelton
Slaughter
Smith (WA)
Snyder
Solis
Spratt
Stark
Stenholm
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Tierney
Towns
Turner (TX)
Udall (CO)
Udall (NM)
Van Hollen
Velazquez
Visclosky
Waters
Watson
Watt
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

NOT VOTING—7

DeMint
Fletcher
Gephardt
Jefferson
Jones (NC)
Marshall
Ruppersberger

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

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

□ 1927

So the previous question was ordered.

The result of the vote was announced as above recorded.

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

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

RECORDED VOTE

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

A recorded vote was ordered.

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

The vote was taken by electronic device, and there were—ayes 224, noes 203, not voting 7, as follows:

[Roll No. 662]

YEAS—224

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

NAYS—203

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

NOT VOTING—7

DeMint
Feeney
Fletcher
Gephardt
Marshall
Ruppersberger
Tauzin

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

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

□ 1935

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.

SUPPORTING NATIONAL MARROW DONOR PROGRAM AND OTHER BONE MARROW DONOR PROGRAMS

The SPEAKER pro tempore. The pending business is the question of suspending the rules and agreeing to the concurrent resolution, H. Con. Res. 206.

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Oregon (Mr. WALDEN) that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 206, 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 423, nays 2, not voting 9, as follows:

[Roll No. 663]

YEAS—423

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

Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
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
Deutsch
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Dooley (CA)
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emanuel
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Feeney
Ferguson
Filner
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)
Jackson-Lee (TX)
Janklow
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kildee
Kilpatrick
Kind
King (IA)
King (NY)
Kingston
Kirk
Kleczka
Kline
Knollenberg
Kolbe
Kucinich
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Lynch
Majette
Manzullo
Markey
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCotter
McCrery
McDermott
McGovern
McHugh
McInnis
McIntyre
McKeon
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Michaud
Millender-McDonald
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Mollohan
Moore
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Nadler
Napolitano
Neal (MA)
Nethercutt
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Ose
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Paul
Payne
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Renzi
Reyes
Reynolds
Rodriguez
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
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
Tancredo
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Toomey
Towns
Turner (OH)
Turner (TX)
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velazquez
Visclosky
Vitter
Walden (OR)
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—2

Kennedy (RI) Maloney

NOT VOTING—9

Conyers Gephardt Ruppersberger
DeMint Lewis (CA) Sweeney
Fletcher Marshall Walsh

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

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

□ 1944

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

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Mrs. MALONEY. Mr. Speaker, on rollcall No. 663, I had intended to vote "yea" on H. Con. Res. 206, and request that the RECORD reflect my intentions.

Mr. KENNEDY of Rhode Island. Mr. Speaker, I wish to inform you that I inadvertently misvoted on rollcall No. 663 on H. Con. Res. 206.

I support this legislation and it was my intention to vote in support of it. I did not realize until after the voting had closed that I had mistakenly voted otherwise.

NATIONAL FLOOD INSURANCE PROGRAM REAUTHORIZATION ACT OF 2004

Mr. OXLEY. Mr. Speaker, I ask unanimous consent that the Committee on Financial Services be discharged from further consideration of the Senate bill (S. 1768) to extend the national flood insurance program, and ask for its immediate consideration in the House.

The Clerk read the title of the Senate bill.

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

There was no objection.

The Clerk read the Senate bill, as follows:

S. 1768

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 Flood Insurance Program Reauthorization Act of 2004''.

SEC. 2. EXTENSION OF NATIONAL FLOOD INSURANCE PROGRAM.

(a) EXTENSION.—The National Flood Insurance Act of 1968 is amended—

(1) in section 1309(a)(2) (42 U.S.C. 4016(a)(2)), by striking ''December 31, 2003'' and inserting ''December 31, 2004'';

(2) in section 1319 (42 U.S.C. 4026), by striking ''after'' and all that follows through the period at the end and inserting ''after December 31, 2004.'';

(3) in section 1336(a) (42 U.S.C. 4056(a)), by striking ''ending'' and all that follows through ''in'' and inserting ''ending December 31, 2004, in''; and

(4) in section 1376(c) (42 U.S.C. 4127), by striking ''December 31, 2003'' and inserting ''December 31, 2004''.

(b) EFFECTIVE DATE.—The amendments made by this section shall be considered to have taken effect on December 31, 2003.

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. OXLEY

Mr. OXLEY. Mr. Speaker, I offer an amendment in the nature of a substitute.

The Clerk read as follows:

Amendment in the nature of a substitute offered by Mr. OXLEY:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''National Flood Insurance Program Reauthorization Act of 2004''.

SEC. 2. EXTENSION OF PROGRAM.

(a) EXTENSION.—The National Flood Insurance Act of 1968 is amended as follows:

(1) AUTHORITY FOR CONTRACTS.—In section 1319 (42 U.S.C. 4026), by striking ''December 31, 2003'' and inserting ''March 31, 2004.''.

(2) BORROWING AUTHORITY.—In the first sentence of section 1309(a) (42 U.S.C. 4016(a)), by striking ''December 31, 2003'' and inserting ''the date specified in section 1319''.

(3) EMERGENCY IMPLEMENTATION.—In section 1336(a) (42 U.S.C. 4056(a)), by striking ''December 31, 2003'' and inserting ''on the date specified in section 1319''.

(4) AUTHORIZATION OF APPROPRIATIONS FOR STUDIES.—In section 1376(c) (42 U.S.C. 4127(c)), by striking ''December 31, 2003'' and inserting ''the date specified in section 1319''.

(b) EFFECTIVE DATE.—The amendments made by this section shall be considered to have taken effect on December 31, 2003.

Mr. OXLEY (during the reading). Mr. Speaker, I ask unanimous consent that the amendment in the nature of a substitute be considered as read and printed in the RECORD.

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

There was no objection.

The amendment in the nature of a substitute was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

□ 1945

MAKING IN ORDER AT ANY TIME CONSIDERATION OF H.J. RES. 79, FURTHER CONTINUING APPROPRIATIONS, FISCAL YEAR 2004

Mr. YOUNG of Florida. Mr. Speaker, I ask unanimous consent that it shall be in order at any time without intervention of any point of order to consider House Joint Resolution 79 in the House; the joint resolution shall be considered as read for amendment; the previous question shall be as ordered on the joint resolution to final passage without intervening motion except: one, 20 minutes of debate on the joint resolution, equally divided and controlled by the chairman and ranking member of the Committee on Appropriations; and, two, one motion to recommit.

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

There was no objection.

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. 79, 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 the order of the House just adopted, I call up the joint resolution (H.J. Res. 79) 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 House Joint Resolution 79 is as follows:

H.J. RES. 79

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 ''January 31, 2004.''

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 21, 2003'' and inserting ''January 31, 2004''.

The SPEAKER pro tempore. Pursuant to the order of the House today, the gentleman from Florida (Mr. YOUNG) and the gentleman from Wisconsin (Mr. OBEY) each will control 10 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, yesterday the House passed H.J. Res. 78, the fifth continuing resolution for fiscal year 2004, which extends the date of the current CR through Sunday, November 23. The Senate has chosen to amend this CR so that it would remain in effect until Monday, November 24.

We have, in turn, decided with the Senate leadership just to introduce a clean CR, H.J. Res. 79, that we are now considering. That would extend the date of the CR to January 31, 2004. I think I should be very clear of what this means. It is not our intention with this CR to allow it to run through January 31, but it will allow us great flexibility in scheduling the completion of our work on the final appropriations bills and at the same time ensure that there will not be any disruption in government operations. And I would like to point out, Mr. Speaker, that the Committee on Appropriations has done its job and did so quite a long time ago, but some of the issues that are keeping us from completing work on the actual bills have nothing to do with appropriations. But, nevertheless, they are there, and we do have to deal with them, and we are dealing with them as best we can.

We are proceeding with our work on the remaining appropriations bills. And as my colleagues know, there are two conference reports that have been ready for some time to file, the conference report on Transportation and Treasury and the conference report on Foreign Operations. However, as we proceed, we will finish the remaining bills as quickly as we can, and it will be leadership's decision on when the bills will be filed and when we will vote on it. We are proceeding with our work as diligently as we can.

Mr. Speaker, I believe this CR is noncontroversial, and I urge the House to move the legislation to the Senate since the current CR does expire today.

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

Mr. OBEY. Mr. Speaker I yield myself 6 minutes.

Mr. Speaker, as this joint resolution demonstrates, we are in another year that simply refuses to end. Last year we did not see this Congress finish the work that was supposed to be done by October 1 until well into the winter of the next calendar year. At that time the majority party in the House blamed that inability to get the work done on the fact that there was a majority of the other party in the other body.

This year they do not have Tom Daschle to kick around anymore. This year the Republicans control it all. They control the White House. They control the House. They control the Senate. They control the schedule. They control what gets to the floor. They control how long the votes are held open. They control everything. And yet we are in a situation where tonight, long after the fiscal year is supposed to be over, we still have not seen the budgets passed for VA–HUD, for the State Department, for the Justice Department, for the Commerce Department. We have yet to see the foreign aid budget pass. We have yet to see the budget for the Labor, Health and Human Services, Education, social services agencies pass and the agriculture budget. I think we ought to ask why.

I do not believe that we are in this box because of any failure of the Committee on Appropriations leadership. I think we are in this box because the Republican House leadership is insisting on having every decision made in a top-down style. That means that the only real decisions that count except on minor matters are those made in the office of the Speaker or in the office of the majority leader.

No conferees are appointed unless they agree with the leadership's position on major issues. And yet even after rigging those conferences, even after stacking those conferences, when they still cannot win the votes that they need to win in those stacked conferences, they simply adjourn those conferences and then put legislation together in some off-corner office without any meaningful participation by anybody except perhaps some unelected members of the leadership's staff. So much for the legislative process in what used to be regarded as the greatest deliberative body in the world.

This process is about as respectful of rank and file Members as an AARP board meeting is respectful of the senior citizens they supposedly represent. On the same night that legislation is going to be considered that will bankrupt Medicare, we see the ultimate degradation of the legislative process at the same time as it is demonstrated in the appropriations process.

It is not often, Mr. Speaker, that one can do in senior citizens and the democratic process on the same night, but the House leadership should be congratulated because they have managed to find a way.

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

Mr. YOUNG of Florida. Mr. Speaker, I yield myself 2 minutes.

I just would like to point out, and I have done this so many times that it does not hurt to be repeated. The House completed its work during the summer, ahead of the end of the fiscal year. And I appreciate the cooperation we had from both parties as we proceeded with our appropriations bills. I am not here to blame anybody, and I certainly would not blame anybody but circumstances.

The Committee on Appropriations, as the gentleman from Wisconsin (Mr. OBEY) pointed out, we had to do all of last year's work this year in January and February. Then we had three supplementals plus we did the 13 regular bills. This Committee on Appropriations has done its work. It has done its work well, and it has done its work

on time, as the gentleman from Wisconsin (Mr. OBEY) has conceded. There are other problems.

One of the problems, and I do not know that anybody is going to like to hear this especially on my side of the aisle, one of the problems is this tremendous desire to solve legislative problems that the authorizing committees either cannot or will not solve. They are put onto appropriations bills, and they ask us to solve them because appropriations bills have to pass, Mr. Speaker. They are the only bills here really that have to pass. So we become a magnet for all of those issues that authorizers cannot solve, and we try to do the best we can. I think we are on the verge of having completed this job for this year.

I do not think it does any good to blame anybody. In fact, I would like to say that the chairman of the Appropriations Committee in the Senate is an outstanding leader, a strong, dynamic leader, who is very knowledgeable and understands the process totally. He understands the issues as well as anybody that I know. But he has a very difficult situation in the Senate, and he has done the best job that he could.

Anyway, Mr. Speaker, we are closing in on this. We are really prepared. We have been prepared for 3 weeks to file the Transportation and Treasury appropriations bill. We have been prepared for a week to file the conference report on the Foreign Operations appropriations bill. And they can be completed in a very short period of time.

The other remaining issue would be the omnibus bill that includes five appropriations bills that have not been completed in conference. And we are very close to having that completed. We are very close to being able to file that bill and vote on it. As a matter of fact, we had hoped that we would file it tonight. A lot of changes happened during the day. And every time we make a change, it takes a little extra time. So we probably will not file that bill tonight unless the House remains in session very late.

Anyway, I would agree that the process has not worked the best, but I would also say that I compliment the Members of House and especially the members of the Committee on Appropriations in the House and the staff that worked so diligently with us. We did our job. We have done our job, and we are attempting to pursue the completion of the whole process.

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

Mr. OBEY. Mr. Speaker, I yield myself 4 minutes.

Mr. Speaker, as the gentleman from Florida has indicated, the Commerce-Justice bill could very easily have been brought back to this floor separately and passed separately. The Transportation bill could very easily have been brought back to the floor and passed separately. The Foreign Operations bill could very easily have been brought back to the bill floor and passed separately. The Agriculture the same and the VA–HUD bill the same.

The problem is, as the gentleman indicated, that there are many other issues that are being drug into the appropriations process. And we also see the situation complicated by the fact that the House Republican leadership, despite votes to the contrary on a number of issues, is insisting on seeing an outcome on a number of these issues which is at variance with the expressed wishes of the Members of the House. And I think therein lies the reason for the delay and delay and delay.

I think the problem that we have, Mr. Speaker, the gentleman from Florida, my good friend, indicated that the committee product is serving as a magnet for other authorizations. I think a better metaphor would be that it is looking more and more like a garbage truck. And the problem we have is that this bill has not been allowed to proceed because I think the House leadership is still trying to determine what bags of garbage have to be tossed down to the truck before the truck is driven through here in the dead of night.

□ 2000

So that is the choice that we face, Mr. Speaker. It is not a pretty sight, and the outcome is not going to be very good. But there is not much we in the minority can do to affect either the scheduling or to affect how much garbage is tossed on the truck before it is run through the Capitol. I just hope the smell is not too bad before it is over.

Mr. Speaker, I urge a ''yes'' vote on the resolution.

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

Mr. YOUNG of Florida. Mr. Speaker, I ask for a ''yes'' vote, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. SHIMKUS). All time for debate as expired.

The joint resolution is considered read for amendment.

Pursuant to the order of the House of today, 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.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF JOINT RESOLUTION APPOINTING DAY FOR CONVENING OF SECOND SESSION OF 108TH CONGRESS

Mr. DREIER, from the Committee on Rules, submitted a privileged report (Rept. No. 108–398) on the resolution (H. Res. 464) providing for consideration of a joint resolution appointing the day for the convening of the second session of the One Hundred Eighth Congress, which was referred to the House Calendar and ordered to be printed.

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

Mr. DREIER, from the Committee on Rules, submitted a privileged report (Rept. No. 108–399) on the resolution (H. Res. 465) waiving a requirement of clause 6(a) of rule XIII with respect to consideration of certain resolutions reported from the Committee on Rules, which was referred to the House Calendar and ordered to be printed.

RECESS

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

Accordingly (at 8 o'clock and 4 minutes p.m.), the House stood in recess subject to the call of the Chair.

□ 2050

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. SHIMKUS) at 8 o'clock and 50 minutes p.m.

COMMUNICATION FROM HON. NANCY PELOSI, DEMOCRATIC LEADER.

The SPEAKER pro tempore laid before the House the following communication from NANCY PELOSI, Democratic Leader:

U.S. HOUSE OF REPRESENTATIVES,
OFFICE OF THE DEMOCRATIC LEADER,
Washington, DC, November 13, 2003.

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

DEAR MR. SPEAKER: Pursuant to section 7(b)(1) of the Prison Rape Elimination Act of 2003 (P.L. 108–79), I hereby appoint Ms. Brenda V. Smith of the District of Columbia and Ms. Jamie Fellner, Esq. of New York, to the National Prison Rape Reduction Commission.

Best regards,

NANCY PELOSI.

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. 79, on which the yeas and nays are ordered.

The Clerk read the title of the joint resolution.

The SPEAKER pro tempore. The question is on the passage of the joint resolution.

The vote was taken by electronic device, and there were—yeas 407, nays 16, not voting 11, as follows:

[Roll No. 664]

YEAS—407

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Baldwin
Ballance
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Bell
Bereuter
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Cardin
Cardoza
Carson (IN)
Carson (OK)
Carter
Case
Castle
Chabot
Chocola
Clyburn
Coble
Cole
Collins
Cooper
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
Deutsch
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Doggett
Dooley (CA)
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emanuel
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Feeney
Ferguson
Flake
Foley
Forbes
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
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Lynch
Majette
Maloney
Manzullo
Markey
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
Mollohan
Moore
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Nadler
Napolitano
Neal (MA)
Nethercutt
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Obey
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
Rahall
Ramstad
Rangel
Regula
Rehberg
Renzi
Reyes
Reynolds
Rodriguez
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
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
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
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Toomey
Towns
Turner (OH)
Turner (TX)
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velazquez
Visclosky
Vitter
Walden (OR)
Walsh
Wamp
Waters
Watson
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

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Becerra
Capuano
Conyers
DeFazio
Dingell
Filner
Ford
Jackson-Lee (TX)
Kucinich
McDermott
Miller, George
Olver
Sherman
Stark
Tierney
Watt

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Clay
Costello
DeMint
Fletcher
Gephardt
Lewis (KY)
Marshall
Paul
Radanovich
Ruppersberger
Tauzin

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. SHIMKUS) (during the vote). Two minutes remain in this vote.

□ 2137

Mr. GEORGE MILLER of California changed his vote from ''yea'' to ''nay.''

So the joint resolution was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PARLIAMENTARY INQUIRY

Ms. JACKSON-LEE of Texas. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore (Mr. LAHOOD). The gentlewoman will state it.

Ms. JACKSON-LEE of Texas. Mr. Speaker, is it my understanding that the rule we are about to take up for the underlying bill, H.R. 1, is a rule that is pursuant to a conference and a conference report where Democratic conferees were not even allowed into the room and where the Committee on Rules did not address the elimination or the lack of acknowledgment of the participation of the Democratic conferees? Is this H.R. 1 that we are about to take up? And is there any way for the points of order to be in order so that we could address that question on the floor of the House?

The SPEAKER pro tempore. The chair is about to recognize a member from the Committee on Rules to call up the rule, which will be read to the House.

WAIVING POINTS OF ORDER AGAINST CONFERENCE REPORT ON H.R. 1, MEDICARE PRESCRIPTION DRUG, IMPROVEMENT, AND MODERNIZATION ACT OF 2003

Ms. PRYCE of Ohio. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 463 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 463

Resolved, That upon adoption of this resolution it shall be in order to consider the conference report to accompany the bill (H.R. 1) to amend title XVIII of the Social Security Act to provide for a voluntary program for prescription drug coverage under the Medicare Program, to modernize the Medicare Program, to amend the Internal Revenue Code of 1986 to allow a deduction to individuals for amounts contributed to health savings security accounts and health savings accounts, to provide for the disposition of unused health benefits in cafeteria plans and flexible spending arrangements, 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 Ohio (Ms. PRYCE) is recognized for 1 hour.

Ms. PRYCE of Ohio. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to my colleague and friend, 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. 463 is a standard rule waiving all points of order against the conference report to accompany H.R. 1, the Prescription Drug and Medicare Modernization Act of 2003. The rule also waives all points of order against its consideration.

Mr. Speaker, I rise today in full support of the rule and of the underlying bill. I would like to thank Chairman THOMAS and Chairman TAUZIN for their outstanding coordination, their remarkable leadership, and the inspiring vision that they have provided on this critical legislation. The conferees have all worked extraordinarily hard to

produce the most sweeping Medicare bill in generations.

Since 1965, Medicare has provided a guarantee of health care coverage for most all Americans. Stability, longevity, and integrity have been the hallmarks of this program, offering the promise of a secure retirement. But a lot has changed since 1965. Our investment in research and medicine has yielded us advanced medications, therapies, and technology that have paved the way for our seniors to live longer, healthier lives. Unfortunately, Medicare has not changed with these medical advancements. The most obvious shortcoming is the lack of prescription drug coverage, the best tool medicine has to offer.

Before us today is an opportunity to pass landmark legislation that addresses these shortcomings and finally propels the program of Medicare into the 21st century, most notably by covering these prescription drugs. If we do not act and pass this plan before us today, the future of our seniors will be in doubt, with their happy and healthy lives uncertain. And if we do not act today, the fate of Medicare will be certain: bankruptcy.

So today we will accomplish two long overdue goals. First, we will strengthen Medicare to save it for future seniors; and, second, we will enhance the program by providing much-needed prescription drug coverage, bringing this 1965 health care program into the 21st century. And to those who are telling us to slow down, I say seniors have waited too long. This House has passed a Medicare prescription drug plan three times since Republicans have controlled Congress, each time only to be scuttled. Today we will finally end the denial of benefits to our seniors and end the delay.

Folks in my district tell me that they cannot go another year without the help of Medicare prescription drug coverage. They want us to speed up the process. They tell me that when you are sick and you are elderly, Medicare is not just health care; it is peace of mind. Well, we listened and we acted, producing this historic package.

Our seniors are not the only ones who have spoken out in support of this plan. Let me tell you, some very knowledgeable folks on the front lines of health care delivery, people who understand the needs of our seniors and the problems with Medicare, have made their support for this bill very clear. Allow me to name just a few: the American Association of Retired Persons, the AARP, the largest senior group in the Nation representing 35 million seniors, card-carrying, dues-paying, voting seniors; the American Medical Association; the American Hospitals Association; employers Coalition on Medicare; the Alzheimer's Association; American Society of Radiology and Oncology; Rural Hospital Coalition; National Hospice and Palliative Care Organization; the College of Obstetrics and Gynecology; American Society of Anesthesiologists; American Physical Therapy Association; pathologists; nurse practitioners. The list goes on and on. It includes hundreds and hundreds of supporters. They back this plan because they know how important and long overdue it is, plain and simple.

There are many reasons to vote for this package, but I want to call attention to a few that are significant. First of all, this prescription drug plan is voluntary, universal, and guaranteed. Period. If you are over 65 and you qualify for Medicare, you qualify for this benefit. If you want it, you can have it. If you do not, you do not have to take it. With this benefit, 40 million seniors will begin receiving significant savings on their medications.

□ 2145

To begin with, we offer immediate savings with the prescription drug discount card that will offer up to 25 percent in savings early next year. This drug discount card is a tremendous first step while the larger benefit is implemented.

After the drug is fully phased in in 2006 it will work like this: After a $250 deductible, Medicare will pay 75 percent of seniors' drug cost up to $2,250 a year. Medicare will then provide catastrophic protection, giving seniors 95 percent coverage for out-of-pocket drug costs. That is beyond $3,600. On average this reduces seniors' cost of medication by 50 percent.

This package also switches the focus of health care from reactive disease treatment to proactive disease prevention. The old saying ''an ounce of prevention is worth a pound of cure'' could not be more appropriate in this instance. Gone are the days of waiting until the symptoms are so obvious and the disease is so advanced that the only options are expensive hospital stays and surgeries.

Twenty-first century medicine can prevent, preempt, and predict illnesses through advanced screenings and innovative tests. In many cases taking a pill is all that it takes to prevent a chronic disease from becoming a life-threatening illness. Medicare will cover the preventative medications that keep our seniors out of the hospitals and off of the operating tables. And with this revolutionary shift in focus, Medicare will cover the $20 prescription before the $6,000 surgery even becomes necessary. That is not only real savings for the American taxpayer, but it is a real life savings for our seniors.

This landmark bill improves health care for our seniors, especially those who need it most, through significantly increased assistance for so-called ''disproportionate share hospitals.'' Such hospitals, as the term implies, care for a disproportionate share of low-income patients, and the last thing they need is funding cuts. Under this plan the hospitals will see a significant increase and allow them to care for these low-income families and seniors.

In addition to its strong commitment to our lower-income seniors in general, the plan is particularly good news for women. Since women make up a majority of Medicare beneficiaries and tend to suffer more from chronic illnesses, this landmark improvement in the Medicare system will radically change their lives for better. Half of the senior women who are under Medicare will receive complete drug coverage, an extraordinary step forward for these women who are suffering unnecessarily high drug cost burdens even as we speak. The disease management aspect of this bill will help prevent the progression of the chronic illnesses from which a majority of senior women suffer.

Clearly, this plan means a better life for women and for all of our seniors, but it also will lessen the burden upon the Medicare program by creating a health savings account. Health savings accounts allow forward-thinking and penny-wise workers to start saving for their future medical costs tax free. These accounts are allowed to grow without burdensome taxation, providing all Americans with the opportunity to save for their own future medical expenses. Who can argue with the promotion of these strong values, values like personal responsibility, savings, financial discipline? These things have been gone from our health care delivery system for decades now. It is time we bring them back. And who can argue against a voluntary program that relieves the financial burden of Medicare and the taxpayers who fund it?

Finally, this package includes a provision that I have championed for many years. Under the current system, anticancer drugs are only covered if they are injected or intravenously delivered. But today with the new advances in cancer therapy, many anticancer drugs can be taken orally, and, therefore, are not covered by Medicare. This plan begins to change that finally.

The plan will deliver the comforting pain-relieving and cancer-curing drugs that these patients so desperately need to deal with their illnesses. They need these medications now, and they are going to start to get them now.

Mr. Speaker, there is a value attached to this legislation that resonates not only among our seniors but to all Americans. The value is the freedom to choose the plan that works best for someone in their own situation. Each senior is different with different needs and different family situations. With this plan these differences can, for the first time, be honored. Seniors who are happy with traditional Medicare in their current coverage are free to stay where they are, but if they choose, seniors will have many options available to them and they will be able to pick the coverage that best meets their health care needs. If they are not

content with the current coverage, they can choose from other plans to save on their medications and preventative care. This is a win-win solution, a commonsense approach. So today the vote is simple. It is either ''yes'' in favor of millions of seniors who plead for us to pass this bill, or it is another ''no,'' another ''no'' in favor of politics, another ''no'' in favor of partisanship, another ''no'' with an eye toward the upcoming election. In short, another ''no'' against American senior citizens and against the future viability of the Medicare system upon which they rely. Members can choose to listen to the seniors who are asking them to put partisanship, politics and election strategy aside, or they can oppose this bill.

But to those of my colleagues who plan to vote ''no,'' I would ask: How is this package not an improvement for our seniors who have no coverage and are struggling to pay for their medications? Why would they rather give our seniors nothing at all than give them this plan that will help them? How will they explain that to future generations, their children, their grandchildren why they did not support bringing Medicare up to speed with their generation and their needs?

I remember the opponents of the tremendously successful welfare reform of 1996. They predicted doomsday scenarios, millions of women and children out on the streets starving. The reality is that 7 years later, the welfare rolls have dropped from 14 million to 5 million. The reality is that welfare reform made the American Dream possible for millions of Americans who were previously trapped in generational cycles of poverty and helplessness.

These same naysayers are making the same claims about this Medicare plan today. I say to my friends, their shouts, their cries, their failed predictions were myths in 1996 and they are myths today. To those who plan to vote against strengthening America, I urge them to be bold, to exercise leadership and show courage by propelling America's health care system into the 21st Century. Vote for this bill. If the Members think this bill does good but does not go far enough to help our seniors, then I ask them to support it and let us work together to improve it in the future. Do not let the perfect become enemy of the very good. Our seniors deserve our support, all of our support.

I urge this Congress to pass the underlying bill, but first of all, let us pass this rule.

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 gentlewoman from Ohio for yielding me the customary 30 minutes.

Mr. Speaker, I want to repeat something I said earlier today when I heard the long list of people who support this bill. We have to ask ourselves do they know what in the world is in it? Because we certainly do not.

Seniors, we do know, are drowning from the high cost of prescription drugs and the Republicans are telling them to swim towards an HMO. To paraphrase the old saying, ''Congress giveth and Congress taketh away,'' but in this case it mostly takes away. Congress takes away any hope for meaningful prescription drug coverage. It takes away the existing employer-provided benefits and low-income protections from retirees, and it takes away Medicare as we know it. It lures seniors with the promise of generosity and then gives them a pittance. But when this bill does give, it is wonderfully generous.

The Medicare Prescription Drug and Modernization Act is a boon for the pharmaceutical industry and for the insurance companies but does absolutely nothing to control the skyrocketing prices of prescription drugs. In fact, the bill forbids the government from doing anything about it.

Drug prices have risen dramatically in the last 20 years, increasing 256 percent since 1980. For years seniors have called our Congress to do something about these crushing drug prices, but this plan does nothing to freeze or reduce the out-of-control prices of medications. What it does do, as I said, is prevent the government from using its market power to bring the prices down. The Veterans Administration has had great success in reducing drug prices by bargaining with the drug companies. Why would we purposely tie our own hands? Our health system is crumbling under the burden of the prescription drug costs. Tossing billions of dollars at insurance companies to get them to do what they do not want to do and 70 billion to corporations to get them to do what they should do and a boon to pharmaceutical companies by not allowing reimportation to please them is not going to buttress this health care system. That money would have been far better spent on the prescription drug program. But saddling the elderly with even greater drug costs and our children with even greater deficits is no way to solve a public health crisis.

A few years ago, I organized a busload of seniors to travel to Canada to purchase medicine at a fraction of the prices charged in the American market. We had dozens more people interested in the trip than we could accommodate, but the savings were anywhere from $100 to $650 on a 3-month supply of medication.

Would it not be wonderful if the seniors could save that much at their local drug store? Unfortunately, this bill will not let them go to Canada anymore. Despite having passed the House twice, money-saving drug reimportation would be banned. The out-of-pocket costs for prescription drugs would continue to consume more and more of the seniors' fixed income.

Almost 40 years ago, Mr. Speaker, Congress created the Medicare program and promised to help seniors with the burden of their health care costs. Private insurers did not want to offer the health insurance to older people any more than they do now. The premiums were raised to unaffordable levels, and seniors were dropped from health coverage altogether. Companies saw older people as a threat to the bottom line. So the Federal Government stepped in and filled the void in the marketplace.

And now we face a similar situation. If insurers thought they could make a dollar or two by offering prescription drug coverage to seniors, the plans would have already been in the marketplace. The bill creates a new benefits program unwisely relying on insurance products that do not exist. The Republicans are hoping that a $12 billion slush fund will entice the private insurers to develop prescription drug insurance. But the lucrative pharmaceutical industry with about a 30 percent profit yearly is the big winner in this game. A blank check is being written to the big drug companies, and in the first 8 years of this program, the companies stand to make a windfall of $139 billion over and above their current profits of 30 percent annually. The market recognizes this plan as a boon for drug companies because the stock prices of the major companies went up just over the news that this bill is nearing completion.

The proponents of privatizing Medicare also win. The scheme takes the first giant step to privatize Medicare. In six metropolitan areas, Medicare's guaranteed coverage would be replaced with what is essentially a voucher program to purchase private insurance with public money if they can find it. This ''demonstration'' could force up to 10 million seniors who want traditional fee-for-service Medicare to pay the higher premiums or turn to HMOs. Once Medicare is gone, there will never be another program ever like it in the United States paid for by payroll taxes. I am worried about the seniors that I represent, and it would be devastating for the seniors in western New York to lose those guaranteed benefits.

Mr. Speaker, the pharmaceutical companies, the HMOs, and the insurance industry had far more access to the negotiations than the Democrats did, as the Members have heard that story before, and I will not belabor it. But I do want to say something about the AARP. President William Novelli's endorsement of this plan is no surprise. The support is waved around as if it is the seal of approval of every American senior. But 210 national, State, and local organizations oppose the plan, and seniors from coast to coast are ripping up their AARP cards. Interestingly, Mr. Novelli is the founder of the firm Porter Novelli, the group behind the television ads that brought down

the efforts to reform health care in the 1990's. Do any of the Members remember ''Harry and Louise''? Is Mr. Novelli hostile to meaningful health care reform, or can he just be paid to do anything, because $20 million in this bill goes to AARP?

□ 2200

This is not the first time that Congress has messed with Medicare. Congress passed the Medicare Catastrophic Coverage Act of 1988 without even providing the Members sufficient opportunity to read its pages, much like tonight, and the fine print. The result was a momentous backlash. American seniors were outraged with the legislation, so outraged that Congress was forced to repeal the law the very next year.

Congress later created a Medicare+Choice program, which was also a failure. Within a few short years after its conception, private insurers dropped Medicare+Choice beneficiaries by the thousands, leaving them with no health benefits at all. My constituents are asking, does this face them again? I hope we remember our history and not repeat these mistakes and vote against this bill.

But the prescription drug proposal before us is a placebo, not a cure. It fails seniors, the out-of-control cost of prescription drugs will remain unchecked, and some will argue that this scheme is better than nothing. But believe me, a bad bill is worse than no bill. Medicare must be preserved. To dismantle this historic program is to break the sacred promise that Congress made to seniors.

Mr. Speaker, I yield for a unanimous consent request to the gentlewoman from California (Ms. WOOLSEY).

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

Ms. WOOLSEY. Mr. Speaker, I rise against this sham Republican prescription drug bill that will harm, not help, elderly women.

Mr. Speaker, I rise today to express my profound disappointment at the Medicare Conference Report and this squandered opportunity to help seniors afford the increasing cost of prescription drugs.

I want to make one thing abundantly clear to everyone here today: This debate is not about prescription drugs. Instead, the majority has taken this opportunity to advance a plan that will undermine the future of Medicare.

Seniors may think this final bill will help them with some of their prescription drug costs. While it will save some seniors a small amount of money after they pay an unspecified premium, this bill will give them little more than a false sense of security.

Seniors will read the newspaper headlines and believe that we have passed a drug benefit that will alleviate all of their financial hardships. They'll mistakenly think that they no longer have to choose between paying for groceries and paying for their prescriptions.

But imagine their surprise when they read the fine print. Our seniors need immediate help. Many will be shocked to learn that this bill won't give them a prescription drug benefit until 2006. If this is such a great plan, why must seniors wait 3 more years to reap its supposed benefits?

They'll find that their out of pocket costs are still enormous. Imagine their outrage, as they dutifully write a check to pay their monthly premium, even though they aren't receiving any drug coverage, because they have fallen into the ''donut hole'' coverage gap.

Seniors who currently enjoy quality prescription drug coverage many think this doesn't impact them, but they too are in for a rude shock. As many as 2 million will watch their prescription drug benefit provided by their former employer vanish into thin air.

Others will find their previously generous benefit slashed to the bare bones level of Medicare, complete with high deductibles, premiums, and a ''donut hole'' coverage gap. That's because employers will be eligible for subsidies if they provide any type of coverage—even if it's less than what they promised their employees.

But this bill is about far more than prescription drugs. This is the biggest bait and switch operation I've seen in quite some time. The majority is saving one thing and doing quite another. They'll talk all they want about providing prescription drugs. But their actions will ruin the Medicare program that for decades has so effectively provided seniors with access to health care.

You won't hear them talking about their large subsidies to private health plans. They won't talk about the voucher scheme that will begin in 2010. They'll employ the euphemism ''demonstration project'', instead of speaking honestly to seniors about their real goal: privatization.

They won't talk about the catastrophic impact this legislation will have on the poorest of the poor. By imposing an assets test on poor seniors who need additional help, this legislation could force a widow living only on her social security benefit to choose between selling her wedding ring and qualifying for an additional subsidy. She could be disqualified from receiving the help she needs because she has purchased a burial plot next to her husband's. This is tragic—and you won't hear about it from the majority.

They also won't talk about the ways in which they are helping their friends in the pharmaceutical industry. By continuing a long standing restriction on the reimportation of prescription drugs, and by prohibiting Medicare from negotiating lower prescription drug prices, the majority is assuring that seniors will continue to pay astronomically high prices for the medicines they need.

Our seniors deserve an honest and complete explanation of what this bill will do to Medicare. Seniors deserve a prescription drug bill that is actually about prescription drugs. Our seniors need a comprehensive benefit, not a false sense of security. I urge my colleagues to join me in opposing this bait and switch proposal.

Ms. SLAUGHTER. Mr. Speaker, I yield for a unanimous consent request to the gentlewoman from New York (Ms. VELÁZQUEZ).

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

Ms. VELÁZQUEZ. Mr. Speaker, I rise against this sham Republican drug bill that will increase costs, reduce coverage, and dismantle Medicare as we know it.

Ms. SLAUGHTER. Mr. Speaker, I yield for a unanimous consent to the gentlewoman from Wisconsin (Ms. BALDWIN).

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

Ms. BALDWIN. Mr. Speaker, I rise in opposition to this conference report which will dismantle Medicare as we know it, harming millions of women who depend on that program.

Mr. Speaker, I urge my colleagues to vote against this sham of a bill. It does not provide the real, guaranteed, affordable drug benefit that our seniors desperately need. Worse yet, this bill sets the stage for dismantling the entire Medicare program.

I think that all of my colleagues would agree with me when I say that one of the issues we hear most about is the need for affordable prescription drugs. Whether I am at the grocery store, at the airport baggage claim, or in meetings all across my district in Wisconsin, the one thing that I hear over and over is that seniors cannot afford to pay for their prescription drugs.

The bill on the floor today does not contain the prescription drug benefit that seniors deserve. Instead of providing an affordable prescription drug benefit, this bill creates an incomplete and expensive benefit—a benefit with a hole, where seniors will be paying premiums and receiving no benefit.

Aside from the meager benefit, there is nothing in this bill that addresses the ever-rising cost of prescription drugs. Instead of including measures to ensure that prescription drugs are affordable, this bill actually prohibits the federal government from negotiating lower drug prices for Medicare beneficiaries. Instead of helping seniors obtain affordable prescription drugs, this bill provides partial coverage of drug spending until total costs reach $2,250 and then leaves seniors high and dry. There is a huge gap in coverage where seniors must pay 100 percent out of pocket and continue paying premiums, until they reach a high out-of-pocket cap. Millions of seniors will fall into this gaping hole. I believe seniors deserve affordable drug coverage, and this bill fails to achieve that goal.

Further, this bill takes us down the dangerous road of privatizing Medicare. It is my strong belief that privatization of Medicare is unwarranted. Our Nation's seniors and persons with disabilities have counted on Medicare since it was first enacted in 1965. It has provided health care insurance to the oldest, sickest, and frailest in our society and done so in a cost-efficient manner. Why then, would we seek to dismantle such a successful program? This bill relies on private insurers to provide a prescription drug benefit. Seniors would have to join HMOs and private insurance plans to get the benefit, meaning that premiums and benefits would vary across the country and seniors would not be able to choose their own doctor or pharmacy.

In addition, this bill includes a provision that authorizes a massive ''demonstration'' project that could affect up to 6 million seniors. Starting in the year 2010, this ''demonstration'' project forces Medicare to compete with private plans. This competition is wholly unfair

and on an unlevel playing field. Seniors will be given a voucher to purchase health care insurance, either from Medicare or from private insurers. We know from past experience what will happen: the youngest and healthiest seniors will go to private insurers, leaving the sickest and frailest seniors in Medicare. This will automatically drive up Medicare's costs and will give Republican legislators ammunition for dismantling this program. Make no mistake about it; this massive ''demonstration'' project will be the beginning of the end of Medicare.

Today, we will vote on the most dramatic changes in the Medicare program since its inception. This bill does include unprecedented benefits—unfortunately the benefits will go predominantly to the politically-connected pharmaceutical and insurance industries, rather than to America's seniors who need relief. It saddens me that the legislation we vote on today will not provide seniors with what they need most: comprehensive prescription drug coverage and affordable prices. Seniors need a comprehensive prescription drug benefit that is affordable and dependable for all—with no gaps or gimmicks in coverage. The conference agreement before us fails on all these counts, and I urge my colleagues to vote against it.

Ms. SLAUGHTER. Mr. Speaker, I yield for a unanimous consent to the gentlewoman from Texas (Ms. JACKSON-LEE).

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

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise against this misdirected Medicare proposal that will increase out-of-pocket expenses for the poorest and sickest women.

Mr. Speaker, this is about as ugly as it gets. Just when I thought the Republican Leadership could not work any harder to undermine the Democratic process, to abuse their power, and to play politics with critical issues at the expense of the American people—they have just taken it to a higher, or should I say ''lower'' level. This bill is a sham and the rule is a sham.

When this process first began, and the President and the House and Senate Leaders proclaimed that they intended to produce a Prescription Drug Plan, my Democratic Colleagues and I tried to give them the benefit of the doubt. We tried to work in a bipartisan fashion. At one point, I wrote a letter to the Members of the House-Senate Conference Committee and encouraged them to include fair provisions for our physicians and hospitals, so that they would be able to afford to continue providing excellent care for our seniors. I am pleased to say that they did respond to that request, and have put in some funds for those deserving groups. But that is where the collaborations ended.

The Democrats on the Conference Committee, among them, had decades of experience in the field of health policy. No one could question their commitment to helping Seniors, but in a deeply cynical move by Republican Leadership, Democrats were barred from even entering conference meetings. That is against everything our Founding Fathers intended this ''People's House'' to be. We got our first glimpse of this bill just over 24 hours ago. Even in our haste to get it read, we have found numerous flaws and pitfalls in it. In 2006, if it is allowed to come into effect, I am sure our Seniors will find many more.

No one in this House has had a chance to really think through this monstrous conference report. We should all join together and raise a massive point of order against it, so that we will have the time to give it the consideration it deserves. The Rule does not let us make that happen.

The Rules Committee Chairman seems to be saying, ''well money is tight, so let's just take what we can get, and be happy with this bill. Let's just shove it through.'' But the conference report that we are now finally getting a glimpse of is so bad, it would actually leave millions of Senior Citizens worse off than they were without it. And as Doctors say in the Hippocratic Oath, the most important rule in healthcare is Do No Harm.

Furthermore, there is no rush to pass this bill. The Republican authors conveniently made their plan kick in in 2006, well after the presidential elections of 2004. Obviously, they don't want Seniors to go to the poll furious when they realize how bad this plan is. The point is, we can wait till Spring and do this job right—and still make their 2006 timeline.

This rule and this bill really are the epitome of just how bad partisanship and political demagoguery can get. Let's defeat this rule. Let's take a step back, get some fellowship back over Thanksgiving, and start fresh later. We can do this right. Our Seniors deserve it.

Ms. SLAUGHTER. Mr. Speaker, I yield for a unanimous consent request to the gentlewoman from Michigan (Ms. KILPATRICK).

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

Ms. KILPATRICK. Mr. Speaker, I ask unanimous consent to revise and extend my remarks on this Medicare proposal that takes Medicare from patient care.

Mr. Speaker, I rise today to urge all my colleagues to vote against the Medicare Conference Report offered by the Republican leadership. Seniors want a prescription drug benefit that is affordable and guaranteed under the Medicare system.

Passage of this bill would weaken prescription drug benefits, fail to lower drug costs, and weaken the Medicare program.

Congress needs to pass a good Medicare bill that actually helps seniors and not just any bill that benefits pharmaceutical companies, HMOs, and special interest. Our colleagues on the other side of the aisle have a take it or leave it attitude. They want the American public to believe that if this conference report is not passed then all opportunities for a real prescription drug benefit under Medicare is lost. However, I submit to you that if a true bipartisan effort was made at the conference table, then much could be accomplished.

Mr. Speaker, there are dozens of reasons why this conference report should be defeated and never become law. Many of these reasons have already been mentioned but I want to take this time to highlight a few.

The three Democratic House conferees were shut out of the process and were not allowed in the conferee meeting. The treatment of these House Members is reasons enough for every member of this body to reject this conference report.

The legislation would not create a prescription drug benefit until in 2006. However, HMOs, insurance companies, and pharmaceutical companies receive billions of dollars upon enactment of the conference report.

The bill also explicitly prohibits the Secretary of Health and Human Services from negotiating lower drug prices on behalf of America's 40 million Medicare beneficiaries.

The bill does not allow Americans to import drugs from Canada and other countries where prices are lower. International comparisons of pharmaceutical prices have shown that elderly and uninsured consumers in the United States often pay more for prescription drugs than consumers in other countries. As a result, more and more elderly consumers are traveling outside the country to find cheaper, more affordable prescription drugs. My district borders Windsor, Ontario, Canada, where I have known many of my seniors travel to get their prescriptions filled.

The GOP plan includes provisions that will privatize Medicare and force senior citizens into HMOs and other private insurance plans.

Millions of senior and Americans with disabilities currently covered by Medicare would actually find themselves worse off if the conference report becomes law. Low-income seniors who get additional assistance form Medicaid will pay more for their prescriptions because they will lose their Medicaid benefit.

Currently, Medicare beneficiaries who receive medicine through Medicaid either pay no co-payments or are charged nominal amounts per month per prescription. Under the new plan, people will pay three-to-five dollars per month, per brand-name prescription and one or two dollars for generic drugs. Depending on their income. These co-payments will increase each year.

The GOP plan creates an unlimited program of Health Savings Accounts (HSAs). This tax break benefits the healthy and wealthy and could dramatically raise health insurance premiums for other Americans—particularly families with moderate incomes and those with high health expenses.

Seniors will lose their retiree health benefits. More than two million seniors in employer-based retiree plans are in jeopardy of being dropped from coverage because the bill creates incentives for employers to drop prescription drug coverage.

Mr. Speaker, the Medicare Conference Report before this body will have a detrimental effect on senior and disabled citizens in my home state of Michigan.

143,000 Medicare beneficiaries in Michigan will lose their retiree health benefits.

183,200 Medicaid beneficiaries in Michigan will pay more for the prescription drugs they need.

90,000 fewer seniors in Michigan will qualify for low-income protections than under the Senate bill because of the assets test and lower qualifying income levels.

44,980 Medicare beneficiaries in Michigan will pay more for Part B premiums because of income relating.

Providing affordable prescription drugs to our seniors and the uninsured should have been the goal. The Republican lead Congress squandered this opportunity to include a real prescription drug benefit within the Medicare plan.

Mr. Speaker, there are hundreds of national, state, and regional organizations that have

come out against the Medicare conference report. I stand today with the seniors in my district and across the nation in opposition to this bill.

I ask my colleagues to stand with me and vote against this Medicare Conference Report that fails to provide an affordable and reliable Medicare prescription drug coverage, gives billions to HMOs, insurance companies, and pharmaceutical companies, prohibits drug reimportation, and privatizes Medicare.

Ms. SLAUGHTER. Mr. Speaker, I yield for a unanimous consent request to the gentlewoman from New York (Mrs. LOWEY).

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

Mrs. LOWEY. Mr. Speaker, I rise against this prescription drug bill, because it will prohibit Medicare from negotiating price with the pharmaceuticals to lower prices for our sickest and most elderly population.

Mr. Speaker, we are on the cusp of passing a Medicare prescription drug benefit that should have put seniors first, but, instead, will become the death knell for Medicare.

Some are saying this is a matter of now or never, that we must pass this legislation tonight. That's just not true—where there's a will, there's a way. So, I urge my colleagues to refrain from rushing to judgment, vote against this bill, and work together, Republicans and Democrats alike, through December to craft a plan that will stay true to Medicare's tried and trusted roots.

Mr. Speaker, the bill before us will allow insurance bureacrafts—not doctors—decide which drugs to prescribe and how much to charge seniors; and leaves major gaps in coverage that will affect almost half of Medicare recipients. I will end Medicare as we know it, and will have questionable impacts on some of the most well regarded state-sponsored drug coverage programs, including New York's.

But, my colleagues, the straw that breaks the camel's back is the lack of any attempt to bring down the skyrocketing costs of drugs. H.R. 1 will prohibit the federal government from using the muscle of the 40 million seniors in Medicare to negotiate lower drug prices. And it puts the brakes on the reimportation of pharmaceuticals from Canada and overseas—where drugs are sold for two, three, and four times less than in the U.S.

This one-two punch will not only hurt seniors. It will block hard-working Americans, including the 43.6 million uninsured, from obtaining cheaper drugs—leaving taxpayers to foot the bill for a plan that rewards private industry at the expense of consumers.

The drug companies, with profit margins over 18 percent, have spend hundreds of millions of dollars trying to influence American opinion on prescription drugs. Yet, they will be rewarded with 40 percent profit increases. The same HMOs that left seniors in the cold under Medicare+Choice will be given a $12 billion slush fund to entice their participation in this plan.

I have fought for years to give seniors an affordable, guaranteed, comprehensive, and voluntary prescription drug benefit under Medicare. I am deeply saddened and disappointed that the House leadership in forcing a vote on a bill, which many of us have not even been able to read in completion, that is not worthy of our seniors.

I urge my colleagues to vote ''no'' on the bill.

Ms. SLAUGHTER. Mr. Speaker, I yield for a unanimous consent request to the gentlewoman from Texas (Ms. EDDIE BERNICE JOHNSON).

(Ms. EDDIE BERNICE JOHNSON of Texas asked and was given permission to revise and extend her remarks.)

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, I rise against this so-called Medicare proposal devised by former Speaker Gingrich and the pharmaceutical industry that will increase out-of-pocket expenses for the poorest and sickest women.

Mr. Speaker, the sham Republican prescription drug bill will harm, not help, elderly women.

I oppose the Republican Medicare bill because it does not ensure that our seniors, especially our most venerably elderly women, get the long overdue Medicare prescription drug benefit that is available and affordable to all.

How will this Medicare Reform proposal hurt women? First you must realize that women account for the majority of people who are on both Medicare and Medicaid. To make matters worst, the proposal is harmful to the poorest and sickest women because their out of pocket cost would increase above what Medicaid currently allows.

I believe we must carefully draft legislation to protect the health and well-being of our citizens. It is shameful that many American seniors must regularly make the heartbreaking choice between paying for food and paying for prescription medicine. As a former nurse, I have spend much of my career working to ensure that our nation's health care system provides a wide range of affordable services.

But unfortunately, drug prices are going up over 3 times the rate of inflation giving the drug industry more profits than all others—the result: seniors can't afford the medicine they need.

Yet this proposal would actually prohibit Medicare from getting the best price for seniors. This bill states, and I quote, ''[Medicare] may not . . . interfere in any way with negotiations between . . . Medicare Advantage organizations . . . and drug manufacturers . . .'' In laymen's term that means Medicare must pay whatever the drug companies want to charge. This makes the new law a multi-billion dollar subsidy to the drug industry and a rip-off for America's senior citizens.

This is especially hurtful to women because nearly eight in ten women on Medicare use prescription drugs regularly. Because the bill doesn't allow for the government to negotiate price controls on drugs, our women will have to face higher drug cost, as well as the American Treasury.

Democrats have led the fight to add a drug benefit to Medicare. But what started as a fight to add a drug benefit has become a fight to save Medicare as we know it. Over and over again we have demonstrated our willingness to compromise and accept a less-than-perfect drug benefit when they approved a bipartisan Senate bill this summer. But instead of seeking bipartisanship, Republicans have insisted on including provisions that would turn Medicare into a voucher program and could cap government spending on Medicare. These provisions have nothing to do with providing beneficiaries affordable prescription drugs. They are intended to undermine Medicare.

Medicare was created because the private health care system would not provide affordable health insurance coverage for seniors. We shouldn't be turning back the clock to those times. But that's exactly what the Republican bill—as written—will do.

The American public should be outraged that the Republican leadership is playing politics with the health and well-being of millions of our citizens, and I hope the voters will remember this shameful abuse of power when they go the polls at election time.

Ms. SLAUGHTER. Mr. Speaker, I yield for a unanimous consent request to the gentlewoman from New York (Mrs. MCCARTHY).

(Mrs. MCCARTHY of New York asked and was given permission to revise and extend her remarks.)

Mrs. MCCARTHY of New York. Mr. Speaker, I rise against the Medicare bill that is going to be giving billions of dollars of giveaway money that should be going for prescription drugs and not to the insurance companies and not to the pharmaceutical companies.

Mr. Speaker, I rise, once again, in opposition to this flawed prescription drug bill. It is nothing more than a sheep in wolf's clothing.

I'm frustrated because this Medicare bill contains some provisions I feel are necessary. Indeed, hospitals and doctors may see higher reimbursement rates. It would provide a meager prescription drug benefit, and includes some protections for low-income seniors.

All of these provisions are a step in the right direction. Unfortunately, they are overshadowed by the bill's overall shortcomings.

I had hoped that the effort to add a prescription drug benefit to Medicare would be a discussion about freeing seniors from the skyrocketing costs of medicine.

But instead, it's become a struggle for the future of Medicare.

The bill starts us down the path to privatizing Medicare. It damages the safety net we've stitched for our vulnerable seniors. And worst of all, it does nothing to make drug companies keep the cost of their medicines down, which is what I thought this effort was all about in the first place.

Most of Long Island's seniors would be forced to go to private insurers for their drug coverage. In fact, this bill takes us down the same road Long Island has already traveled with Medicare+Choice HMOs. At first, we throw money at them, the private plans provide coverage, and everyone's happy. But over time, costs mount, federal reimbursements don't keep up, and the private insurers cut and run. This Medicare plan would throw billions more at HMOs and other private insurers with no guarantee that they'd continue to cover seniors. What happens when the HMO gravy train stops? Once again, our seniors will be left holding the bag. That goes against the very reason we created Medicare in the first place: to provide seniors with a safety net that the private insurance market could not and did not provide them with.

In addition, the bill would actually prohibit the government from negotiating lower drug prices. Veterans on Long Island benefit from

lower drug prices because the Veterans Administration negotiates prices on their behalf. If it works for veterans, why deny it to our seniors?

Finally, many seniors would find themselves in the ''doughnut hole,'' a gap in the very prescription drug coverage we are supposedly trying to provide them.

Simply put, the bill is not good enough, and I refuse to compromise the needs of our seniors in hopes of advancing a political agenda.

We must go back to the drawing board and create a real prescription drug benefit for seniors. We must do it without damaging their safety net or turning Medicare over to HMOs and insurance companies. Finally, we must do no harm, I learned years ago as a young nurse.

Mr. Speaker, this bill will do harm. I must vote against it.

Ms. SLAUGHTER. Mr. Speaker, I yield for a unanimous consent request to the gentlewoman from California (Ms. WATSON).

Ms. WATSON. Mr. Speaker, I rise against this sham Medicare proposal that the AARP supports. Bill Novelli is smiling because AARP gets millions of dollars, he gets $420,000 annual salary, and all grandma gets is a doughnut hole.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. LAHOOD). As recorded in section 957 of the House Rules and Manual, although a unanimous-consent request to insert remarks in debate may comprise a simple, declarative statement of the Member's attitude toward the pending measure, it is improper for a Member to embellish such a request with other oratory; and it can become an imposition on the time of the Member who has yielded for that purpose. The Chair will entertain as many requests to insert as may be necessary to accommodate Members, but the Chair also must ask that Members cooperate by confining such requests to the proper form.

Ms. SLAUGHTER. We would be happy to cooperate. Mr. Speaker, is it correct that we can rise for the unanimous consent request to say that we oppose the bill?

The SPEAKER pro tempore. The gentlewoman is correct.

Ms. SLAUGHTER. Mr. Speaker, I am pleased to yield for a unanimous consent request to the gentlewoman from California (Ms. LINDA T. SÁNCHEZ).

(Ms. LINDA T. SÁNCHEZ asked and was given permission to revise and extend her remarks.)

Ms. LINDA T. SÁNCHEZ of California. Mr. Speaker, I ask unanimous consent to revise and extend my remarks about this sham Medicare proposal that I oppose.

Ms. SLAUGHTER. Mr. Speaker, I yield for a unanimous consent request to the gentlewoman from Ohio (Mrs. JONES).

(Mrs. JONES of Ohio asked and was given permission to revise and extend her remarks.)

Mrs. JONES of Ohio. Mr. Speaker, without embellishing my statement, I adamantly oppose the legislation that is before us on behalf of the millions of low-income workers who will not receive adequate funding under this bill.

Ms. SLAUGHTER. Mr. Speaker, I yield for a unanimous consent request to the gentlewoman from California (Ms. LOFGREN).

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

Ms. LOFGREN. Mr. Speaker, I ask unanimous consent to revise and extend my remarks in opposition to the bill because it increases costs for the poorest who are mainly women.

Mr. Speaker, the current Medicare Prescription Drug bill we are debating this evening, if passed, will force many low-income seniors to pay more for their Medicare coverage. Despite its $400 billion price tag, this legislation will leave some 6.4 million of the poorest and sickest Medicare beneficiaries who currently receive prescription drug coverage through Medicaid, worse off, as they will no longer be able to depend on assistance with their co-payments and will no longer depend on getting help paying for prescription drugs that are prescribed by their doctors but are not on the list of drugs and therefore not covered by the private insurers who will administer the new Medicare bill.

Mr. Speaker, this piece of legislation is not ''paid for.'' I expect that it will worsen the nation's long-term fiscal problems substantially adding to the deficit. Is the proposal good enough to justify this?

After weeks of secret hearings, in which not one Democratic Member of the House of Representatives was allowed to participate, we were presented with a Medicare prescription drug plan that is more geared towards benefiting industry, the HMOs, and insurance companies than in serving the healthcare needs of our elderly and disabled.

In the forty years since Medicare was created, it has been hailed as an affordable, defined, guaranteed, and comprehensive healthcare plan for all senior citizens. I agree that Medicare should evolve. I also understand that prescription drug costs are rising at an alarming rate of 17 percent per year. But the current proposal facing Congress does too little to help control drug costs, requires seniors to spend too much out-of-pocket, and compromises many of the basic principles that have made Medicare so valued and effective. This proposal prohibits the federal government from using its vast buying power to negotiate significant discounts for the millions of seniors and disabled who have come to rely on Medicare.

Mr. Speaker, my constituents and seniors across this nation believe that an affordable, guaranteed prescription drug benefit is urgently needed. Sadly, the prescription drug benefit in this bill would not go into effect until 2006.

Mr. Speaker, my constituents and seniors across this nation asked this Congress for a strong prescription drug benefit through Medicare, it did not ask this Congress to begin the process of privatizing Medicare. They believe that reforming Medicare does not mean privatizing Medicare. Under this bill, millions of Medicare beneficiaries are forced to pay more just to stay with their own doctors. Premium support, a provision included in this bill will allow private insurance plans to lure healthy seniors out of Medicare, leaving older and disabled seniors behind to pay higher premiums for the same coverage they're receiving today. Mr. Speaker, my district lies within Santa Clara County in California. Santa Clara County is in one of 41 metropolitan areas that could be selected to participate in this demonstration that would lead to the privatization of Medicare. Under this plan, seniors must be prepared to deal with changing benefits, premiums and access to care from year to year.

Mr. Speaker, these new benefits are not guaranteed. This Republican-drafted Medicare reform bill creates a major gap in coverage that will leave millions of seniors and disabled persons without any drug coverage during parts of the year. Once a senior's drug costs reaches a moderate level of $2,250, all coverage would be cut off. It isn't until the out-of-pocket prescription drugs costs rise to a much higher level—roughly $3600—that coverage kicks back in. It will also erode retiree coverage for up to 2.7 million seniors who, after years of hard work earned a prescription drug benefit through their retirement plans. Those lucky enough to have such coverage must now worry about whether or not they will lose that hard-earned benefit under this proposal.

Mr. Speaker, this bill is not comprehensive. The bill eliminates Medicare's promise to retirees by arbitrarily limiting the ability of Congress to fund the program. As baby boomers retire and require more physician visits, hospital services, and pharmaceutical coverage, Republicans want to limit the amount of money that would be spent on Medicare. This means the services seniors expect and deserve will be cut, premiums will increase, or reimbursements to physicians and hospitals will be severely restricted.

Mr. Speaker, I remind my colleagues and those trying to follow all the possible implications of this bill that the coverage offered under this plan is not, repeat not, like that offered to members of Congress and other federal workers. No Federal employee or member of Congress has a drug benefit that has a deductible, or a $2,850 coverage gap or donut hole in the benefit. In fact, during the debate on the drug benefit, Republican members of Congress voted to ensure that Federal employees' benefits would not be lowered to the level in the new drug plan.

There are many parts of this bill that I applaud. I am happy that the bill includes increased payments to doctors and to hospitals that will allow them to continue to offer services to Medicare patients. I am very happy that the bill includes critically needed funding for safety-net hospitals that serve our needy so well. Indeed in California, this provision alone will restore several hundred million dollars in reimbursements over the next ten years. Mr. Speaker, these provisions are the kind of reforms to Medicare that would pass this house nearly unanimously if they were presented separate from this bad bill.

Mr. Speaker, these good provisions do not override the potential devastating effects of this bill. I cannot support a bill that I feel will destroy the fundamental promise of Medicare, a program that seniors and the disabled have known and trusted for nearly 40 years. With the future of Medicare at stake, I believe that Congress can—and must—do better. Rather than pass a bad bill, we should defeat this bad

bill and stand firm as we fight for a prescription drug benefit that our seniors demand and deserve.

Ms. SLAUGHTER. Mr. Speaker, I yield for a unanimous consent request to the gentlewoman from Nevada (Ms. BERKLEY).

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

Ms. BERKLEY. Mr. Speaker, I ask unanimous consent to revise and extend my remarks about premium support provisions in this conference report that will undermine the Medicare system on which older women depend.

Ms. SLAUGHTER. Mr. Speaker, I yield to the gentlewoman from California (Ms. LEE) for a unanimous consent request.

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

Ms. LEE. Mr. Speaker, I ask unanimous consent to revise and extend my remarks on this sham Republican prescription drug bill because it will harm, not help, elderly women. I did not come to Congress to dismantle and privatize Medicare.

Ms. SLAUGHTER. Mr. Speaker, I yield for a unanimous consent request to the gentlewoman from California (Ms. LORETTA SANCHEZ).

(Ms. LORETTA SANCHEZ of California asked and was given permission to revise and extend her remarks.)

Ms. LORETTA SANCHEZ of California. Mr. Speaker, I ask unanimous consent to revise and extend my remarks about the premium support provisions in this conference report that I believe will undermine the Medicare system on which elderly women rely.

Mr. Speaker, I wish to express my concerns today over the Medicare bill and how it will leave millions of seniors without the adequate care they deserve.

Under this bill nearly 3 million seniors will loose their prescription drug coverage, while 6 million will likely see an increase in the price of their medications and nearly 10 million would see an increase their Medicare premiums if they refuse to join an HMO.

This bill is not a plan for our seniors, rather it is a plan that benefits drug companies and the insurance industry. This legislation would even prohibit Medicare from negotiating better prices for prescription drugs. It would spend $7 billion, desperately needed for covering all retired Americans, on creating individual health security accounts for only those who could afford them.

I urge my colleagues to vote against this legislation. We need to work for our seniors and provide them with a Medicare bill that helps them and not the big pharmaceutical and insurance companies.

Ms. SLAUGHTER. Mr. Speaker, I yield to the gentlewoman from California (Mrs. DAVIS) for a unanimous consent request.

(Mrs. DAVIS of California asked and was given permission to revise and extend her remarks.)

Mrs. DAVIS of California. Mr. Speaker, I ask unanimous consent to revise and extend my remarks expressing my opposition to this bill, which fails to provide women with the affordable and reliable Medicare prescription drug coverage that they desperately need.

Mr. Speaker, I rise to talk about older women and their need for a real prescription drug benefit. The legislation we have before us represents a hollow substitute for a bona fide Medicare prescription drug benefit.

Every week, I hear from seniors overwhelmed with the cost of prescription drugs. Many find themselves juggling their expenses—often putting off paying some bills—in order to buy their medication. These seniors, our parents and grandparents, who have worked their whole lives and contributed to making our nation great never imagined they would spend their retirement struggling to make ends meet. Congress must act and provide seniors with a prescription drug benefit.

Our seniors—especially older women who, literally, are the face of Medicare—are counting on Congress to provide a real solution to the rising cost of prescription drugs. However, this debate has moved beyond providing prescription drugs to seriously undermine Medicare.

The Medicare conference report before us disportionately harms older women in the following ways: Women account for the majority of people who are on both Medicare and Medicaid. However, this proposal prohibits Medicaid from continuing to provide the poorest and sickest women with drugs that certain Medicare drug plans may not cover.

Older and sicker beneficiaries, often women, have not joined HMOs and tend to rely on the traditional Medicare program. This conference report is harmful to older and sicker women because its ''premium support'' provisions would undermine the traditional Medicare program and cause costs in that program to rise.

Nearly eight in ten women on Medicare use prescription drugs regularly. This legislation is harmful to women because it prohibits the government from negotiating price controls on drugs, leading to higher drug costs for both seniors.

Where is the benefit for women who are living on a fixed income and cannot afford to pay out-of-pocket during the coverage gap?

Where is the benefit for the women who, because they were stay-at-home mothers and did not earn a pension, cannot afford the prescription drugs they desperately need?

For my constituents, this legislation is not good enough. I cannot support this legislation when I know we can do better. We are doing more than providing prescription drugs, we are legislating the future of Medicare.

Ms. SLAUGHTER. Mr. Speaker, I yield to the gentlewoman from the Virgin Islands (Mrs. CHRISTENSEN) for a unanimous consent request.

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

Mrs. CHRISTENSEN. Mr. Speaker, I ask unanimous consent to revise and extend my remarks in strong opposition to the rule and the conference report, which helps HMOs and hurts poor women, minorities, and the disabled.

Mr. Speaker, I rise in opposition to the rule and the Medicare conference report.

The process by which we come to this place has been ugly. The conference committee locked out the democratic leadership from the process, and is sending this bill down without the 3 days to review it that we were promised.

But we should not be surprised. The bill itself is a more important broken promise—this one to the Senior citizens and disabled persons who have relied on Medicare to be there for them, and who have waited long for a comprehensive prescription drug benefit. They would be the real losers if we pass this bill and that is why I am asking my colleagues to vote ''no.''

Let us not take away the Medicare wrap around provision for those who need it, let us not jeopardize the good prescription drug benefit so many of our seniors and disabled now have, let us not put any more money in the already rich HMO's, let us take the means test and the mean out of this bill, and above all let us not destroy Medicare.

Mr. Speaker, this bill stinks, and no amount of promises to fund rural hospitals or increase physician's reimbursement can make it smell any better. Besides, this is coming from the same Party leadership that has been cutting physician and hospital fees, and refusing to remedy them for years. If they are known for anything, it is for broken promises.

We have no reason to rush and accept this defective piece of legislation that takes away more than it gives, and puts the first nail in the coffin the Republicans have been building for a long time for Medicare.

Any prescription drug benefit won't take effect until more than two years from now, so if we really care about our seniors and disabled we should take the time to get it right.

And if all of the tears I see shedding on the other side of the aisle for our suffering doctors, the struggling hospitals are any more than of the crocodile variety, we should do the right thing before we go home and pass those provisions now.

Ms. SLAUGHTER. Mr. Speaker, I yield to the gentlewoman from Georgia (Ms. MAJETTE) for a unanimous consent request.

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

Ms. MAJETTE. Mr. Speaker, I rise to oppose the Republican prescription drug bill because it is bad for women, especially poor, elderly women; and they deserve better than this.

Ms. SLAUGHTER. Mr. Speaker, I yield to the gentlewoman from California (Ms. MILLENDER-MCDONALD) for a unanimous consent request.

(Ms. MILLENDER-MCDONALD asked and was given permission to revise and extend her remarks.)

Ms. MILLENDER-MCDONALD. Mr. Speaker, I ask unanimous consent to revise and extend my remarks about the premium support provisions in this conference report that will undermine the Medicare system on which elderly women in my district depend.

Mr. Speaker, today I rise in opposition to H.R. 1. This conference report represents the beginning stages of this Administration's withdrawal from its promise to seniors. This report being considered on the House floor today, sets the stage for a gradual pullout of the federal government providing benefits to seniors and shifting the responsibility to private insurers.

As our nation's population ages and the baby boomer generation places additional burden on our healthcare infrastructure, we can

no longer provide a ''one-size fits all'' level of healthcare. I am a strong and passionate advocate of a Medicare program that would cover all of our nation's seniors and provide a comprehensive prescription drug benefit. This is not that benefit. Mr. Speaker, this is not a better solution than ''no benefits''—it's worse. It gives our seniors false hope. It makes seniors think that this government is expanding Medicare services, while it takes a backdoor approach to privatization of the Medicare program.

Mr. Speaker, in my home state of California, hundred of thousands of Medicare beneficiaries will lose their retiree health benefits. Medicaid beneficiaries will pay more for the prescription drugs they need. Hundreds of thousands of Medicare beneficiaries will pay more for Part B premiums because of so-called income relating provisions.

Last night, Mr. Speaker, I spoke with my Congressional Seniors Council which represents leaders from senior associations in the 37th congressional district. This council has expressed its deepest concerns with H.R. 1. On behalf of the more than 51,000 seniors in the 37th Congressional district, this council fears Seniors, who should otherwise qualify for a drug benefit, may no longer qualify because of the asset provision in this report. Seniors, who have saved their hard-earned money for use during retirement, who relied on the promises of this Administration, become disqualified from receiving the prescription drug benefit. Very poor and very sick dual eligible beneficiaries will lose wrap around coverage for prescription drugs making out-of-pocket costs more than they can afford.

I urge my fellow colleagues for the sake of Medicare beneficiaries in their districts, to vote against H.R. 1. Our seniors deserve better.

Ms. SLAUGHTER. Mr. Speaker, I yield to the gentlewoman from California (Mrs. CAPPS), who is also a nurse, for a unanimous consent request.

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

Mrs. CAPPS. Mr. Speaker, I rise in opposition to the harmful cuts in care amounting to $1 billion a year for all those who are being treated for cancer.

Ms. SLAUGHTER. Mr. Speaker, I yield to the gentlewoman from Ohio (Ms. KAPTUR) for a unanimous consent request.

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

Ms. KAPTUR. Mr. Speaker, I rise to oppose this GOP drug company bonanza that is going to make affordable drug prices impossible for the majority of this Nation's seniors. What a shame.

Ms. SLAUGHTER. Mr. Speaker, I yield to the gentlewoman from California (Ms. SOLIS) for a unanimous consent request.

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

Ms. SOLIS. Pido permiso para revisar y decir estas palabras.

Sr. Orador, estoy en contra del proyecto de ley Medicare que no ayudara a las mujeres que son el 70 por ciento de los mayores de edad.

(English translation of the above statement is as follows:)

Mr. Speaker, I rise in opposition to this Medicare bill which does nothing to help women, who make up more than 70 percent of the elderly poor.

Ms. SLAUGHTER. Mr. Speaker, I yield to the gentlewoman from California (Ms. WATERS) for a unanimous consent request.

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

Ms. WATERS. Mr. Speaker, I rise in opposition to this sham Medicare proposal that will end Medicare as we know it and simply fatten the pockets of the pharmaceutical industry and the HMOs.

Ms. SLAUGHTER. Mr. Speaker, I yield to the gentlewoman from Missouri (Ms. MCCARTHY) for a unanimous consent request.

(Ms. MCCARTHY of Missouri asked and was given permission to revise and extend her remarks.)

Ms. MCCARTHY of Missouri. Mr. Speaker, I ask unanimous consent to revise and extend my remarks about the premium support provisions in this conference report that will undermine the Medicare system on which the elderly in my district and around this Nation depend.

Mr. Speaker, I rise today in opposition to H.R. 1, the Medicare Prescription Drug and Modernization Act of 2003. I strongly support the inclusion of a prescription drug benefit as part of the Medicare program. Unfortunately, instead of providing a prescription benefit, this legislation includes dramatic changes in the entire Medicare program. As Washington Post columnist E.J. Dionne recently wrote, ''They went in to design a prescription drug benefit for seniors and came out with an aardvark.''

Mr. Speaker, in 1965, President Johnson and the Congress had the wisdom to create the Medicare program. The program accomplished its mission—it has ensured every single American's health coverage upon reaching 65 years of age. Since the bill's passage, Congress has made changes to the program to keep it current and to ensure that seniors received the highest quality care.

Now seniors are asking us to include a prescription drug benefit within the Medicare program. They want a benefit that offers comprehensive, affordable coverage to all seniors. I agree with them wholeheartedly. Instead of designing a prescription drug benefit, the majority created H.R. 1, which will end Medicare as we know it.

Mr. Speaker, this proposal is confusing and inadequate. For the first $2,000 of coverage, the consumer will pay over $1,100; for the first $5,000 of coverage, the consumer will pay approximately $4,000. If a consumer buys $5,000 of drugs a year, the consumer will pay 80 percent of that cost. Elderly women will be hardest hit.

Under this misguided plan, seniors will be forced to choose private prescription plans each year. A move between states, or even between towns, could force them to select another plan. In my district, seniors who chose to relocate from Kansas to Missouri could face the loss of their chosen prescription drug plan.

I am also concerned that this legislation will encourage companies that offer employer-provided drug coverage to drop or reduce their benefits. While the bill includes billions in subsidies for companies to maintain their benefits, more than 2.7 million retirees are likely to lose their employer provided coverage under this bill.

Seniors have been asking for a prescription drug benefit. They have not been asking for HMOs to take over Medicare. Yet that is what we are being asked to vote on today. This legislation includes ''cost containment'' provisions that will prompt significant cuts in the Medicare program if more than 45 percent of the costs of Medicare are borne from general tax revenues. Let's be clear—this cost cap would effectively end Medicare as a basic right for our seniors.

In a machiavellian effort to pass this misguided legislation, the authors have included billions in additional payments for doctors, hospitals, rural health facilities, and ambulance services among others. Sadly, these quality health care providers are forced to support this legislation even though many fear it will be bad for seniors and could unravel the Medicare program. Those funds should not be held hostage by this Medicare privatization scheme. I urge my colleagues to consider supporting stand alone legislation that would help our providers and save the Medicare program.

As E.J. Dionne wisely recommended, we should reject this flawed bill and ''let's then have a national debate on the future of Medicare, out in the open, and not in some congressional back room.'' Mr. Speaker, I urge all of my colleagues to reject this measure and go back to the basics. Give seniors what they deserve—a comprehensive Medicare prescription drug benefit.

Ms. SLAUGHTER. Mr. Speaker, I yield to the gentlewoman from Connecticut (Ms. DELAURO) for a unanimous consent request.

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

Ms. DELAURO. Mr. Speaker, I rise against a prescription drug bill that prohibits the government from using its market power to negotiate the best price for prescription drugs, the central issue of this debate and concern of the people of this country.

Ms. SLAUGHTER. Mr. Speaker, I yield to the gentlewoman from California (Ms. ESHOO) for a unanimous consent request.

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

Ms. ESHOO. Mr. Speaker, I rise against this bill which, in my view, I used the yardstick to measure it by my mother; and in doing the calculations, my mother, at 89½ years old, will be hurt by this, as will women her age across the country. She and they deserve so much better.

It's with great disappointment that I rise today to express my opposition to this Medicare Prescription Drug legislation. As the daughter of a Medicare beneficiary, I know first hand how important prescription drug coverage is for America's seniors, and I held out great hope that this would be the year we finally succeeded in providing seniors with an affordable, stable benefit.

Unfortunately, now that we have the long-awaited legislation before us, it is clear that it doesn't embody any of these important principles.

This bill does nothing to lower drug costs for America's senior citizens. It provides an unstable insurance benefit, undercuts the viability of the employer-provided retirement health insurance, and fundamentally undermines the Medicare program that has served seniors so well for nearly 40 years.

Specifically, the bill: Brings privatization to the Medicare program in 2010. Although this is being described as a ''demonstration project,'' this ''demonstration'' will affect as many as 7 million beneficiaries who will be forced to pay higher premiums and more money to keep the same benefits they have today if they don't join an HMO; has a $2800 gap in drug coverage that will leave millions of seniors without any help in paying for their drugs for part of the year, even though they will have to continue to pay their monthly premiums; Creates disincentives to employers to retain retiree drug coverage. An estimated 2 to 3 million seniors who have good drug coverage now through retiree health plans could lose it under the proposed plan.

In California, this means more than a quarter of a million seniors may lose their employer-sponsored health care. Real reform would encourage employers to expand retiree coverage, not take it away; Purposefully creates, for the first time, disparities between seniors across the country. Seniors living in different areas of the country will pay different premiums for the exact same benefits. In another first, this bill links how much a senior earns to how much they will pay in premiums. If a senior makes more than $80,000 they will pay higher premiums than the rest of the Medicare population.

Does not address the rising cost of prescription drugs for individuals, nor does it harness overall Medicare spending in future years. In fact, the bill specifically prohibits the Secretary of Health and Human Services from negotiating with drug companies for lower prices.

Jeopardizes coverage for cancer patients by drastically cutting funding for chemotherapy drugs.

Finally, this bill dramatically changes Medicare by limiting the total amount of money that can be spent on the program—meaning services will be cut and premiums will increase.

I do want to take a moment to highlight the few bright spots in this bill.

The bill reverses a recent decision by the Centers for Medicare and Medicaid Services (CMS) that threatened seniors' access to innovative treatments. For years biotechnology products, which often represent the most advanced treatments for diseases, were critically under-reimbursed. This bill ensures that these life-saving treatments will be available for all seniors by raising payment levels to an appropriate level. This bill also provides more speedy coverage of new medical device technologies and more streamlined processes by new technologies in the Medicare program.

Second, the bill includes critical funding for relief from the devastating payment reductions to Medicaid disproportionate share hospitals. This is very important for California which has a severe budget shortfall. The funding in the Conference Report restores several hundred million dollars to safety-net providers in California over the next 10 years. With more than six million MediCal recipients and 6.3 million uninsured residents in California, Medicaid DSH funds are invaluable to the safety net hospitals that serve low-income populations.

Unfortunately, these issues aren't enough to overcome the faulty foundation that this bill rests on. It's with a heavy heart that I say ''This Medicare Prescription Drug bill should be rejected.'' We have not honored the seniors who have done so much to make our country great, and I cannot justify a ''yes'' vote on a bad bill just for the opportunity to say we've succeeded in providing a drug benefit.

Mr. Speaker, I urge my colleagues to vote against the bill.

Ms. SLAUGHTER. Mr. Speaker, I yield to the gentlewoman from Florida (Ms. CORRINE BROWN) for a unanimous consent request.

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

Ms. CORRINE BROWN of Florida. Mr. Speaker, I rise against this sham Medicare proposal on behalf of Claude and Mildred Pepper, my grandmother, and all of the other seniors who will be increased out-of-pocket expenses for this sham Medicare bill.

Ms. SLAUGHTER. Mr. Speaker, I am proud to yield to the gentlewoman from California (Ms. PELOSI), our leader, for a unanimous consent request.

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

Ms. PELOSI. Mr. Speaker, I rise in opposition to this hoax of a plan. How can a plan be for the benefit of seniors when the first $4,000 of $5,000 of benefits have to be paid for by a senior who makes $13,500 a year?

Ms. SLAUGHTER. Mr. Speaker, I yield to the gentlewoman from New York (Mrs. MALONEY) for a unanimous consent request.

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

Mrs. MALONEY of New York. Mr. Speaker, I rise in opposition to this ill-conceived bill which promises to be a magic potion for seniors, but is a poison pill for Medicare.

Ms. SLAUGHTER. Mr. Speaker, I am pleased to yield to the gentleman from Florida (Mr. HASTINGS), my colleague on the Committee on Rules.

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

Mr. HASTINGS of Florida. Mr. Speaker, after that array, you have to be a very strong man to oppose this bill, and I ask unanimous consent that my remarks be included in the RECORD.

Mr. Speaker it gives me no greater disappointment to rise today in opposition to the co-called Prescription Drug and Medicare Modernization Act Conference Report. I might call it something else but that wouldn't be appropriate.

Since 1965 Medicare has been a vital instrument in ensuring quality healthcare to America's elderly and disabled. Medicare's 40 million beneficiaries use thousands of different health care products and services furnished by over 1 million providers in hundreds of markets nationwide. However, today a great number of you seek to dismantle Medicare with a fool's gold of a bill tilted the Prescription Drug and Medicare Modernization Act.

Despite my Democratic colleagues' best efforts to make this an inclusive and comprehensive process; one that addresses the real concerns of America's seniors and disabled, we were shut out from negotiations. We were shut out in June and we are shut out now. Today we have before us what the Republicans think is a Medicare and Prescription Drug reform. This is not a reform. This is a gutting of Medicare. It eviscerates one of the most successful great society programs in order to line the pockets of pharmaceutical companies.

Mr. Speaker, I am disturbed to my core that any person in their right mind would find this bill fit to deliver to America's seniors. HR 1 is seriously flawed and inept for several reasons. First, the prescription drug benefits is only available through private insurance companies and HMOs.

Second, the bill does not ensure affordable prescription drugs. Because of the arbitrary budget cap pushed by the administration, HR 1 has high deductibles and does not guarantee an affordable premium.

In addition, this scam of a sham bill creates large coverage gaps—with many seniors being required to pay high premiums even when they don't receive benefits.

Lastly, the bill does not promise prescription drug benefits to all beneficiaries. By relying on private insurance companies to offer coverage, this approach does not guarantee the same benefits for seniors, like Larry Colado of Myakka City, Florida, who lives in a rural community. Larry Colado is a Vietnam Veteran turned farmer who cannot afford health coverage and now faces losing the little that he has because, unlike Darwin, this administration believes in the survival of the richest.

Approving this bill may not guarantee a destitute future for members of Congress, but it will guarantee a destitute future for those seniors who do not and have not served in this body.

Mr. Speaker, simply put, this bill should be wrapped around a toilet paper holder and stuck in one of the Capitol's bathroom stalls.

I adamantly oppose the so-called Prescription Drug and Medicare Modernization Act. It is a snake oil and it stinks.

Ms. PRYCE of Ohio. Mr. Speaker, I yield such time as he may consume to the gentleman from California, the chairman of the Committee on Rules (Mr. DREIER).

Mr. DREIER. Mr. Speaker, continuing this spirit of comity, I ask unanimous consent that the conference report on H.R. 1 be debatable for 2 hours, doubling the amount of time that is made in order for consideration for a conference report.

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

There was no objection.

Ms. PRYCE of Ohio. Mr. Speaker, I am very pleased to yield 2 minutes to the gentleman from Florida (Mr. LINCOLN DIAZ-BALART), my friend and colleague from our Committee on Rules.

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, I thank the gentlewoman from Ohio for yielding me this time.

This legislation is very important legislation. It will help seniors, all seniors throughout the land; but especially low-income seniors will benefit, will benefit the most from this law. America's neediest seniors, individuals with up to $12,900 a year of income, $17,000 per couple, will immediately receive a cash credit of $600 to purchase their medications. And, again, in the year 2006, seniors with incomes of up to $10,300, or $13,250 per couple, will pay only $1 for generic prescriptions and $3 for brand-name medicines. Mr. Speaker, 13,235 reside in the district that I am honored to represent. I would urge all of my colleagues here this evening to check.

The gentleman from Florida (Mr. SHAW) has the information and he was so kind to provide it to me, district-by-district, how many low-income seniors will get extraordinary relief by this legislation.

□ 2215

Those with incomes of up to $13,900 a year, $17,900 per couple will pay only $2 for generic medications and $5 for brand name medications.

Mr. Speaker, 20,715 reside in the district that I am honored to represent. Seniors with incomes up to $15,500 a year, $20,000 per year per couple, will pay only a minimum monthly premium and initial deductible of $50 and then only 15 percent of their prescription drug costs up to $3,600 after which they will pay only $2 for generic drugs, $5 for brand names.

Now, all other seniors receive extraordinary help by this legislation, Mr. Speaker, but low-income seniors more than anyone else.

So I urge everyone in this hall, I think we all have an obligation to check the facts with regard to what we are voting on this evening: Concrete important specific help for seniors throughout the country on an issue that, I think, is the most important domestic issue facing this country. And I am proud to have supported this legislation in the Committee on Rules and to urge all of my colleagues to make it law, send it to the President tonight.

Ms. SLAUGHTER. Mr. Speaker, I yield 3 minutes to the gentleman from Massachusetts (Mr. MCGOVERN).

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

Mr. MCGOVERN. Mr. Speaker, Medicare is one of the most important successful social programs in the history of this country. For nearly 40 years, Medicare has been a lifeline for our senior citizens. I certainly do not argue that Medicare is perfect. Thanks to extraordinary advances in medical science, it is clear that Medicare needs a real prescription drug benefit.

The program should be strengthened so that future generations have access to high quality, affordable health care, but I believe that Medicare is a sacred trust between the United States government and the seniors of this country. The Republican majority in this House clearly does not believe what I believe, because if they did, this bill would not be before us.

This is a bill that fails to give seniors the drug benefit they need and deserve and expect. This bill forces millions of seniors to pay more for their prescription drugs. This bill is a huge giveaway to the HMOs and the drug companies. This bill does nothing to control the exploding costs of medicine. And worst of all, this bill shoves Medicare down the path to privatization. It ends Medicare as we know it. This is a defining issue. You can put all the bells and whistles and spin on it that you want. You can add a little money here or a tweak there to buy off a few interest groups or to make the bill more appealing to certain geographic areas. You can try to claw your way to a majority vote, and you might succeed. But your success will not mask the fact that this bill is bad for senior citizens.

So much of what people think is good about the Federal Government the supporters of this bill are ripping apart.

And let me say just a word, actually two words, about the processing used here. It is lousy. No one has had the time to properly review this. There are rules of this House, and we should follow them, especially with regard to giving Members of both parties the chance to actually see what they are voting on. But the Committee on Rules, once again, decided that the rules of this House do not matter. Maybe we should rename it the ''Break the Rules Committee.''

I guarantee you that for weeks to come we will be discovering lots of goods for special interests tucked into the dark corners of this legislation. The leadership of this House is more concerned with doing this bill fast than doing it right. If we take our time and do this right, it would give every Member the chance to read the fine print. Unless, of course, that is exactly what scares the leadership most.

Now, I have heard the argument out there that, well, this bill is not perfect. It is not even very good, but we have to pass something. Mr. Speaker, not if that something is a windfall for HMOs and drug companies. Not if that something is the privatization and dismantling of Medicare. Not if that something is a sound bite rather than a meaningful drug benefit.

There is a fundamental disagreement here because, to me, protecting Medicare is non-negotiable. If I voted for this bill I could not look at the people who sent me here and claim that I was representing their interests.

I believe our seniors deserve a defined, guaranteed, affordable prescription drug benefit under Medicare and that is what I am for. This bill does not even come close.

Vote no on the rule. Vote no on the bill.

Ms. PRYCE of Ohio. Mr. Speaker, I yield 3 minutes to gentleman from California (Mr. DREIER), the very distinguished Chairman of the Rules Committee.

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

Mr. DREIER. Mr. Speaker, I rise in strong support of this rule and the underlying conference report. My friend from Massachusetts (Mr. MCGOVERN) is absolutely right, Medicare is a sacred trust. He is also right when he says that this conference report, when we pass it, will end Medicare as we know it. Medicare as we know it does not have provisions for prescription drug coverage. And guess what? If we pass this, we will, in fact, end Medicare as we know it by making prescription drugs available to seniors.

It will also end Medicare as we know it because right now under Medicare there is a provision that allows for $148,000 to be expended on heart transplant surgery, but at the same time it does not provide the $1,000 a year that would be necessary for people to prevent heart disease by giving them access to Lipitor. And so it is true, we are going to finally bring about the very important reforms necessary so that we can maintain that sacred trust to which my friend refers.

So I believe, Mr. Speaker, that we have an opportunity to go a long way towards addressing this concern that exists on both sides of the aisle. I know that my democratic colleagues, Mr. Speaker, want to make sure that we do provide access for senior citizens to affordable prescription drugs. And I believe that on both sides of the aisle, Mr. Speaker, there is a clear understanding that if we are going to do that, we have to bring about major reforms so that we maintain the solvency of Medicare for the future. I also believe that as we look at the changes that will come about in the area of potentially creating another new entitlement program, Republicans and Democrats, Democrats who raise concern regularly about deficit spending, should feel good about the unprecedented measures that we put in this bill that allow for our Members to insist on a vote if, in fact, Medicare outlays exceed 45 percent of general revenues.

So I believe we are going a long way towards addressing these concerns. And then that wonderful incentive that also is there for people to plan for retirement with health savings accounts. Planning for their health care needs of the future is exactly what this measure will do by taking those very successful HSAs that have been out there and expanding that program.

Mr. Speaker, this may not be, this may not be the perfect solution, but this is our opportunity to bring about these much needed reforms.

And I urge my colleagues to support this rule, and, in a bipartisan way, do as I know the other body will do, and that is vote in support of this conference report so that we can help our seniors.

Ms. SLAUGHTER. Mr. Speaker, I yield 3 minutes to the gentleman from Maryland (Mr. HOYER), the minority whip.

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

Mr. HOYER. Mr. Speaker, I rise in opposition to this rule. And I invite the 41 Members of this side of the aisle who wrote a letter just a few days ago, those 41 Members, all Republicans, said to the gentleman from Illinois (Speaker HASTERT) and the gentleman from Texas (Majority Leader DELAY) that this is one of the most important issues that this Congress, or any Congress, will consider, and give us at least, they said, 3 days to consider this bill.

This bill is over 1,100 pages in length. It will affect not only the 40 million Americans who are eligible for Medicare, but it will also affect their families, their children, their sons and daughters who are confident that this country will provide for health care security for seniors.

I invite those 41 Members, this is about the process, this has been a terrible process, a shameful process. Speaker HASTERT, an honorable man, appointed the gentleman from Michigan (Mr. DINGELL), the Dean of this House, serving here since 1955, one of the most knowledgeable people, not Democrats or Republican, most knowledgeable Americans with respect to health care and Medicare and Social Security. And then he appointed one of the most senior Members of this House, the gentleman from New York (Mr. RANGEL) to this conference, and the gentleman from Arkansas (Mr. BERRY), the only pharmacist that serves in this House.

Shamefully, shamefully, they were neither invited, nor allowed, to come to the table to discuss this bill. I invite the 41 signers of this letter, if they meant what they said in this letter, to vote no on this rule. To vote no on this rule so that we can, in fact, look at it closely. Just 2 more days this bill, 1,100 pages in length, which was put on the Web just last afternoon, just approximately 24 hours ago.

I say to the signatories on this letter, if you meant what you said, if you believe the processes of this House ought to be followed, if you believe this issue is important enough to know what you are doing, to read the bill, to digest its consequences, to understand the adverse consequences that it will have on the poor, on those who were left behind in Medicare when the HSAs take the healthiest and wealthiest out of the system and force premiums higher for those who can least afford it, read this bill, understand this bill. You have not done so.

Some of our most respected colleagues signed this letter, Republicans all. I ask every Democrat to vote against this rule, to give ourselves and our constituents further time to consider this bill. I ask the Republicans honor their letter, honor their rules. Vote no on this one.

Ms. PRYCE of Ohio. Mr. Speaker, I yield 3 minutes to the gentleman from Washington (Mr. HASTINGS), my friend from our Committee on Rules.

Mr. HASTINGS of Washington. Mr. Speaker, I thank the gentlewoman from Ohio (Ms. PRYCE) for yielding, and I congratulate her on the way she excellently laid out the main provisions of this bill in her opening remarks.

I support this bill, Mr. Speaker, and this bill includes several important improvements to Medicare in addition to making prescription drugs available and affordable for seniors. But I am particularly pleased that this bill contains the largest, most comprehensive rural health care package ever considered by Congress to ensure that seniors in rural America are able to get the care they need.

I often hear from seniors they are having a hard time finding a doctor will accept Medicare patients. Now, doctors and hospitals in rural areas provide the same quality care as in urban areas, all too often Medicare fails to pay rural health care providers enough to cover their costs. This often forces doctors to consider whether they can continue accepting Medicare patients and, therefore, causes hospitals to cut back on their services.

As a member of two rural health care caucuses, I have met repeatedly with committee leaders and Secretary Thompson to stress the importance of ensuring that rural areas receive the Medicare payments that they deserve.

Mr. Speaker, until the disparity between rural and urban reimbursement is fixed, seniors in small town America have fewer and fewer health care options. I commend the conferees for recognizing this need. I am pleased that the National Rural Health Care Association has endorsed this bill saying, quote, ''This is a strong step forward this strengthening the health care system for nearly 60 million rural Americans,'' end quote.

By passing this bill, we will permanently end the disparity in Medicare payments between urban and rural hospitals. We will provide more money to rural hospitals for the care of uninsured patients, we will increase funds for critical access hospitals and home health care agencies and raise payments to doctors to encourage them to provide services in physician-short areas.

Simply put, Mr. Speaker, after years of effort H.R. 1 will finally give doctors, hospitals, home health nurses, and other care providers the resources they need to provide seniors who live in rural areas like my district in central Washington the medical care they deserve.

Accordingly, I urge my colleague to support both the rule and the underlying bill.

□ 2230

Ms. SLAUGHTER. Mr. Speaker, I yield 2 minutes to the gentleman from New Jersey (Mr. MENENDEZ), the minority caucus chairman.

Mr. MENENDEZ. Mr. Speaker, the Republican plan that we consider here tonight is not a Medicare prescription drug plan, but rather a poison bill for our Nation's seniors and for Medicare itself. The more you know about this bill, the less you like it.

The Republican plan would encourage employers to drop retiree coverage for their employees. And this means that approximately 94,000 New Jerseyans in my State will be left with no coverage. I thought this debate is supposed to be about expanding coverage for our seniors, not taking it away.

Under their demonstration plan, 7 million beneficiaries would be forced to pay more for Medicare if they do not give up their doctor and join an HMO. The Republican plan would cut payments to oncologists nationwide and would result in New Jersey cancer care providers losing $552 million, this in a State that has the third highest instance of cancer in the United States, and in which cancer is the second leading cause of death.

Republicans would include a $14 billion bribe to get private insurance company plans to compete against Medicare. Why give away billions of taxpayers money to private insurance interests when that money could be used to enhance a true prescription drug benefit under Medicare? Obviously, Republicans are more concerned about their special interests than senior interests.

Republicans would make millions of seniors pay more for their drugs. Seniors would pay $4,020 out of the first $5,100 in prescription drug costs. And low-income seniors, like my 83-year-old mother who worked her entire life in the factory of New Jersey and who suffers from Alzheimer's, would pay higher premiums and would lose additional assistance under Medicaid. And only in Washington would Republicans prohibit the Federal Government from using the collective purchasing power of 40 million citizens to obtain lower prescription drug prices.

Let us stand up for our parents and our grandparents and our seniors. Vote against the rule. Vote against this poison pill that is this plan.

Ms. PRYCE of Ohio. Mr. Speaker, I yield 2½ minutes to the gentleman from the State of New York (Mr. REYNOLDS), my very good friend from the Committee on Rules.

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

Mr. REYNOLDS. Mr. Speaker, I thank the gentlewoman for yielding me time.

Mr. Speaker, I rise in strong support of this rule and the underlying legislation.

For the first time in the nearly 40-year history of the Medicare program, Congress tonight has the opportunity to provide more than 40 million seniors

and disabled Americans a guaranteed prescription drug benefit.

In my home State of New York, this means nearly 3 million Medicare beneficiaries will have greater access to life-saving prescriptions. For many of these beneficiaries, this amounts to drug coverage that they would not otherwise have; and for countless others, it means vastly improved benefits.

In providing a prescription drug discount card, greater access to less-expensive generic drugs, enhanced ability to create individualized health savings accounts and strong protections for retirees with current coverage, this bill helps bring Medicare into the 21st century.

What the bill also accomplishes is improved access to care in a variety of other areas that will help Americans all across the country get the care they need and deserve. For example, by updating the critical hospital formulas for marketbasket and indirect medical education, New York State will be infused with over $1.2 billion over the next 10 years.

Of that, hospitals in my congressional district will receive close to $40 million. In cash-strapped regions of western New York that I represent, this payment relief is great news for patients of all ages and income levels.

New York will also be bolstered by many other funding streams that will bring critical Federal funds into the State and help mitigate local fiscal burdens. And the Federal Government assuming costs of New York beneficiaries eligible for both Medicare and Medicaid, the State will save over $3 billion over 8 years on prescription drug coverage for its Medicaid population.

Because New York already provides a popular, generous prescription drug program, well over 300,000 seniors, the State will have access to $125 million over 2 years in transitional assistance to help the new Federal drug program coordinate with the existing State program.

These funds will ensure a seamless transition and coordination of benefits for many seniors who want to remain in the State program, yet still receive enhanced benefits through the Federal plan.

Mr. Speaker, this body is poised to make history. Today begins the final step in a journey that began not 3 days ago, not 3 years ago, but nearly a decade ago. Congress promised a prescription drug benefit. Congress promised to make Medicare stronger, and it took this majority to deliver on that promise.

I urge my colleagues to support the rule and the underlying legislation.

Ms. SLAUGHTER. Mr. Speaker, I yield 2 minutes to the gentleman from Ohio (Mr. BROWN).

Mr. BROWN of Ohio. Mr. Speaker, I thank the gentlewoman from New York (Ms. SLAUGHTER) for yielding me time.

We have been here before, Mr. Speaker. We will debate late into the night and consider one of the most important votes we have ever cast. At 2:54 a.m. on a Friday last March, the House cut veterans benefits by 3 votes.

At 2:39 a.m. on a Friday in April, House Republicans slashed education by five votes.

At 1:56 a.m. on a Friday in May, the House passed the Leave No Millionaire Behind Tax Cut Bill by a handful of votes.

At 2:33 a.m. on a Friday in June, the House GOP passed Medicare privatization by one vote.

At 12:57 a.m. on a Friday in July, the House eviscerated Head Start by one vote. And then after returning from summer recess, at 12:12 a.m. on a Friday in October, the House voted $87 billion for Iraq.

Always in the middle of the night. Always after the press had passed their deadlines. Always after the American people had turned off the news and gone to bed. And here we go again, Mr. Speaker.

Republican leadership delivered this bill to us last night at 1:46 a.m.

Mr. Speaker, I do not really blame my Republican colleagues because when Republican leaders sit down with the insurance industry and the drug industry behind closed doors and write a bill to privatize Medicare, of course they do not want the public to know.

When Republican leaders sit down with the drug industry to write a bill to deliver $139 billion in additional pharmaceutical profits to their biggest contributors, of course they do not want the public to know.

When Republican leaders sit down with the insurance industry to write a bill to set up a $20 billion slush fund for HMOs, some of their biggest contributors, of course they do not want the public to know.

This bill proposes the most radical changes to Medicare since its creation a generation ago. We should not do it under the cover of darkness. Americans deserve better.

Ms. PRYCE of Ohio. Mr. Speaker, I yield 1 minute to the gentleman from Indiana (Mr. BURTON).

Mr. BURTON of Indiana. Mr. Speaker, I admire our President and my leaders in the House, but I want to tell you why I oppose this bill.

The average senior is going to pay $4,000 in order to receive the first $1,500 in benefits. Now, we should take care of the 24 percent of seniors across this country that have no drug coverage; but this covers all of them, including the 76 percent that do have coverage.

Employers will, in my opinion, in spite of a $70 billion payoff, drop their seniors and put them on the government program, and they are going to get less coverage than they have right now, and it will cost a lot more.

This program is going to cost much more, in my opinion, than the $400 billion that we estimate. I think it will go as high as maybe a trillion dollars over the next 10 years. And, finally, there is no negotiation with the pharmaceutical companies on drug prices even though Americans are paying as much as five to 10 times more than they are paying in Germany and Canada and other places in the world; and that is just not right.

Ms. SLAUGHTER. Mr. Speaker, I yield 1 minute to the gentlewoman from Illinois (Ms. SCHAKOWSKY).

Ms. SCHAKOWSKY. Mr. Speaker, a little history lesson. August 17, 1989, front page of the Chicago Tribune, outside the Copernicus Senior Center in Chicago. These are the constituents of Congressman Dan Rostenkowski who is in this car.

They are not happy with their Congressman, and they are not happy with the catastrophic health care bill.

When the Congressman escaped from his car, a reporter asked him if he sympathized with the seniors who were mad about this bill, and he said, ''No, they do not understand.'' But, unfortunately, it was not the seniors who did not get it. It was the Congressman. Three months later that bill was repealed.

A big mistake was made. This Congress overwhelmingly passed the catastrophic. Everyone on Capitol Hill liked it including the AARP. They did not check with the seniors, and we are about to make the same mistake tonight. A thousand pages and more, 40 years of Medicare, but 40 hours to read this bill.

I tell you, if you vote for this, you better get your running shoes. The senior citizens will be after you.

Ms. PRYCE of Ohio. Mr. Speaker, I yield 2 minutes to the gentleman from the State of Florida (Mr. SHAW), from the Committee on Ways and Means, who worked so hard on this bill.

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

Mr. SHAW. Mr. Speaker, I thank the gentlewoman for yielding me time.

Medicare passed this Congress on July 27 of 1965 and was signed into law in Independence, Missouri, on July 30 of 1965. It is interesting, and I was watching C–SPAN today and watching the goings on within the Committee on Rules. And I heard several of the Democrat witnesses come in and say, your party did not support Medicare in the first place and you want it to wither on the vine.

After hearing this over and over, I thought, well, it is about time somebody goes into the archives and finds out the truth. The truth is the majority of the Republicans in this House of Representatives in 1965 did support Medicare. So the big lie now can go down and be deflated.

Also, I have heard many witnesses on the other side say what a bonanza this is for big drug companies. Nobody is mentioning the fact that we are shortening the time that generics can get on the market. You think the big drug companies like that? Of course not.

Also, the discount card where prices will be negotiated and seniors will get

their drugs for less money. Nobody on that side is talking about that.

What this is actually is a cost-containment bill and probably the largest one that will ever be signed into law providing for the cost containment in drugs.

I sent out a survey as many of us do to some of our constituents and was just simply asking them did they want this drug bill. I received back the biggest number that I have ever received. They are still coming in and they are just now hitting and we already have 12,000 replies. And guess what? Only 100 said no. And most of them were misinformed by this bill thinking they might have lost the coverage that they had. This is a good bill. Let us do it for our seniors. Let us do it for the people at the lower economic levels who desperately need this.

Why would you deny this to them? Somebody can buy drugs for so little and be able to get a better quality of life. Life is meant to be enjoyed, not endured. Let us vote ''yes'' on the rule. Let us vote ''yes'' on the bill.

The SPEAKER pro tempore (Mr. LAHOOD). The gentlewoman from Ohio (Ms. PRYCE) has 3 minutes remaining. The gentlewoman from New York (Ms. SLAUGHTER) has 9½ minutes remaining.

Ms. SLAUGHTER. Mr. Speaker, I yield 2 minutes to the gentleman from North Carolina (Mr. PRICE).

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

Mr. PRICE of North Carolina. Mr. Speaker, we began this effort years ago with a relatively simple concept: let us add a prescription drug benefit to Medicare, giving help to the countless older Americans who so desperately need it. But this bill has ended up doing the very thing seniors do not want us to do—to privatize their coverage.

Little do they know that the so-called prescription drug benefit will operate nothing like their other Medicare benefits. An enormous sticker shock awaits them. If a senior needs $5,000 worth of medication, he or she will have to pay $4,000 in order to get it. If drug costs are $3,500, he or she will pay $2,500.

This bill has a gaping so-called doughnut hole where any drug costs that fall between $2,250 and $5,100 are not covered at all. Do you think that is what our constituents have in mind when they think of prescription drug coverage?

But this spotty coverage is not the worst of it. An even more unpleasant surprise awaits. This bill forces Medicare beneficiaries to get drug coverage through private companies or an HMO.

Our Republican friends would apparently rather do anything than strengthen basic Medicare, so they have devised a convoluted scheme to throw enough money at private companies to induce them to offer drug-only policies, policies which these same companies say make no sense in terms of insurance principles.

□ 2245

The Senate bill offered a fallback plan to provide Medicare coverage if these private plans did not materialize, but that fallback has been fatally weakened in the bill before us.

We have heard a lot about choice tonight, but the only real choice most seniors will have under this bill is whether they obtain their prescription drug coverage through a private drug plan or an HMO, and whether they would rather have medications they can afford or a doctor of their own choosing. Under this plan they cannot have both.

Mr. Speaker, this bill is a betrayal of our seniors. This is not an improvement, an expansion of Medicare. It is just the opposite. We should defeat this bill and go back to the drawing board immediately.

Ms. PRYCE of Ohio. Mr. Speaker, I yield for a unanimous consent request to the gentleman from Florida (Mr. SHAW), a member of the Committee on Ways and Means.

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

Mr. SHAW. Mr. Speaker, I submit to the RECORD a letter of endorsement from the Republican Governors Association and a letter from my own Governor, Governor Jeb Bush, endorsing this bill.

STATE OF FLORIDA,
OFFICE OF THE GOVERNOR,
Tallahassee, FL, November 21, 2003.

Hon. E. CLAY SHAW, Jr.,
Rayburn House Office Building,
Washington, DC.

DEAR CONGRESSMAN SHAW: Today, there is very good news for Florida's three million Medicare beneficiaries. The recent bipartisan conference agreement for Medicare will provide first-time access to prescription drug coverage. As the second largest home to seniors, this drug benefit—along with many other improvements and modernizations—will have the most significant impact for residents in our State since the enactment of Medicare in 1965.

Medicare will increase in value as our beneficiaries will have available to them a prescription drug benefit, and critical protections against high out-of-pocket drug costs. New preventive benefits will keep our residents healthier, and provide a higher quality of life. The new opportunities to be screened for many illnesses and conditions will result in far fewer serious health consequences.

Designed to provide enhanced coverage for the lowest income beneficiaries, over 650,000 of Florida's low-income Medicare beneficiaries—who are not eligible for Medicaid drug coverage—will receive $10 billion in critical prescription drug benefits from 2006 through 2015. The prescription drug discount card will provide our seniors and disabled Medicare beneficiaries with much-needed discounts, and a $600 per year subsidy in transitioning to the new drug benefit.

Another 490,000 low-income individuals dually eligible for Medicare and Medicaid will receive more than $6.7 billion annually in prescription drug benefits, with no gap in coverage. This new federal benefit will save the taxpayers of Florida over $3 billion—in just the first 10 years. These are state Medicaid costs that can be reinvested in other health care needs.

This reform package will strengthen the Medicare program, while providing beneficiaries a prescription drug benefit, more choices and improved care options. All Floridians will benefit from the option to accumulate tax-free health dollars through Health Savings Accounts to pay for medical expenses. Other reforms include a transition to electronic prescribing, creating incentives for our hospitals and doctors to reduce errors by using this new e-technology.

Seniors cannot afford to indulge the political appetites of Washington, where the issue of prescription drugs has turned into a search for the perfect. Our representatives must look to those who are being denied the opportunity for life-saving prescription drugs. Today's bill may not be ideal, but it is just right for those who have been waiting too long.

AARP has led the long fight for a Medicare drug benefit, and I commend their leadership in ensuring passage of this bill. I join with them in urging you to support this historic legislation. There has never been a greater opportunity to do more for the seniors in Florida.

Sincerely,

JEB BUSH,
Governor.

REPUBLICAN GOVERNORS ASSOCIATION,
Washington, DC, November 21, 2003.

Hon. J. DENNIS HASTERT,
Speaker, House of Representatives, The Capitol, Washington, DC.
Hon. BILL FRIST,
Majority Leader, U.S. Senate, The Capitol, Washington, DC.
Hon. NANCY PELOSI,
Minority Leader, House of Representatives, The Capitol, Washington, DC.
Hon. TOM DASCHLE,
Minority Leader, U.S. Senate, Washington, DC.

DEAR SPEAKER HASTERT, REPRESENTATIVE PELOSI, SENATOR FRIST, AND SENATOR DASCHLE: As Governors, we urge the U.S. Congress to pass the bipartisan Medicare Conference Agreement. Passage of this legislation will provide more choices and better benefits to Americans. Under the bipartisan agreement, Medicare beneficiaries would be provided significant savings and access to broader coverage.

Medicare will provide first-time access to prescription drug coverage to many of our seniors. The agreement also assists states with the costs related to the dual eligible population. Assistance to low income persons as well as critical protection against high out-of-pocket drug costs are essential components of this legislation. Most importantly, the preventive benefits found in this measure will keep our constituents healthier.

Passage of this historic legislation will modernize the delivery of quality healthcare in America. Therefore, we commend you and the conferees for providing leadership in developing this legislation and offer our support of its passage.

Sincerely,

Bill Owens, Governor of Colorado, RGA Chairman.
Bob Taft, Governor of Ohio, RGA Vice Chairman.
Robert R. Riley, Governor of Alabama.
Robert Ehrlich, Jr., Governor of Maryland.
Jeb Bush, Governor of Florida.
Felix Camacho, Governor of Guam.
Mitt Romney, Governor of Massachusetts.
Haley Barbour, Governor-elect of Mississippi.
Mike Johanns, Governor of Nebraska.
John Hoeven, Governor of North Dakota.

Olene S. Walker, Governor of Utah.
Ernie Fletcher, Governor-elect of Kentucky.
Frank H. Murkowski, Governor of Alaska.
John G. Rowland, Governor of Connecticut.
Sonny Perdue, Governor of Georgia.
Dirk Kempthorne, Governor of Idaho.
Tim Pawlenty, Governor of Minnesota.
Kenny Guinn, Governor of Nevada.
James H. Douglas, Governor of Vermont.
Don Carcieri, Governor of Rhode Island.
Mike Rounds, Governor of South Dakota.
Rick Perry, Governor of Texas.

Ms. PRYCE of Ohio. Mr. Speaker, I reserve the balance of my time.

Ms. SLAUGHTER. Mr. Speaker, I yield 2 minutes to the gentlewoman from Connecticut (Ms. DELAURO).

Ms. DELAURO. Mr. Speaker, this is a defining moment for the senior citizens of this country. For years we have tried to provide a prescription drug benefit to help them with the rising cost of medicine, but this bill does nothing about the central issue, price. It prohibits the government from using its market power to negotiate the best price for drugs and does nothing to allow Americans to import drugs from countries like Canada where prices are lower. As a result, prices will continue to rise and over time wipe out any gains that seniors realize from the new benefit which does not even begin until 2006.

Rather, the bill is the first step toward eliminating the universal guaranteed benefit that defines Medicare. For the first time, it caps the amount of money that can be spent on the program, meaning services that are guaranteed today will not be guaranteed tomorrow. It creates a two-tiered health care system, one for the affluent, one for everyone else. For as many as 10 million seniors, premium support will force them to give up the doctors that they have been with for years, force them into HMOs that will cut services and cost more.

So today we consider more than a prescription drug benefit. We consider the future of our contract with the families in this country, a contract that says that after a lifetime of hard work, paying taxes, that we have a moral obligation to ensure our parents and our grandparents have a dignified retirement. By ending the guarantee of equal health care provided to every senior in this country for nearly four decades, we are breaking that contract.

I was not elected to preside over the dismantling of Medicare, the embodiment of our country's shared values, in exchange for a feeble prescription drug benefit that does nothing to bring down the prices of prescription drugs. We should send this bill back to the drawing board, do whatever it takes to deliver a real drug benefit that maintains Medicare's promise to senior citizens. We owe them nothing less.

Ms. SLAUGHTER. Mr. Speaker, I am pleased to yield 2 minutes to the gentleman from Arkansas (Mr. BERRY), actually a pharmacist.

Mr. BERRY. Mr. Speaker, this is the most shameful attempt to deceive the Greatest Generation. The question that continues to go through my mind is why would you want to do this to these good people. They survived the Depression, they fought World War II, and they built this great Nation into what it is today.

Being an Anglo-Saxon, male Protestant, I have not known the hurt of being excluded or denied my rights like my dear friend the gentleman from Georgia (Mr. LEWIS). After having served on this conference committee, I have an idea of what that must feel like. At every attempt to be a part of this conference, the House Democrats were ridiculed, humiliated, used every trick that they could imagine to try to make us feel like we just simply should not be a part of this act, and we are not. This is the Republicans' deal. Let them have credit for this sorry piece of work.

I can tell my colleagues, I do not also understand why they would want to continue to give billions of dollars to the drug companies and to pass an act that would make it possible for the drug companies of this country to have the exclusive right to continue to rob the senior citizens. The burden of this dishonorable act rests on those that have written it and those that will vote to pass it.

I suspect that our Founding Fathers must be very sad this evening, but let it be known henceforth and hereafter, the Republicans did this to our seniors, and the Democrats fought every last step of the way to try to keep it from happening.

Ms. SLAUGHTER. Mr. Speaker, may I inquire from my colleague, does she have anymore speakers?

Ms. PRYCE of Ohio. I have one remaining speaker.

Ms. SLAUGHTER. Mr. Speaker, I yield 2 minutes to the gentleman from Washington (Mr. BAIRD).

Mr. BAIRD. Mr. Speaker, I thank the gentlewoman for yielding me the time.

I cannot get up and say this bill is awful entirely. I think there are some very good parts, and I think some good efforts have been put into it, but I have two concerns.

First of all, side effects. I think the side effects of this bill may well be fatal to some, and more importantly, I believe that most Members on both sides of the aisle have not really read this bill and do not fully understand it.

Earlier tonight, I invited the gentlewoman from Ohio to explain a simple passage.

Ms. PRYCE of Ohio. Mr. Speaker, will the gentleman yield?

Mr. BAIRD. I yield to the gentlewoman from Ohio.

Ms. PRYCE of Ohio. Mr. Speaker, I appreciate that. Earlier today, and once again now, a statement was placed in front of me, a statement which was a long, drawn out document, and he was asking me to explain it, and it is very unfortunate that we were not provided with that in advance.

Mr. BAIRD. Reclaiming my time, the point I am making is I do not think the gentlewoman has actually read the bill sufficiently to explain it.

I spent 23 years of my life in health care. I hold a doctorate in clinical psychology. I have spent hours on this bill. My eyes are exhausted. I must say I do not know fully well enough what is in it.

My colleagues have said to us, and I agree, this is one of the most important bills that we will face in our career, and yet my colleagues have given us less than 24 hours to look at it.

The great philosopher Socrates said this when the politicians of Athens imprisoned him, he said to his the young people he taught, he said, These people have imprisoned me for pointing out to them how little they know. Instead of being angry at me for pointing that out, they should be angry at themselves for knowing so little.

His advantage was he admitted that he did not know. What I would ask the gentlewoman is a simple request that we almost never do here. Let us break with precedent. Let us say, you know what, this is important, we are moving too fast. I look around this room and I will say to my distinguished colleagues I bet you, you have not read the bill carefully, and you really, fully cannot explain it to your constituents, and if you have not and if this bill spends $400 billion of the taxpayers' money and is going to blow a hole in the lid of this deficit and is going to deprive people who desperately need pharmaceutical care, then why do we not just take a little bit of time and read it? Who knows, I might actually like it well enough to vote for it, but I cannot vote for something you have not given us enough time to read.

That is what the people of expect of us when they send us here. That is what a republic is all about it, but we do it a great disservice in this institution of late.

Ms. PRYCE of Ohio. Mr. Speaker, may I inquire as to the time remaining and how many speakers the gentlewoman from New York has?

The SPEAKER pro tempore (Mr. LAHOOD). The gentlewoman from Ohio (Ms. PRYCE) has 3 minutes remaining. The gentlewoman from New York (Ms. SLAUGHTER) has 1½ minutes remaining.

Ms. PRYCE of Ohio. I have one speaker.

Ms. SLAUGHTER. I have one more speaker.

Mr. Speaker, I yield 1 minute to the gentleman from Ohio (Mr. KUCINICH).

Mr. KUCINICH. Mr. Speaker, this legislation was written at the behest of insurance companies and pharmaceutical companies. This is the beginning of the end of universal health care for seniors.

Since Medicare was enacted in 1965, seniors went from a group least likely to have health insurance to most likely to have health insurance because of Medicare. Medicare has achieved goals that Congress has not been able to accomplish for the rest of our population

by keeping millions out of poverty, increasing access to health care, improving quality of life and even extending life expectancy by 20 percent.

This conference report will eliminate universal health care for the only part of our population that has it. It will lead to benefit cuts by the creation of an artificial cap on Medicare spending. It will increase costs for millions of seniors. It will privatize Medicare in order to dismantle it.

We should be expanding Medicare so that all Americans can have quality health care under a single-payer system with fully-paid prescription drug benefits.

This legislation is a choice between health care in the public interest which we still have with Medicare or health care in the private interest. Choose wisely. Reject the rule, reject the legislation.

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

Ms. PRYCE of Ohio. Mr. Speaker, I am very pleased to yield 2 minutes to the gentlewoman from West Virginia (Mrs. CAPITO), my friend and colleague.

Mrs. CAPITO. Mr. Speaker, I would like to thank my distinguished colleague from Ohio for yielding me the time. I rise in support of the rule and the underlying bill.

We have all listened to and viewed the rhetoric surrounding the Medicare prescription drug legislation this week. We have all faced the questions regarding what is in the bill and what is not. There has been a multitude of fallacies about who is covered and who is not. Mr. Speaker, the truth of the matter is this Medicare prescription drug package will grant 40 million Medicare seniors a drug benefit they do not have.

I am especially proud of the low-income provisions in this bill. In my home State of West Virginia where our seniors are clamoring for this coverage, fully one-third of the Medicare beneficiaries will only pay up to $5 for prescriptions. This is real savings for those who need it most.

The truth is that seniors fortunate enough to have coverage through a previous employer will maintain that benefit. Corporations, small businesses, unions, State and local governments will receive serious help to allow them to continue to offer that benefit.

The truth is that in this legislation senior women will now have greater access to more affordable health care. Women live longer than men, with less income and suffer from more chronic illnesses. Disease management and access to a prescription drug benefit will allow women to enhance the quality of life in their senior years.

Mr. Speaker, I can handle this truth. West Virginia's seniors can handle this truth. America's seniors can handle this truth. It is time to get past the rhetoric and deliver on a promise we have all made to America's seniors.

Ms. SLAUGHTER. Mr. Speaker, I yield myself the remaining time.

I am going to ask for a no vote on the previous question so we can amend the rule and restore the right of all Members under the House rules to consider the report for 3 days before they vote on it. Voting no on the previous question will not block consideration of the report. It will simply give all the Members who were not in the secret, closed meetings a chance to read it and a chance to look before we leap.

Mr. Speaker, I ask unanimous consent that the text of the amendment be printed in the RECORD immediately prior to the vote on the previous question.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from New York?

There was no objection.

□ 2300

Ms. PRYCE of Ohio. Mr. Speaker, I yield myself such time as I may consume.

We have heard a lot of rhetoric tonight, as the gentlewoman from West Virginia (Mrs. CAPITO) mentioned. You would think we were talking about different bills. But the truth is the 35 million seniors that the AARP represents cannot be wrong. This bill is what America's seniors need. They know it and we know it. We have heard them.

And let me remind my colleagues that we have before us today a historic opportunity, an opportunity to make the most sweeping changes to the outdated Medicare program since it began in 1965. Bring our seniors the financial relief and the lifesaving medications that they so desperately need and deserve. Support this rule and the bipartisan legislation that it supports.

The text of the amendment referred to previously by Ms. SLAUGHTER is as follows:

Strike all after the resolving clause and insert in lieu thereof the following:

''That upon adoption of this resolution it shall be in order to consider the conference report to accompany the bill (H.R. 1) to amend title XVIII of the Social Security Act to provide for a voluntary program for prescription drug coverage under the Medicare Program, to modernize the Medicare Program, to amend the Internal Revenue Code of 1986 to allow a deduction to individuals for amounts contributed to health savings security accounts and health savings accounts, to provide for the disposition of unused health benefits in cafeteria plans and flexible spending arrangements, and for other purposes. All points of order against the conference report and against its consideration (except those arising under clause 8(a)(1)(A) of rule XXII) are waived.''

Ms. PRYCE of Ohio. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

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

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

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

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

The Sergeant at Arms will notify absent Members.

Pursuant to clause 9 of rule XX, the Chair will reduce to 5 minutes the minimum time for electronic voting, if ordered, on the question of agreeing to the resolution.

The vote was taken by electronic device, and there were—yeas 228, nays 204, not voting 2, as follows:

[Roll No. 665]

YEAS—228

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

NAYS—204

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

NOT VOTING—2

Gephardt
Gordon

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

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

□ 2319

So the previous question was ordered.

The result of the vote was announced as above recorded.

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

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

RECORDED VOTE

Ms. SLAUGHTER. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

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

The vote was taken by electronic device, and there were—ayes 225, noes 205, not voting 4, as follows:

[Roll No. 666]

AYES—225

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

NOES—205

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

NOT VOTING—4

Cannon
Gephardt
Gordon
Petri

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

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

□ 2328

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.

FURTHER MESSAGE FROM THE SENATE

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

H.J. Res. 79. Making further continuing appropriations for the fiscal year 2004, and for other purposes.

The message also announced that the Senate agreed to the amendment of the House to the bill (S. 1680) entitled ''An Act to reauthorize the Defense Production Act of 1950, and for other purposes,'' with an amendment.

CONFERENCE REPORT ON H.R. 2622, FAIR AND ACCURATE CREDIT TRANSACTIONS ACT OF 2003

The SPEAKER pro tempore. The pending business is the question of suspending the rules and agreeing to the conference report on the bill, H.R. 2622.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Ohio (Mr. OXLEY) that the House suspend the rules and agree to the conference report on the bill, H.R. 2622, on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 379, nays 49, answered ''present'' 1, not voting 5, as follows:

[Roll No. 667]

YEAS—379

Abercrombie	Coble	Hall
Ackerman	Cole	Harris
Aderholt	Collins	Hart
Akin	Cooper	Hastings (FL)
Alexander	Costello	Hastings (WA)
Allen	Cox	Hayes
Andrews	Cramer	Hayworth
Baca	Crane	Hefley
Bachus	Crenshaw	Hensarling
Baird	Crowley	Herger
Baker	Cubin	Hill
Baldwin	Culberson	Hinchey
Ballance	Cummings	Hinojosa
Ballenger	Cunningham	Hobson
Barrett (SC)	Davis (AL)	Hoeffel
Bartlett (MD)	Davis (FL)	Hoekstra
Barton (TX)	Davis (TN)	Holden
Bass	Davis, Jo Ann	Holt
Beauprez	Davis, Tom	Hooley (OR)
Bell	Deal (GA)	Hostettler
Bereuter	DeGette	Houghton
Berkley	DeLauro	Hoyer
Berry	DeLay	Hulshof
Biggert	DeMint	Hunter
Bilirakis	Deutsch	Hyde
Bishop (GA)	Diaz-Balart, L.	Inslee
Bishop (NY)	Diaz-Balart, M.	Isakson
Bishop (UT)	Dicks	Israel
Blackburn	Dingell	Issa
Blumenauer	Dooley (CA)	Istook
Blunt	Doolittle	Jackson-Lee (TX)
Boehlert	Doyle	Janklow
Boehner	Dreier	Jefferson
Bonilla	Dunn	Jenkins
Bonner	Edwards	John
Bono	Ehlers	Johnson (CT)
Boozman	Emanuel	Johnson (IL)
Boswell	Emerson	Johnson, E. B.
Boucher	Engel	Johnson, Sam
Boyd	English	Jones (NC)
Bradley (NH)	Etheridge	Jones (OH)
Brady (PA)	Everett	Kanjorski
Brady (TX)	Fattah	Kaptur
Brown (SC)	Feeney	Keller
Brown, Corrine	Ferguson	Kelly
Brown-Waite, Ginny	Fletcher	Kennedy (MN)
Burgess	Forbes	Kennedy (RI)
Burns	Ford	Kildee
Burr	Fossella	Kilpatrick
Burton (IN)	Frank (MA)	Kind
Buyer	Franks (AZ)	King (IA)
Calvert	Frelinghuysen	King (NY)
Camp	Frost	Kingston
Cannon	Gallegly	Kirk
Cantor	Garrett (NJ)	Kleczka
Capito	Gerlach	Kline
Capps	Gibbons	Knollenberg
Capuano	Gilchrest	Kolbe
Cardin	Gillmor	LaHood
Cardoza	Gingrey	Lampson
Carson (IN)	Gonzalez	Langevin
Carson (OK)	Goode	Larsen (WA)
Carter	Goodlatte	Larson (CT)
Case	Goss	Latham
Castle	Granger	LaTourette
Chabot	Graves	Leach
Chocola	Green (TX)	Levin
Clay	Green (WI)	Lewis (CA)
Clyburn	Greenwood	Lewis (GA)
Conyers	Gutknecht	Lewis (KY)
Cox	Hall	Linder
Cramer	Harris	Lipinski
Crane	Hart	LoBiondo
Crenshaw	Hastings (FL)	Lowey
Crowley	Hastings (WA)	Lucas (KY)
Cubin	Hayes	Lucas (OK)
Culberson	Hayworth	Lynch
Cummings	Hefley	Majette
Cunningham	Hensarling	Maloney
Davis (AL)	Herger	Manzullo
Davis (FL)	Hill	Marshall
Davis (TN)	Hinchey	Matheson
Davis, Jo Ann	Hinojosa	McCarthy (MO)
Davis, Tom	Hobson	McCarthy (NY)
Deal (GA)	Hoeffel	McCollum
DeGette	Hoekstra	McCotter
DeLauro	Holden	McCrery
DeLay	Holt	McGovern
DeMint	Hooley (OR)	McHugh
Deutsch	Hostettler	McInnis
Diaz-Balart, L.	Houghton	McIntyre
Diaz-Balart, M.	Hoyer	McKeon
Dicks	Hulshof	McNulty
Dingell	Hunter	Meehan
Dooley (CA)	Hyde	Meek (FL)
Doolittle	Inslee	Meeks (NY)
Doyle	Isakson	Menendez
Dreier	Israel	Mica
Dunn	Issa	Michaud
Edwards	Istook	Miller (FL)
Ehlers	Jackson-Lee (TX)	Miller (MI)
Emanuel	Janklow	Miller (NC)
Emerson	Jefferson	Miller, Gary
Engel	Jenkins	Mollohan
English	John	Moore
Etheridge	Johnson (CT)	Moran (KS)
Everett	Johnson (IL)	Moran (VA)
Fattah	Johnson, E. B.	Murphy
Feeney	Johnson, Sam	Murtha
Ferguson	Jones (NC)	Musgrave
Fletcher	Jones (OH)	Myrick
Forbes	Kanjorski	Neal (MA)
Ford	Kaptur	Nethercutt
Fossella	Keller	Neugebauer
Frank (MA)	Kelly	Ney
Franks (AZ)	Kennedy (MN)	Northup
Frelinghuysen	Kennedy (RI)	Norwood
Frost	Kildee	Nunes
Gallegly	Kilpatrick	Nussle
Garrett (NJ)	Kind	Oberstar
Gerlach	King (IA)	Obey
Gibbons	King (NY)	Ortiz
Gilchrest	Kingston	Osborne
Gillmor	Kirk	Ose
Gingrey	Kleczka	Otter
Gonzalez	Kline	Oxley
Goode	Knollenberg	Pallone
Goodlatte	Kolbe	Pascrell
Goss	LaHood	Pastor
Granger	Lampson	Payne
Graves	Langevin	Pearce
Green (TX)	Larsen (WA)	Pence
Green (WI)	Larson (CT)	Peterson (MN)
Greenwood	Latham	Peterson (PA)
Gutknecht	LaTourette	Petri
Hall	Leach	Pickering
Harris	Levin	Pitts
Hart	Lewis (CA)	Platts
Hastings (FL)	Lewis (GA)	Pombo
Hastings (WA)	Lewis (KY)	Pomeroy
Hayes	Linder	Porter
Hayworth	Lipinski	Portman
Hefley	LoBiondo	Price (NC)
Hensarling	Lowey	Pryce (OH)
Herger	Lucas (KY)	Putnam
Hill	Lucas (OK)	Quinn
Hinchey	Lynch	Radanovich
Hinojosa	Majette	Rahall
Hobson	Maloney	Ramstad
Hoeffel	Manzullo	Rangel
Hoekstra	Marshall	Regula
Holden	Matheson	Rehberg
Holt	McCarthy (MO)	Renzi
Hooley (OR)	McCarthy (NY)	Reyes
Hostettler	McCollum	Reynolds
Houghton	McCotter	Rodriguez
Hoyer	McCrery	Rogers (AL)
Hulshof	McGovern	Rogers (KY)
Hunter	McHugh	Rogers (MI)
Hyde	McInnis	Rohrabacher
Inslee	McIntyre	Ros-Lehtinen
Isakson	McKeon	Ross
Israel	McNulty	Rothman
Issa	Meehan	Royce
Istook	Meek (FL)	Ryan (OH)
Jackson-Lee (TX)	Meeks (NY)	Ryan (WI)
Janklow	Menendez	Ryun (KS)
Jefferson	Mica	Sabo
Jenkins	Michaud	Sandlin
John	Miller (FL)	Saxton
Johnson (CT)	Miller (MI)	Schrock
Johnson (IL)	Miller (NC)	Scott (GA)
Johnson, E. B.	Miller, Gary	Scott (VA)
Johnson, Sam	Mollohan	Sensenbrenner
Jones (NC)	Moore	Serrano
Jones (OH)	Moran (KS)	Sessions
Kanjorski	Moran (VA)	Shadegg
Kaptur	Murphy	Shaw
Keller	Murtha	Shays
Kelly	Musgrave	Sherman
Kennedy (MN)	Myrick	Sherwood
Kennedy (RI)	Neal (MA)	Shimkus
Kildee	Nethercutt	Shuster
Kilpatrick	Neugebauer	Simmons
Kind	Ney	Simpson
King (IA)	Northup	Skelton
King (NY)	Norwood	Smith (MI)
Kingston	Nunes	Smith (NJ)
Kirk	Nussle	Smith (TX)
Kleczka	Oberstar	Smith (WA)
Kline	Obey	Snyder
Knollenberg	Ortiz	Souder
Kolbe	Osborne	Spratt
LaHood	Ose	Stearns
Lampson	Otter	Stenholm
Langevin	Oxley	Strickland
Larsen (WA)	Pallone	Stupak
Larson (CT)	Pascrell	Sullivan
Latham	Pastor	Sweeney
LaTourette	Payne	Tancredo
Leach	Pearce	Tanner
Levin	Pence	Tauzin
Lewis (CA)	Peterson (MN)	Taylor (MS)
Lewis (GA)	Peterson (PA)	Taylor (NC)
Lewis (KY)	Petri	Terry
Linder	Pickering	Thomas
Lipinski	Pitts	Thompson (MS)
LoBiondo	Platts	Thornberry
Lowey	Pombo	Tiahrt
Lucas (KY)	Pomeroy	Tiberi
Lucas (OK)	Porter	Tierney
Lynch	Portman	Toomey
Majette	Price (NC)	Towns
Maloney	Pryce (OH)	Turner (OH)
Manzullo	Putnam	Turner (TX)
Marshall	Quinn	Udall (CO)
Matheson	Radanovich	Udall (NM)
McCarthy (MO)	Rahall	Upton
McCarthy (NY)	Ramstad	Van Hollen
McCollum	Rangel	Velazquez
McCotter	Regula	Visclosky
McCrery	Rehberg	Vitter
McGovern	Renzi	Walden (OR)
McHugh	Reyes	Walsh
McInnis	Reynolds	Wamp
McIntyre	Rodriguez	Watt
McKeon	Rogers (AL)	Weiner
McNulty	Rogers (KY)	Weldon (FL)
Meehan	Rogers (MI)	Weldon (PA)
Meek (FL)	Rohrabacher	Weller
Meeks (NY)	Ros-Lehtinen	Wexler
Menendez	Ross	Whitfield
Mica	Rothman	Wicker
Michaud	Royce	Wilson (NM)
Miller (FL)	Ryan (OH)	Wilson (SC)
Miller (MI)	Ryan (WI)	Wolf
Miller (NC)	Ryun (KS)	Wu
Miller, Gary	Sabo	Wynn
Mollohan	Sandlin	Young (AK)
Moore	Saxton	Young (FL)
Moran (KS)	Schrock	
Moran (VA)	Scott (GA)	
Murphy	Scott (VA)	
Murtha	Sensenbrenner	
Musgrave	Serrano	
Myrick	Sessions	
Neal (MA)	Shadegg	
Nethercutt	Shaw	
Neugebauer	Shays	
Ney	Sherman	
Northup	Sherwood	
Norwood	Shimkus	
Nunes	Shuster	
Nussle	Simmons	
Oberstar	Simpson	
Obey	Skelton	
Ortiz	Smith (MI)	
Osborne	Smith (NJ)	
Ose	Smith (TX)	
Otter	Smith (WA)	
Oxley	Snyder	
Pallone	Souder	
Pascrell	Spratt	
Pastor	Stearns	
Payne	Stenholm	
Pearce	Strickland	
Pence	Stupak	
Peterson (MN)	Sullivan	
Peterson (PA)	Sweeney	
Petri	Tancredo	
Pickering	Tanner	
Pitts	Tauzin	
Platts	Taylor (MS)	
Pombo	Taylor (NC)	
Pomeroy	Terry	
Porter	Thomas	
Portman	Thompson (MS)	
Price (NC)	Thornberry	
Pryce (OH)	Tiahrt	
Putnam	Tiberi	
Quinn	Tierney	
Radanovich	Toomey	
Rahall	Towns	
Ramstad	Turner (OH)	
Rangel	Turner (TX)	
Regula	Udall (CO)	
Rehberg	Udall (NM)	
Renzi	Upton	
Reyes	Van Hollen	
Reynolds	Velazquez	
Rodriguez	Visclosky	
Rogers (AL)	Vitter	
Rogers (KY)	Walden (OR)	
Rogers (MI)	Walsh	
Rohrabacher	Wamp	
Ros-Lehtinen	Watt	
Ross	Weiner	
Rothman	Weldon (FL)	
Royce	Weldon (PA)	
Ryan (OH)	Weller	
Ryan (WI)	Wexler	
Ryun (KS)	Whitfield	
Sabo	Wicker	
Sandlin	Wilson (NM)	
Saxton	Wilson (SC)	
Schrock	Wolf	
Scott (GA)	Wu	
Scott (VA)	Wynn	
Sensenbrenner	Young (AK)	
Serrano	Young (FL)	
Sessions		
Shadegg		
Shaw		
Shays		
Sherman		
Sherwood		
Shimkus		
Shuster		

NAYS—49

Becerra	Jackson (IL)	Roybal-Allard
Berman	Kucinich	Rush
Brown (OH)	Lantos	Sanchez, Linda T.
Davis (CA)	Lee	Sanchez, Loretta
Davis (IL)	Lofgren	Sanders
DeFazio	Markey	Schakowsky
Delahunt	Matsui	Schiff
Doggett	McDermott	Slaughter
Duncan	Millender-McDonald	Solis
Eshoo	Miller, George	Stark
Evans	Nadler	Tauscher
Farr	Napolitano	Thompson (CA)
Filner	Olver	Waters
Flake	Owens	Watson
Grijalva	Paul	Waxman
Harman	Pelosi	Woolsey
Honda		

ANSWERED ''PRESENT''—1

Ruppersberger

NOT VOTING—5

Conyers	Gephardt	Gutierrez
Foley	Gordon	

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

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

□ 2337

Mr. DAVIS of Illinois changed his vote from ''yea'' to ''nay.''

Mr. RUPPERSBERGER changed his vote from ''yea'' to ''present.''

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

Mr. GUTIERREZ. Mr. Speaker, I was present today in this Chamber on November 21, 2003. However, I was inadvertently not recorded on rollcall vote number 667. Had my vote been recorded, it would have been a ''yea'' vote.

FURTHER MESSAGE FROM THE SENATE

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

S. 579. An act to reauthorize the National Transportation Safety Board, and for other purposes.

CONFERENCE REPORT ON H.R. 1, MEDICARE PRESCRIPTION DRUG, IMPROVEMENT, AND MODERNIZATION ACT OF 2003

Mr. THOMAS. Mr. Speaker, on behalf of seniors and taxpayers, pursuant to House Resolution 463, I call up the conference report on the bill (H.R. 1) to amend title XVIII of the Social Security Act to provide for a voluntary program for prescription drug coverage under the Medicare Program, to modernize the Medicare Program, to amend the Internal Revenue Code of 1986 to allow a deduction to individuals for amounts contributed to health savings security accounts and health savings accounts, to provide for the disposition of unused health benefits in cafeteria plans and flexible spending arrangements, and for other purposes.

The Clerk read the title of the bill.

The SPEAKER pro tempore (Mr. HASTINGS of Washington). Pursuant to House Resolution 463, the conference report is considered as having been read.

(For conference report and statement, see proceedings of the House of November 20, 2003, Book II at page 11877.)

The SPEAKER pro tempore. Pursuant to the order of the House of today, the gentleman from California (Mr. THOMAS) and the gentleman from New York (Mr. RANGEL) each will control 1 hour.

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

Mr. THOMAS. Mr. Speaker, I yield one-half of my time to the gentleman from Louisiana (Mr. TAUZIN), chairman of the Committee on Energy and Commerce.

The SPEAKER pro tempore. Without objection, the gentleman from Louisiana will control 30 minutes.

There was no objection.

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

Mr. Speaker, I called up this bill for seniors and for taxpayers. This evening you are going to hear some very harsh rhetoric. But what I really want to do is remind everyone here that since Republicans became the majority in this House in 1995, there has been a very positive and remarkable change to Medicare. Probably most important has been the introduction of preventive and wellness. For many years, it was available to be added to Medicare, but it was not. It took the Republican majority to add the testing and the education for diabetes, for osteoporosis, for improved mammography, for colorectal cancer screening, for prostate screening; and even today in this bill we continue with cholesterol screening and physical exams.

Tonight, the Republican majority is going to add prescription drugs to Medicare. We earnestly seek our friends across the aisle help in doing this. The conference report before us is bipartisan. It is bipartisan because of the House and the Senate structure. Tonight our friends across the aisle have a chance to make it bipartisan in the House. Our friends say that we are trying to destroy Medicare; but if we are trying to destroy Medicare, why is the American Association of Retired People supporting this proposal? Why is the AARP in favor of this bill? You have heard some very harsh rhetoric from my friends across the aisle describing their abandonment by the AARP. My friends, the AARP has not abandoned you. You have abandoned seniors. AARP has chosen to be with seniors, and they have chosen to be with us.

Fact: current Medicare cannot sustain itself financially. Question: Why in the world would we then be adding a $400 billion expansion of benefits under Medicare? Answer: today's medicine demands that we do so. Yesterday's medicine was hospitals and doctors. Hospitals and doctors still play a role, but prescription drugs play a central role. We simply would not be doing justice to our seniors if we did not try to add prescription drugs to Medicare.

But I also called this bill up for taxpayers, because if we add prescription drugs to Medicare, we need to be able to tell our taxpayers that we are also changing the funding structure of Medicare as well.

□ 2345

It cannot sustain itself, and we are adding an enormous new benefit. It would be irresponsible of us to simply think all we need to do is add prescription drugs. What we need to do is add prescription drugs, modernize Medicare, and make sure that those people who pay taxes today in the hopes of having a program tomorrow will be able to have one.

This bill protects low-income seniors. No one wants to place a financial burden on those unable to pay. But, Mr. Speaker, it is overdue to ask those who are financially well off enough to share.

We are hearing things from our friends across the aisle about how horrendous the suggested financial burdens are. For example, in today's voluntary, optional Part B Medicare, the premium is 75 cents on the dollar paid for by the taxpayers, 25 cents on the dollar paid for by the beneficiaries. This legislation is so radical, so extreme, that what it does is it asks people who are making $100,000 a year in retirement to pay 50 cents on the dollar and have the taxpayers pay 50 cents on the dollar. Ironically, that was the financial split when Part B Medicare began. All we are asking is for those who have the wherewithal to help share the financial burden. And where? There is an opportunity to provide a modest copay, one of the most significant factors in inhibiting overutilization. We ask those who are going to have a prescription drug, $2 on a generic prescription, $5 on a brand name. It will have a significant impact on utilization. It will also show that we understand, we need to be sensitive to taxpayers. Today they foot the bill, but tomorrow they also want a program. This bill is really all about a fair deal. Modernize Medicare with prescription drugs but put Medicare back on a sound financial basis as well.

We are going to hear a lot about what we are going to do for up to 40 million seniors in this legislation. Please understand with the modest structural changes we are asking for, there are going to be 140 million taxpayers who are going to be pleased as well.

This program cannot sustain itself. Add a new benefit and modernize the program. Medicare is not a Democrat program; they do not own it. Medicare is not a Republican program; we do not own it. It is a program that is in need of modernization, prescription drugs and better financing. The American people's Medicare, the seniors who receive the benefits, and the taxpayers who foot the bill deserve H.R. 1.

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

Mr. RANGEL. Mr. Speaker, I ask unanimous consent to turn one-half of the time allotted to the distinguished gentleman from Michigan (Mr. DINGELL), a member of the Committee on Energy and Commerce, the dean of the House of Representatives, the son of the author of the Medicare bill, who was denied admission into the conference.

The SPEAKER pro tempore (Mr. HASTINGS of Washington). Is there objection to the request of the gentleman from New York?

There was no objection.

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

This must be a very important piece of legislation, Mr. Speaker. It is 10 minutes to 12. When else would the majority bring out an important piece of legislation but in the middle of the night?

But more importantly than that, tomorrow for many of us is a date that many of us will never, never forget, at least those of us that were old enough to know of and to love the late John F. Kennedy. Most all of us will remember where we were or what we were doing on November 22. And I suggest to the Members that history will record what we do this evening and what we do tomorrow. The arrogance that has been displayed on this landmark piece of legislation defies description tonight, but history will record it. The audacity for people to talk about bipartisan here where for hundreds of years we inherited a House of Representatives that whether one was a Republican or Democrat, liberal or conservative, we could say in this House the people rule, and we have enjoyed saying that. Where do the Republicans get the audacity to say that when there is a conference, they would select the willing coalition, that they could look at a person and because they are a Democrat, appointed by the Speaker of this great House of Representatives, they exclude them? And let me tell the Members something else I am proud of, not just being a Member of this House, but sitting on this side of the aisle and taking a look at the faces and the backgrounds of the Members and where they come from, from the rural areas, from the inner cities, from America. We do not have senior citizens? We do not have a contribution to make? We can be excluded? And then to have the audacity to come to this floor, even if it is in the middle of the night, and call it bipartisan because you borrowed two Democrats from the other side. That is shameful.

No, our citizens really will recall what we do tonight, what you have done for AARP, what you have done for the pharmaceuticals, what you have done for the private sector whom you have subsidized. The bill is only 1,100 pages, but seniors know that they asked for some help for prescription drugs. No, they did not ask for competition. They did not ask for you to set up paper outfits. They did not ask for, at the end of the day, that you try to run them out of business. And I am suggesting to you, how would you know what you are going to hear on this side when just common decency prevented you from allowing you to follow the mandate that the Speaker set when he said that the House and the Senate, Republicans and Democrats, please go to conference, and you locked the door? One thing is clear. Seniors understand it better than a whole lot of Members do because it may in the middle of the night, but tomorrow they will be reading what we have done tonight.

Mr. Speaker, I yield the balance of my time to the gentleman from California (Mr. STARK), who has worked hard for decades on this legislation, and I ask unanimous consent that he be allowed to administer the remainder of the time that has been allotted to me.

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

There was no objection.

Mr. THOMAS. Mr. Speaker, I yield the remainder of my time to the gentlewoman from Connecticut (Mrs. JOHNSON), the chairperson of the Health Subcommittee of the Committee on Ways and Means, and I ask unanimous consent that she control the remainder of my time.

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

There was no objection.

Mrs. JOHNSON of Connecticut. Mr. Speaker, I yield 2½ minutes to the gentlewoman from Washington (Ms. DUNN).

Ms. DUNN. Mr. Speaker, it is time to keep our promise and provide a comprehensive and voluntary prescription drug benefit for all seniors. Seniors cannot afford the frighteningly increasing cost of drugs any longer. This bill will protect the poorest seniors by helping pay for their drug costs immediately. By using the same principles already used by private companies, this bill will lower drug costs for seniors by passing along to them larger discounts from manufacturers.

As a result, over 775,000 Medicare beneficiaries in my State of Washington will get access to the drugs they need at affordable prices. The poorest seniors in Washington State, over 206,000 people living on fixed incomes, will pay only nominal fees, and I am talking about $2 to $5 for prescriptions, that is all, while qualifying for full assistance on their premiums, their deductions, and their coverage.

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

For Medicare HMOs this bill requires Medicare to account for military retirees in the formula resulting in higher reimbursements in counties with military facilities. To help every State, the Federal Government will assume the drug costs for people eligible for both Medicare and Medicaid. This is hugely important. It will help 82,000 beneficiaries who qualify for both programs in my State with their drug costs, but this bill will also save my State $500 million, half a billion dollars over the next 8 years on drug coverage for its Medicaid population. In all, Washington State will receive at least an additional $800 million to serve our seniors.

Strengthening Medicare also means improving the quality of life for every senior. For this reason, I am very happy that we are able to provide preventative services to all seniors like a first-time initial physical exam. For the first time, seniors will have access to innovative treatments to deal with rheumatoid arthritis and other diseases. Seniors also will profit from disease management care, which means there will be coordination to help those seniors who suffer from multiple serious illnesses.

Mr. Speaker, these treatments will allow seniors to receive treatments in their homes, take the burden off physicians or hospitals, and I will tell the Members for too long our parents and grandparents have paid too much for the drugs they need. The time has come to strengthen the Medicare program so that seniors can get the care that they need and they deserve.

Mr. STARK. Mr. Speaker, I yield myself 2 minutes.

I first start by reminding the distinguished gentlewoman from Washington that the Seattle Times said that one suspects that many conservatives do not really care how the chips fall as long as they are heavy enough to break the back of traditional Medicare. All this talk about choice and updating or modernizing Medicare with market competition is pure malarky. So it does appear that somebody from the State of Washington understands what is going on here tonight.

But we are faced with a problem, and the Republican Party from the very top of its leadership to the very bottom have been lying to us. They have been lying to us about the war. They have been revising history. They have been going back on their word to give us 3 days. They have proven that we cannot trust them.

Just recently, the past few minutes, the chairman of the Committee on Ways and Means indicated that they had attempted to put in preventative measures. He seems to have forgotten that in 1995 he voted against colon cancer testing. He voted against prostate cancer testing. He voted against annual mammography. He voted against diabetes management. He has voted more often to cut Medicare benefits than he can remember, it appears.

So we are faced tonight with people who want to destroy Medicare. They will lie to us. They will lie to seniors for the pure purpose of their own messianic desires to destroy a system that will protect the fragile seniors in this country.

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

Mrs. JOHNSON of Connecticut. Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania (Mr. ENGLISH).

Mr. ENGLISH. Mr. Speaker, I rise tonight without any messianic pretensions to urge my colleagues to cast a vote for our seniors and support improved health care by voting for this bipartisan Medicare bill.

Mr. Speaker, today we have the best, and perhaps the last, opportunity to provide America's seniors with a voluntary and affordable prescription drug benefit as a part of Medicare. This is an unprecedented expansion of an entitlement program that will make life easier and health care better for many millions of Americans.

Mr. Speaker, I acknowledge this legislation is not perfect. There are things I wanted to see included that are not in the bill.

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Yet, I am convinced that this is the best and most realistic compromise Medicare bill that Congress has so far developed. There are some here, I realize, who would make the perfect enemy of the good. But when you strip away all of the rhetoric and the partisanship, it really comes down to this: Do you support adding a prescription drug benefit to Medicare, or not?

In my district in western Pennsylvania, we have a diverse population of seniors. Some live on very low incomes and qualify for our State prescription drug benefit, PACE. Others are happy with their own private health plans, and some live in areas where there is only one hospital within a reasonable driving range.

This bill helps all of these seniors by offering a benefit that wraps around PACE, allows seniors to selectively participate in the Medicare plan, and includes a number of provisions to ensure that rural health facilities remain open and accessible.

Mr. Speaker, in 1965, our predecessors took the courageous and compassionate step of creating this important program. Now we have the best opportunity in years to build on their work by guaranteeing access to lifesaving drugs for our seniors. It is time for Congress to put people over politics and pass this Medicare bill.

I urge my colleagues to join AARP, America's doctors, America's hospitals, and major health care providers and vote ''yes'' on prescription drugs for our seniors.

Mr. STARK. Mr. Speaker, I am honored to yield 1½ minutes to the gentleman from Michigan (Mr. LEVIN), who understands that the United Steel Workers of America have said a vote for this measure is a vote to destroy the stability and long-term viability of the Medicare system.

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

Mr. LEVIN. Mr. Speaker, the key question: Why not add a prescription drug benefit to Medicare like for physicians and hospital bills? Because Republicans want to force seniors to get their drugs from private insurance companies and HMOs, with no set premium, and insurance companies would decide the benefits and could change them every year.

So again, why not simply add a drug benefit directly to Medicare? Because Republicans want to make sure the government has zero involvement in lowering drug prices for consumers. Indeed, their bill would prohibit Medicare from negotiating lower prices for drugs, and the only thing the government could do would be to keep people

from buying cheaper drugs from Canada.

Again, why not simply add a drug benefit to Medicare? Because the real Republican goal is to use a drug benefit as a vehicle for fundamentally changing and undermining Medicare.

The President's Medicare administrator called Medicare a dumb system. Under this bill, there would be a global cap on the size of the Medicare program and a voucher to buy private health insurance instead of getting regular Medicare, with the deck loaded against Medicare, $14 billion to HMOs.

Republican reforms are Medicare's destruction. Vote ''no'' on this Republican bill.

Mrs. JOHNSON of Connecticut. Mr. Speaker, I yield myself 1 minute and 15 seconds.

I would remind the gentleman from Michigan that 28 percent of his seniors will have no more costs than either $1 per generic or $2 per generic or $3 for prescription and $5, and 35 percent of Michigan seniors have incomes under 150 percent of poverty and will be totally protected under this bill.

Mr. Speaker, I think as we proceed in this discussion, we ought to remember that 38 States, 38 States provide Medicaid coverage for people whose income is 74 percent of the national poverty income. So 38 States are not even at 100 percent of poverty income. We cover people completely, everything, except $1 per generic or $2, depending on income, and $3 or $5 per prescription drug.

Do my colleagues understand that of the Medicare population, 57 percent are women? Mr. Speaker, 57 percent are women, and half of them, half of those women will pay no more than $2 per generic or $5 per prescription. They will have no other obligation, all the way up through catastrophic. Half the women on Medicare. This is a giant stride forward in women's health.

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

Mr. STARK. Mr. Speaker, I am pleased to yield 1½ minutes to the gentleman from Maryland (Mr. CARDIN), who knows that all of the other members of the Older Women's League understand that this bill was supposed to modernize Medicare, not eviscerate it; and to deny basic health services for those who need it most, to increase the profits of the health care industry is criminal.

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

Mr. CARDIN. Mr. Speaker, I am very disappointed. I had hoped that I would have an opportunity to vote for a real prescription drug benefit within the Medicare system, or at least I would be able to vote on a bill that provides the foundation on which we could build a real benefit within Medicare. Instead, this conference report provides no guaranteed benefit whatsoever to our seniors for prescription drugs. It uses what is known as ''actuarial equivalent'' which depends solely upon private insurance companies.

We know what happened to Medicare+Choice with private insurance companies. The eight that were operating in my State of Maryland are all gone, leaving my seniors.

It has an ineffective mechanism to control prescription drug costs. It denies the government the tools that every other industrial nation in the world is using to bring down the cost of prescription medicines.

But worse than this, Mr. Speaker, it actually causes harm to our seniors. The Congressional Budget Office has estimated that 2.7 million retirees will lose their prescription drug benefits by the enactment of this bill. Mr. Speaker, this is not a voluntary bill for those 2.7 million Americans; they have no choice. It cost-shifts costs on to our seniors from basic Medicare because of premium support and triggers and caps. We overpay HMOs, using money that could be available to help our seniors. We make it more difficult for our seniors to get cancer treatment by the changes that we make on the reimbursement for cancer drugs.

So, Mr. Speaker, this bill does more harm than good. I support providing our seniors with a meaningful prescription drug benefit within the Medicare system that will strengthen Medicare. Therefore, I must oppose this conference report and urge my colleagues to do the same.

Mr. Speaker, I rise to express my disappointment with the conference report on HR 1. For the past several years, I have worked toward enactment of a prescription drug benefit for those who rely on the Medicare program for their health care needs.

A meaningful Medicare prescription drug benefit must be affordable, guaranteed, and available to all, it must contain an effective mechanism to lower the cost of medicines and it must be built on a sound structure that can be improved upon in future years.

I have carefully considered the legislation that is before us today, and it fails each of these tests. This Congress has missed an opportunity to enact far-reaching, bipartisan legislation that would provide the help that millions of seniors need and deserve.

Some have criticized the Medicare program as outdated, inefficient, a dinosaur. These members are ignoring Medicare's success in providing universal, comprehensive coverage. They are ignoring Medicare's low administrative costs—3%—relative to private insurers at 15 to 20 percent. They are ignoring Medicare's ability to cover a population that has been shunned by private insurers for decades.

Before Medicare was enacted, there was little private interest in covering elderly and disabled Americans. And there is still little private interest in doing so. That is why in my own state of Maryland, several hundred thousand seniors who once had the choice of eight Medicare HMOs, now have no HMO options available to them. As the options dwindled between 1998 and 2002, the remaining plans quadrupled their premiums, slashed their drug coverage and eliminated extra benefits. By 2003, the M+C HMO penetration rate in Maryland was zero percent. Nationwide, since 1997, more than 2.4 million seniors have been abandoned by private insurance plans, even though the plans were paid at 119 percent of fee-for-service Medicare costs.

This conference report changes the name ''Medicare+Choice'' to ''MedicareAdvantage,'' and adds $20 billion in subsidies to private plans, boosting their payments to equal more than 125 percent of the amount paid for traditional Medicare. But it cannot create private interest in the senior market. We have tried that and failed.

To be successful, a drug benefit must be within basic Medicare and based on a sound structure that can be improved over time. Only a benefit that is based on a solid foundation will give seniors the stability they need and deserve. Rather, this bill relies solely on the willingness of private insurance companies to offer the benefit. In the Ways and Means Committee, I fought for a fallback within Medicare that would be available to every beneficiary in the country. It would have a set premium, deductible, and copays that would always be there regardless of where seniors live and what plans enter their region. If the private sector offered a superior, more efficient plan, seniors would choose the private plan. But if the private plan never materialized, or if it offered a premium that was unaffordable, Medicare would be there for them. In rejecting my amendment, and choosing a ''fallback'' that could come and go from year-to-year, the conferees bypassed the opportunity to continue Medicare's promise of universally available health care for all seniors.

Ask your constituents if they want a choice of more private plans. They do not. They want a choice of hospitals and doctors, and they want stability, reliability, and real help with paying their prescription drug costs.

This conference report lets them down. It offers seniors an inadequate benefit. The President and the Republican leadership say that this plan gives seniors the same benefits enjoyed by Members of Congress and federal employees. That is untrue for several reasons. First, the benefit packages are nearly mirror images of one another. In most FEHBP plans, federal employees receive 80% coverage for prescription drugs. A federal employee with annual drug costs of $5,000, would pay about $1,000 out-of-pocket. But under this legislation, seniors with annual drug costs of $5,000 would have to pay $4,020 out-of-pocket.

Second, the Medicare drug benefit has a wide coverage gap that will leave many of our seniors paying premiums for several months when they are receiving no benefits. There is no plan approved by OPM that would require federal employees to continue paying premiums when we are receiving no benefits. Seniors should not have to do that either.

Third, under this bill, seniors who want to remain in traditional Medicare would have to enroll in a stand-alone drug plan to get prescription drug benefits, but there is no such plan in the under-65 market. The conference report does not guarantee them what their premium will be; only that a private company will offer them an actuarially equivalent benefit that can change from year to year. It is a level of uncertainty that our senior should not have to face.

Our seniors now know the details of this bill. They are calculating their prescription drug costs at kitchen tables across the country tonight. They are calling Congress to say how

disappointed they are at the inadequate benefits this bill provides, and they are urging us to vote no.

Rather than providing relief to our seniors, this bill shifts additional costs from government onto their backs. Although the drug benefit premium is estimated at $35, the conference report gives insurers license to charge much more. The Medicare Part B deductible will increase by ten percent in 2005 and then by program costs each year.

Some of my colleagues have tried for years to curtail Medicare spending by hundreds of billions of dollars, usually in the form of targeted provider cuts. But our hospitals, doctors, nursing homes and rehabilitation providers need fair reimbursement, and Congress has usually answered the call. In addition, these members have found difficult to argue the need for drastic cost containment given that Part A Medicare solvency is now the third longest in the history of the program. So the conferees have taken a surreptitious approach, adding a provision that was not in the House or Senate-passed bills. They created a new definition of insolvency that caps Medicare's use of general revenues at 45 percent of total Medicare costs and would force government to cut benefits or raise payroll taxes if this limit is exceeded. By triggering an increase in payroll taxes, which disproportionately affect lower-income Americans, this provision shifts the burden of Medicare away from those most able to support it to those who are least able, further jeopardizing Medicare's long-term stability.

Because we are limited to $400 billion in this bill, it would make sense to use every instrument possible to get the best price for prescription medicines. But the conference report contains an inadequate mechanism to lower the price of drugs, which have escalated steadily over the past few years, and show no signs of decreasing. This bill specifically prohibits the Secretary of HHS from using the federal government's purchasing power to negotiate lower drug prices, a tool that has been used effectively in nearly every other industrialized nation in the world. Instead, it relies on pharmaceutical benefit managers, which have had mixed results in past years.

I had hoped that this bill would improve health care for seniors. Unfortunately, the provisions affecting oncology drug reimbursement will do just the opposite for cancer patients and reduce their ability to get needed cancer care. The final bill still contains severe cuts to cancer care providers, nearly $1 billion annually. If this bill becomes law, many cancer centers will close, others will sharply reduce their staffs, and others will be forced to turn away patients.

The Ways and Means Committee and the Energy and Commerce Committee have examined this issue carefully. We recognize that the current payment system for cancer care needs to be fixed. Medicare over-reimburses for the drugs themselves, while it under-reimburses for the services that oncologists provide. I support appropriate reimbursement for cancer drugs, but we cannot make cuts of this magnitude without simultaneously paying oncologists fairly for the care they render. To do so will endanger the lives of cancer patients.

Finally I cannot support a conference report that harms currently covered retirees. I remain concerned about the impact of this bill on retirees with employer-sponsored drug coverage. Because of the inadequate reimbursements to retiree health plans, CBO estimates that 2.7 million retirees are expected to lose their benefits. The bill also encourages employers to drop the coverage they now provide by excluding private plan spending from counting toward the catastrophic limit. Because of provisions written into the bill, most seniors with retiree coverage and high drug costs will never reach the point at which Medicare resumes coverage. The authors of this bill say that the benefit they're devised is voluntary, but for those seniors who lose their private retiree health coverage, this plan won't be optional, it will be the only game in town.

Tonight's vote caps several years' efforts to provide Medicare beneficiaries with desperately needed prescription drug coverage. Unfortunately, the conferees have produced a bill that won't result in better health care for our seniors, a more efficient Medicare program, or fiscal responsibility. It will eventually do more harm than good to Medicare, and to those who depend on it for their health care needs. I support providing our senior a meaningful prescription drug benefit within the Medicare system that will strengthen Medicare. Therefore I must oppose this conference report and urge my colleagues to do the same.

Mrs. JOHNSON of Connecticut. Mr. Speaker, I yield myself 15 seconds.

Mr. Speaker, if the gentleman will note and other Members will note, and the listening public will note, on pages 49 to 53 of the bill, which is all on the Internet, they will see that there is what we call a hard fall-back. That is, if private plans do not offer prescription drugs to our seniors, the government will. The seniors will be guaranteed a drug plan; that is in the statute.

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

Mr. HAYWORTH. Mr. Speaker, I thank my good friend, the chairwoman of the Subcommittee on Health of our full committee, for yielding me this time.

It has been interesting to listen to the debate thus far this evening. In fact, it evokes memories of an earlier time when I first arrived in this Chamber and, much to my surprise, heard all of these horror stories about what might happen to senior Americans and how schoolchildren might be starved and all sorts of villainy and demonizations that had no basis in fact.

Mr. Speaker, good people can disagree, but it is important to take a look at what we are doing with this legislation. The first thing we are doing is actually strengthening Medicare and preparing it for the 21st century, for the influx of more seniors, demographically what we will see in the 21st century, in just a few short years. And what we are also doing is updating Medicare for the 21st century to reflect changes in medicine. Prescription drugs are the first line of defense for America's seniors. This legislation recognizes that reality and moves to cover it. But moreover, Mr. Speaker, we first reach out to those seniors most in need, and we provide for all seniors next year immediate discounts, with our discount drug cards. Very, very important.

Now, we have heard a lot of wailing and gnashing of teeth about the endorsement of this plan by the AARP. I think rather than tearing up cards or engaging in personal attacks on those who may serve very competently in that association, it might be good to actually listen to the words of our seniors who belong, the millions of seniors who depend on prescription drugs and believe in the AARP. And they readily admit, as all of us would admit, this legislation may not be perfect, but it is a good place to start. We all know, on both sides of the aisle, change comes incrementally. Let us adopt this legislation for America's seniors and for future seniors.

Mr. STARK. Mr. Speaker, I yield 1½ minutes to the gentleman from Wisconsin (Mr. KLECZKA), who agrees with the Arizona Daily Star from Tucson that by doing nothing to address the cost of medicines and by raising payments to private HMOs that want to compete with Medicare, the bill dooms the Medicare program to major problems down the road.

Mr. KLECZKA. Mr. Speaker, the gentleman from Arizona who just spoke advised us to listen to our seniors; and many of us, I say to my colleagues, are doing just that with our vote today. Here is a senior from my district who advises me to oppose this bill, and they just canceled their AARP membership this morning.

What is going on here? This bill started out as a drug bill for senior citizens and, all of a sudden, we find the bill before us has over $100 billion for special interests in this country, and the calls we are getting to support the bill are from those special interests. They are saying, here is 200,000 specialty physicians; support the bill. Here, a big fat letter. And not once do they mention Medicare drugs for seniors. They are worried about their own pocket. Letter after letter in my office and on my fax machine are from special interests who have lobbyists in town urging Members to vote for this bill because they are getting something out of it: more money. And none of them are saying, and also the senior provision is good.

That is what is going on here. The seniors who call us are against the bill. The special interests who, in a campaign period can give us $10,000 in campaign contributions, are encouraging us to vote for the bill. Who do you think is going to win at the end of the day, huh? The seniors do not got a PAC. They do not give us $5,000 a crack, $10,000 a crack. That is what is happening, I say to my colleagues. And let us not forget it.

Mrs. JOHNSON of Connecticut. Mr. Speaker, I yield myself 15 seconds.

I do not consider the AARP a special interest group, or the Coalition to Ensure Patient Access a special interest

group, or the Alzheimer's Association a special interest group, or the Kidney Cancer Association a special interest group.

Mr. KLECZKA. The Hospital Association, the American Medical Association, that is who I am talking about.

Mrs. JOHNSON of Connecticut. Mr. Speaker, it is my time.

Mr. KLECZKA. Let us not kid a kidder; we know who they are.

The SPEAKER pro tempore (Mr. HASTINGS of Washington). The gentleman will suspend. The gentlewoman from Connecticut has the time.

Mrs. JOHNSON of Connecticut. The Mental Health Association of Central Florida, the Larry King Cardiac Foundation, the Latino Coalition.

Mr. Speaker, I yield 1 minute to the gentleman from Georgia (Mr. GINGREY).

Mr. GINGREY. Mr. Speaker, I rise tonight in support of the House-Senate Medicare agreement. For those of us who had hoped that this bill would contain more reforms or greater cost constraints, I agree. We did not accomplish all that we had hoped. But as a physician, I realize the medical reality of the bill, a medical reality that the prescription drug benefit itself is fiscally responsible and a potential cost-saver for Medicare.

By providing a prescription drug benefit, providers will be able to take the necessary preventive action to potentially stave off or treat an illness in an earlier stage, making it easier to control the cost of treatment.

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The medical reality is that prescription medication can help seniors live longer, healthier lives, while saving a tremendous amount of money on treatment by avoiding costlier options.

Although I hope the future will bring about more changes and modernization to Medicare, the Medicare agreement will be a great start. And I urge my colleagues to take this fiscally responsible step and pass the Medicare conference report.

Mr. STARK. Mr. Speaker, I yield for the purpose of making a unanimous request to the gentleman from Minnesota (Mr. OBERSTAR).

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

Mr. OBERSTAR. Mr. Speaker, I rise in opposition to the conference report.

Mr. STARK. Mr. Speaker, I yield 1½ minutes to the gentleman from Georgia (Mr. LEWIS).

Mr. LEWIS of Georgia. Mr. Speaker, I stand in strong opposition to H.R. 1. I believe in Medicare, I believe that Medicare is a sacred trust between the Federal Government and the American people. I believe with all my heart, with all my soul, and with all my being that Medicare must have a dependable, affordable, and strong prescription drug benefit. And that is why I cannot support this bill.

Mr. Speaker, 38 years ago the Republicans did not like Medicare and they do not like it now. Republican Speaker Newt Gingrich gleefully stated that he wanted to see Medicare wither on the vine. Mr. Speaker, my colleagues, Newt Gingrich is back, and his fingerprints are all over this bill.

If this bill is passed, it would be a dagger in the heart of Medicare as we know it. This bill is an attempt by the Republican party to privatize Medicare. I stand against privatizing Medicare, and I stand against this bill.

Medicare is a sacred trust. It is a covenant with our seniors. Let us not breach this trust. Let us not violate this covenant. We must do what is right.

I urge my colleagues to vote against this unreliable bill, vote for the seniors, vote for those that are in need. Vote against this bill.

Mrs. JOHNSON of Connecticut. Mr. Speaker, I reserve the balance of my time.

Mr. STARK. Mr. Speaker, I yield 1½ minutes to the distinguished gentleman from Massachusetts (Mr. NEAL), who agrees with the Boston Globe that this experiment needs to be stopped before the Republicans in Congress damage a program that has served the elderly well for 38 years.

Mr. NEAL of Massachusetts. Mr. Speaker, it is not always an easy task to agree with the Boston Globe.

Mr. Speaker, I thank the gentleman from California (Mr. STARK). Well, here we are again in the dark of night, whether it is doing Trade Promotion Authority or whether it is doing tax cuts, or whether it is doing the privatization of Medicare, we do it in the dark of night.

Only could the gentleman from California (Mr. THOMAS), the chairman of the Committee on Ways and Means, talk about the crisis that confronts Medicare after they led the charge to rip $2 trillion out of the Federal budget over the next 10 years. Tonight we are children of Roosevelt on this side and Johnson, and let us not forget it. When you hear them talk about their newfound affinity for Medicare, recall that it was Dole and Michael and Rumsfeld and Ford who voted against the establishment of Medicare.

And I want to say something to my colleagues on the democratic side tonight who are tempted by what is about to happen. You mark my words, we are going to be back here in a year, and the next step is Social Security. That is where they are headed. Medicare is an amendment to the Social Security Act. America is a more egalitarian society today because it was our party who stood against the forces of privilege. They are the ones that said no.

Turn down this privatization of Medicare.

Mrs. JOHNSON of Connecticut. Mr. Speaker, I yield 1 minute to my colleague, the gentleman from Pennsylvania (Mr. PETERSON).

Mr. PETERSON of Pennsylvania. Mr. Speaker, I want to congratulate those that have worked on this very complicated bill. I was pleased this morning to receive from the Governor of Pennsylvania, Governor Rendell, an endorsement of this plan. Why would a democrat governor from Pennsylvania support his plan? His people were here and reviewed it.

This allows states like Pennsylvania and 20 other states who have pharmacy plans to wrap around and make a really comprehensive pharmacy program for their state with a state effort and the Federal effort.

Now, those of you who come from rural America better think seriously about voting against this bill. Rural health care has been fighting for its life. This is a lifeline that will for once and forever help stabilize Medicare payments. In rural America what good does a pharmacy program do if you do not have a doctor in a hospital and a home health care agency for him or her to work in?

This program does more to help rural health care than has ever been done. The urban areas of this country have had Medicare Plus Plus while rural America has had Medicare Minus Minus. An unfair system. And this bill does more to equalize that. It also preserves cancer care that has been under threat. And it brings health savings accounts that will be an offering to our businesses more seriously considering about walking away from health care because they cannot afford the current plan.

COMMONWEALTH OF PENNSYLVANIA,
OFFICE OF THE GOVERNOR,
Harrisburg, PA, November 21, 2003.

Hon. JOHN PETERSON,
Cannon Building,
Washington, DC.

DEAR REPRESENTATIVE PETERSON: I am writing to thank you for your efforts to develop provisions in the Medicare Prescription Drug bill to allow PACE to continue to be the primary source of drug benefits for qualifying seniors in Pennsylvania. As of early 2004, we expect approximately 325,000 Pennsylvania seniors to be in the PACE program, and we owe it to all of them to ensure the program on which they rely continues to work for them.

As the Medicare drug benefit legislation had been in development, our goals have been to ensure seniors in the PACE program would be able to benefit from the new federal benefit without experiencing any changes in the way they obtain prescription drugs and without being forced through a bureaucratic process along the way. Federal legislation must allow for a seamless transition for PACE beneficiaries while at the same time allowing PACE to expand its prescription drug program and services to more of our seniors.

I am informed that the language in the Medicare drug benefit bill achieves our major goals relating to the PACE program. This is good news for our constituents and I appreciate very much all the hard work you and others in the Pennsylvania delegation did to make this happen.

Should the legislation ultimately be enacted, I look forward to working with you and Secretary Thompson to make sure the PACE-related provisions are implemented as we all believe they should be.

Thank you again for your efforts on behalf of Pennsylvania's seniors.

Sincerely,

EDWARD G. RENDELL,
Governor.

Mr. STARK. Mr. Speaker, I yield 15 seconds to the gentleman from Pennsylvania (Mr. DOYLE).

Mr. DOYLE. Mr. Speaker, I just spoke with the Governor's office earlier this evening. I was aware of this letter that was sent out to four Republicans. Governor Rendell does not endorse this program. He does not support this program. And I just want that to be reflected in the RECORD.

Mr. STARK. Mr. Speaker, I yield 1½ minutes to the gentleman from Texas (Mr. SANDLIN) who agrees with the Houston Chronicle, the Republicans are interested only in the illusion of providing a popular benefit, a Republican driven bill to, quote, improve Medicare is impossible.

Mr. SANDLIN. Mr. Speaker, we have heard a lot of pretty words from the Republicans tonight, but every one on both sides of the aisle knows that this bill is nothing but a sham, a charade, a shameless trick on America's seniors.

America's seniors need help right now and yet the bill advanced by the Republicans does not even take effect until 2006. No coverage in 2003, no coverage in 2004, no coverage in 2005, and who knows what will happen in 2006.

Our seniors cannot afford prescription drugs, and in the face of that challenge, the Republicans have presented a bill that requires seniors to pay out of their pockets over $4,000 of the first $5,000 spent on drugs. That is no benefit at all.

Now, have the Republicans done anything to reduce the cost of drugs? No. The HMOs and the pharmaceutical companies will not let them do it. And this bill that is supposed to make drugs more affordable, there is no control over the prices charged by the pharmaceutical companies. Their greed is what got us in this situation in the first place. Do you think that philanthropy has suddenly invaded the boardroom of the pharmaceutical companies. Is that what you think?

Amazingly, this bill prohibits, makes it illegal, against the law for the government to negotiate for lower prices with a pharmaceutical companies. They supply the product, they set the price, the seniors foot the bill, that is a sweet deal for them. And can the seniors save money by getting drugs from Canada or Mexico? Oh, no, the Republicans in this bill that was written by the pharmaceutical companies say no. And that is the way it is.

Finally, Mr. Speaker, the Republicans have the audacity to support a plan that lines the pockets of HMOs by taking $10 billion out of cancer treatment, leaving America's seniors both broke and dying. If this bill passes, it passes on the back of the America's seniors. The Republicans will have to answer. They can run in the middle of the night, but they cannot hide.

Mrs. JOHNSON of Connecticut. Mr. Speaker, I reserve the balance of my time.

Mr. STARK. Mr. Speaker, I yield 1½ minutes to the gentlewoman from Ohio (Mrs. JONES), who is a woman who agrees with Al Hunt, who wrote in the Wall Street Journal that this is an open rip-off by HMOs. There is a reason most Americans and, virtually all who have endured serious medical issues, despise HMOs. They are, with few exceptions, vultures.

(Mrs. JONES of Ohio asked and was given permission to revise and extend her remarks, and include extraneous material.)

Mrs. JONES of Ohio. Mr. Speaker, I am proud to have had the opportunity to serve my first year on the Committee on Ways and Means. And I think it is important for America to know that, finally, we had an African American male on the Committee on Ways and Means who rose to ranking member, who rose to representation on the conference committee, and he was excluded from being part of the willing coalition.

I say to people across America, particularly the African Americans in this country, you were not at the table, your interests were not represented. Let me, in addition, say that since we have two Houses in this Congress, the House of Representatives and the Senate, that the House was not represented on the Democratic side in this report.

But let me address another issue. And I have got a written statement that I will submit for the RECORD. Everybody keeps saying about AARP and how renowned they should be. But they do not talk about that in the last 4 years AARP made $608 million in insurance-related expenses, 30 percent of its income. They do not talk about that AARP had a 10-year Medigap contract with some company and the business is now worth $3.7 billion. They do not talk about that AARP made $10.8 million last year by selling its member list to insurance companies. And they do not talk about the fact that AARP spends $7 million in support of this legislation. Talk about a conflict of interest. If there ever was one, it is right there. So I say to you, we are going to ruin neighborhood drug companies. We are not drug pharmacies. Do not vote for this bill. This bill is not in the interest of senior citizens.

Mr. Speaker, I rise in opposition and with great disapproval of the Medicare conference agreement. The republican leadership in the House of Representatives has excluded Democratic Members from the negotiations and has written a Medicare bill that bows to major drug companies and prevents Medicare from negotiating better prices. This agreement masquerades as an attempt to add a long-overdue prescription drug benefit, but this is really a Trojan horse designed to dismantle Medicare, as we know it.

This agreement is flawed in countless ways. Its concentration on privatization is misguided at best and devastating. This is a special interest giveaway to the insurance companies with provisions including a $12 billion slush fund to bribe HMO's and PPO's to participate, all at the expense of taxpayers and the elderly alike. The agreement leaves a substantial number of the 6.4 million low-income Medicare beneficiaries who are also eligible for Medicaid worse off by requiring them to pay higher copayments for prescription drugs than they pay today. This agreement also prevents Medicaid from filling in the gaps of this new, limited benefit. This bill squanders $6 billion needed for coverage on tax breaks for the wealthy which in fact creates an unprecedented tax loophole that would undermine existing employer coverage and adds to the ever-growing number of uninsured. These funds should be used to prevent employers from dropping coverage or to improve the drug benefit. Even worse, this bill would force some low-income seniors who have modest savings to impoverish themselves in order to take advantage of the extra help allegedly available in this bill. A disproportionate share of African American Medicare recipients are disabled. The cut-off points chosen in this conference agreement will pigenhole African Americans into what is referred to as the ''donut'' on paying for the drug benefit. This will unreasonably hurt African American Medicare recipients, many of whom have chronic ailments. We are forcing our seniors to choose among purchasing food, prescription drugs or paying for a roof over their heads.

In closing, please let me inform America that this bill does not address the needs of our citizens. This bill would manufacture a crisis when an arbitrary cap on general revenue funding is reached, which would trigger a fast-track process for consideration of legislation to radically cut Medicare, including benefit cuts, payment cuts for hospitals, nursing homes, home health providers and increased cost sharing. Without hesitation, Congress provided $87 billion to rebuild Iraq; is it too much to provide the appropriate funding needed to give our Nation's seniors what they deserve—an affordable and guaranteed medicare drug benefit?

Mr. Speaker, I represent 206,000 constituents in my district who are 65 and older and are below the federal poverty level. The same constituents I promised that I would vote for a Medicare prescription drug bill that would be affordable with reasonable premiums and deductibles that are designed to significantly reduce the price of prescription drugs; a meaningful medicare prescription drug bill that would be defined, provide guaranteed benefits, there would be absolutely no gaps; no separate privatized plan; and most important, I repeatedly told my constituents that I would support a Medicare prescription drug bill that would be available to all seniors and disabled Americans. The results of the Medicare conference agreement is not what I expected. Dear colleagues, I ask that you join me and vote against this measure.

[From USA Today, Nov. 21, 2003]

AARP ACCUSED OF CONFLICT OF INTEREST

(By Jim Drinkard and William M. Welch)

WASHINGTON.—AARP, the nation's leading lobbying force for retirees, has a major conflict of interest in its backing for a new Medicare prescription drug plan, opponents charge.

The organization receives millions of dollars a year in royalties for insurance marketed under its name. It stands to reap a windfall from the plan, which would pump $400 billion into a new drug benefit and open Medicare to private insurance competition.

AARP's annual reports show it has received about $608 million in insurance-related income over the four most recent years for which data are available. That's 30% of its total income, roughly equal to what it collects in membership dues.

''It's almost unimaginable that they wouldn't stand to gain'' if the new benefit is passed, says David Himmelstein of Harvard Medical School. He is a proponent of national health insurance.

Much of AARP's insurance business is in policies that pay costs not covered by Medicare—so-called Medigap insurance. UnitedHealth Group signed a 10-year contract with AARP in 1998 to provide health coverage to its 35 million members. The business was worth $3.7 billion last year to the insurance company.

''The same folks who are in the Medigap market would want to get into this, and the best route in is through the AARP membership list,'' Himmelstein says.

AARP also collects millions of dollars a year from insurance and drug companies that advertise in the magazine it mails to members. It also makes money—$10.8 million last year—by selling its members list to insurance companies.

From its earliest roots in the 1950s, AARP has been closely tied to the insurance business. It grew out of a retired teachers group that sought to provide health insurance to its members. ''They have always had this commercial identity,'' says Jonathan Oberlander, a political scientist at the University of North Carolina who has studied the politics of Medicare.

The breadth of AARP's business activities—which include not only insurance but credit cards, travel packages and prescription drugs—has drawn unwanted attention before. In 1995, Sen. Alan Simpson, R-Wyo., convened hearings that alleged the group was abusing its non-profit status. AARP was forced to pay back taxes on its earnings from those commercial ventures. and the group has faced periodic questioning about whether its business interests at times overshadow the interests of its members.

Simpson, now retired from the Senate, remains one of the group's sharpest critics. ''If there was a sublime definition of conflict of interest, it would be AARP from morning to night,'' he says.

AARP is tax exempt and officially non-partisan. ''We made public policy decisions without regard to business considerations,'' says the group's policy director, John Rother. Spokesman Steve Hahn says some of its Medigap policies and mail-order pharmaceutical sales are likely to be hurt by passage of the Medicare bill because it will increase competition.

Democrats in Congress seemed stunned this week when AARP announced it would support the Republican-drafted Medicare compromise and pour $7 million into a TV ad campaign urging passage.

Senate Minority Leader Tom Daschle, D-S.D., and House Minority Leader Nancy Pelosi, D-Calif., say the legislation would sell out the interests of senior citizens. It ''undermines Medicare and serves the agendas of big drug and insurance companies,'' they wrote in a letter to AARP head William Novelli. They asked Novelli to pledge not to profit from any program that might be created.

Rep. Pete Stark, D-Calif., called the legislation a ''special-interest boondoggle'' that will split AARP's leaders from its grass roots. On Thursday, a message board on the group's Web site was peppered with angry postings from members, including 839 new missives under the title, ''AARP sellout.''

For a decade, AARP has been a sleeping giant. The organization felt burned after its support for a catastrophic insurance benefit in 1988 backfired with seniors and had to be repealed. It had since been reluctant to take positions on hot political issues. Its membership is evenly divided among Democrats, Republicans and independents, making it hard to take sides in policy fights.

But when the group does decide to engage, its clout is unmatched. ''They are the most important and well-organized association in Washington,'' says James Thurber, who teaches lobbying at American University in Washington.

Mrs. JOHNSON of Connecticut. Mr. Speaker, I yield 1 minute to my colleague, the gentlewoman from Florida (Ms. GINNY BROWN-WAITE), who has experience legislating in the area of health care reform.

Ms. GINNY BROWN-WAITE of Florida. Mr. Speaker, I am one of those Republicans who grew up very poor. My dad was a Democrat. And I remember asking him why he was a Democrat, and he said because the Democrats protect the poor.

What I am hearing here tonight says the Democrats do not care about the poor. They do not care about the little old lady whose income is about $11,000, who only has Social Security, who cannot get prescription drugs today. That is the wrong message to be sending if they hope to be the savior of the poor and the drowntrodden.

I also teach health care. One of the things that I teach in my class are statistics. And the statistics are that the African American community and the Hispanic community pass away at a much earlier age from heart attacks, from coronary artery problems, and you know what? These are the prescription drugs that will be available under this prescription drug plan. How can they go back home and say that they are protecting the poor and the down-trodden? These are the same, the poor and the down-trodden, these are the people that are going to benefit from this prescription drug plan. I fully support it. It is a good bill for everyone.

Mr. Speaker, I rise today in support of the Bipartisan Medicare Prescription Drug, Improvement, and Modernization Act because it finally provides the much needed prescription drug relief seniors have asking for, offers help to our rural hospitals and our nation's doctors, and begins the real modernization and reform of a Medicare program in dire need.

Throughout my public service, I have heard a persistent question from my seniors how are you going to help us with the cost of prescription drugs? With the passage of this bill, I feel that I can finally begin to answer that question.

For the first time in history, we are going to provide all 40 million seniors and disabled Americans with prescription drug coverage.

It gives me great comfort to know that in 2006, with this Prescription Drug Plan, drug costs for seniors could be cut almost in half. And as early as next year, senior will begin to save an estimated 25 percent on prescription drugs with their Medicare prescription drug card. In the first year we expect seniors to save an estimated $365.

As a member of the Speaker's Prescription Drug Task Force, this is something we fought for, and this is something we got.

In addition, we are giving Americans more control over their health care by creating Health Savings Accounts, where they can contribute up to $2,500 a year into these tax-free accounts and citizens 55 years or older are permitted to make ''catch up'' payments. These accounts can be used for future medical expenses and may prove to be an additional much needed asset to our aging population.

Mr. Speaker, I would also like to bring to the attention of my colleagues a very important component to this bill. As we are all aware, in 2004, the prescription drug discount card in Medicare will offer seniors up to 25 percent off their drug costs and provide low-income seniors, those with incomes of less than 135 percent of poverty into account, a $600 subsidy on top of the discount card. That's great savings, especially for wealthier seniors.

But what if you have an income of over 135 percent of poverty and you're disqualified from receiving the cash subsidy? Currently, hundreds of thousands of seniors in this country are provided discount cards from the prescription drug companies that offer significant savings on medications that a particular company produces. The income-restrictions on these cards are in some cases up to 300 percent of poverty. This means virtually all seniors in my district are eligible for this savings, which in many cases equals up to 80 percent off the retail cost of the drug. For example, Mr. Speaker, Eli Lilly makes Prozac; and if one of my 5th district seniors needs assistance with the cost of that drug, they can sign up to receive a card from Eli Lilly that entitles them to receive a 30-day supply of any Eli Lilly product for just $12. If, due to the new Medicare discount card, these important voluntary programs were discontinued, many of our Nation's seniors would end up paying higher prices. My constituent would end up paying over $75 for the same Prozac he or she is now receiving for only $12. Just as there was a fear this benefit would cause employers to drop coverage once it became available, I was concerned that the drug card would cause drug manufacturers to discontinue their cards.

Mr. Speaker, working with you, Majority Leader DELAY, Majority Whip BLUNT and many of my other colleagues in this House, I took the lead and fought to protect seniors who are benefiting from the current prescription drug cards.

Now, on page 64 of the report language addendum and addressing section 1860D–31 of Conference agreement; Section 105 of House bill; Section 111 of Senate Bill reads:

Seniors currently benefit from prescription drug assistance programs offered by pharmaceutical companies. Conferees intend that these programs continue to be offered until the full implementation of the prescription

drug benefit. Nothing in this conference report shall be interpreted as encouraging the discontinuation or diminution of these benefits.

Additionally, I have secured several letters from drug manufacturers in this country indicating their commitment to continuing to offer these worthwhile and necessary card programs, copies of which I'd like to insert into the RECORD.

Mr. Speaker, I simply want to bring this to the attention of my colleagues on both sides of the aisle and especially to the seniors in my district. Neither conference staff nor most of the members of this body were aware of this glitch in the proposal and I am very proud of the work we were able to do together.

In closing, Mr. Speaker, friends, colleagues, the citizens of the 5th Congressional District of Florida elected me to this seat because they believed my voice would be heard and that I would stand with them in making a prescription drug benefit in Medicare a reality. It simply has been too long that our Nation's seniors have had to choose between life-saving drugs and food and this is unacceptable.

No one in this chamber believes that this bill is perfect, including myself, but I believe this bill is a good beginning and it signifies progress in our efforts to provide all of our constituents with the best, safest, and most affordable health care the world has to offer. In the months and years ahead, it is my hope and my promise that I will continue to work with Democrats and Republicans, to continue to make progress in our ongoing battle to improve health care for all Americans, including additional protections for retirees currently receiving health care benefits and addressing the rising costs of prescription drugs.

But tonight we have a choice to make—to take a step forward or to accept the status quo. Instead of concentrating on the weaknesses of this proposal, we must each embrace its strengths and dedicate ourselves to the next step forward. Accordingly, I urge my colleagues to vote in favor of the Prescription Drug and Medicare Modernization Act.

Mr. STARK. Mr. Speaker, I am delighted to yield 2 minutes to the minority whip, the gentleman from Maryland (Mr. HOYER).

Mr. HOYER. Mr. Speaker, this Medicare conference report is, sadly, a missed opportunity. I was here in 1983. Ronald Reagan, Tip O'Neill, and Bob Michael joined together to save Social Security. They came together, President Reagan, Speaker O'Neill, and Minority Leader Michael and said, we need to have a bill that has bipartisan support and will get the job done.

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It did.

The Republicans rejected that model. Most Members of this body on both sides of the aisle recognize that it is long past time that we provide for our seniors and give them a prescription drug program; but it is not this bill that they expected, a feeble benefit that forces them to pay 80 percent of their costs.

I will tell the gentlewoman from Florida (Ms. GINNY BROWN-WAITE) her dad was right. He was a Democrat because this party has historically and now believes that we should have done better by our seniors. Even the conservative Heritage Foundation, which is against this bill because they want to see Medicare done away with, says this, ''The politically engineered premiums and deductibles, coupled with the odd combination of 'donut holes' or gaps in drug coverage, are likely to be unpopular with seniors.''

The Heritage Foundation said that. Not STENY HOYER, not Democrats. Even Dick Armey, the immediate past leader of our party wrote in the Wall Street Journal on Friday that this conference report is ''bad news for seniors.''

Your majority leader just past said that. Now, he wants to do away with Medicare. He does not believe we ought to have Medicare. He nevertheless says this is bad news for seniors. Because it is bad news for seniors, we ought to vote against this bad bill.

Mrs. JOHNSON of Connecticut. Mr. Speaker, I yield myself 10 seconds. I remind the gentleman from Maryland (Mr. HOYER) that of his 713,000 seniors, 31 percent will get total drug coverage under this bill.

Mr. Speaker, I yield 2 minutes to the gentleman from Illinois (Mr. WELLER), a member of the Committee on Ways and Means.

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

Mr. WELLER. Mr. Speaker, this is historic legislation tonight. Again, we make another positive step forward in modernizing Medicare, a process we have been working on every year the nine years that I have served in the House of Representatives.

I am proud that a majority of House Republicans voted in favor of Medicare when it was created. I am proud a majority of this House, who is the majority, continues to work to modernize and improve Medicare for our seniors.

This legislation that came out of bipartisan work, it is endorsed by the AARP, a trusted organization that represents millions of American seniors. And in the case of Illinois, my home State, 1.7 million seniors benefit in the State of Illinois. They benefit because they will have for the first time ever prescription drug coverage that is voluntary, it is affordable, and it is universal, available for every senior citizen. It will be immediately available.

In fact, within 6 months of this legislation becoming law, seniors will have a prescription drug card immediately this coming year allowing them to see up to a 25 percent savings; and 2 years later, 2006, every senior again will have the opportunity to see up to a 75 percent savings on prescription drugs. They choose to enroll in a prescription drug plan available through this modernization of Medicare. In fact, at a cost of about $1 a day, they can see a 75 percent savings, up to a 75 percent savings. And if they are low income, they will pay little or no premium. This is a good plan. That is why it has bipartisan support.

I want to salute Senator BREAUX and Senator BAUCUS for working with Republicans to come up with a bipartisan plan.

I would also note that hospitals and community health centers do benefit because when you modernize Medicare, you also fix the reimbursements. In communities that I represent, almost all of our hospitals, I think every one of them, is a not-for-profit. They struggle, both the hospitals and community health centers. Some call them special interests, but they get big improvements back for Illinois, $400 million in additional reimbursements as a result of this legislation.

Mr. STARK. Mr. Speaker, the Republicans can lock out two of the leading Democratic legislators from their conference committee, but just to show you that we are bigger than all that, we will turn the other cheek. I yield 2 minutes to the gentleman from Indiana (Mr. BURTON).

Mr. BURTON of Indiana. Mr. Speaker, first of all, I want to make it clear, I am a Republican and I am very proud to be a Republican. However, there are problems with this bill that make it impossible for me to vote for it.

It has been said tonight that 35 million AARP members cannot be wrong, but I am telling you AARP does not speak for all seniors. And when the seniors find out what is in this bill, that most of them initially are going to pay about $4,000 of the first $5,000 they are going to spend on pharmaceuticals, they are going to be so angry it is going to be like 1988 all over again.

Now, I want to talk a little bit about the pharmaceutical industry. There is nothing in here that allows our government to negotiate the prices with the pharmaceutical industry. We pay the highest prices in the world for pharmaceuticals. We pay seven, eight, nine, 10 times as much for Tamoxifen, a woman who has breast cancer and has to have it, than they do in Canada; and yet there is no provision in this bill for negotiation.

You say we have a 25 percent discount card. Twenty-five percent of what? If the pharmaceutical industry has these high prices and you knock 25 percent off, they are still a hell of a lot higher than they are in Canada or Germany, and yet we cannot reimport. Why? It does not make sense.

Do we believe in free trade? We have NAFTA. You can import everything back and forth across the borders, but not pharmaceuticals because it is not safe. Yet when we talk to the Canadians, and I had four hearings on it, they could not find one case where there was a problem. This is not a safety issue. The problem is profit and price.

I want to tell you something. It has been said that for too long seniors have paid too much. They have been paying too much. But we are not doing anything in this bill to lower the price of pharmaceutical products.

Now, I want to say to my colleagues also there is $70 billion in this bill, a

pay-off to Big Business to keep their employees and their former employees covered under this plan.

I want to tell you something. As a businessman, they are going to look down the road and they are going to say, hey, Congress changes from time to time and they are going to start dumping their employees on the Federal plan. And when they do, those retirees are going to be so angry at us, you are not going to believe it.

Mrs. JOHNSON of Connecticut. Mr. Speaker, I yield for the purpose of making a unanimous consent request to the gentleman from Florida (Mr. YOUNG).

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

Mr. YOUNG of Florida. Mr. Speaker, as one who represents the largest groups of senior citizens, older Americans who are on Medicare and Social Security, I rise in support of this bill.

Mr. Speaker, I rise in support of H.R. 1, The Medicare Prescription Drug, Improvement, and Modernization Act of 2003. This is the most important and comprehensive improvement to the Medicare program since it was established 38 years ago.

For the first time, Medicare will provide prescription drug coverage for 40 million older Americans. It will provide lifesaving help for the millions of seniors who today forgo taking prescription drugs because they have no coverage and cannot afford them. It will allow seniors to take their full dose of medicine as prescribed rather than cut them in half or skip days to make the supply last longer. And it will eliminate the heart wrenching decisions many seniors must make over whether to buy food or prescription medicine, because they cannot afford both.

One of the reasons Americans are healthier and living longer is that prescription medication is available to control many chronic diseases such as high blood pressure, cholesterol, and diabetes. Unfortunately, these medicines are oftentimes not available to those living on fixed incomes. This legislation changes that by creating a tiered benefit program that provides prescription drug coverage for everyone eligible for Medicare. Yet it still allows those who receive prescription drug coverage through their employers or other health benefit plans to elect to retain that coverage.

Because of the complexity of bringing the new Part D prescription benefits on line, those benefits will not take effect until 2006. In the interim, however, Medicare beneficiaries will be eligible beginning next April to receive a Medicare-approved drug discount card. Seniors will take this card to their local pharmacy to receive discounts of 10 to 25 percent off their prescription medicine. This will provide immediate savings to seniors while preparations are underway to launch the full Medicare prescription drug program in 2006.

Once implemented, seniors electing prescription drug coverage will pay a monthly premium of $35. Following a $250 deductible, they will receive federal coverage for 75 percent of the costs of their prescription drugs up to $2,250. For each prescription filled, there will be a $2 co-payment for generic drugs and a $5 co-payment for brand name drugs. If a senior incurs catastrophic drug costs, exceeding $3,600 in out-of-pocket costs, Medicare will cover 95 percent of drug costs over that amount.

For those on small fixed, limited incomes (below $12,123 for individuals and $16,362 for couples), they will pay no deductible and no premium and there will be no gap in coverage between the initial coverage limit of $2,200 and the catastrophic coverage threshold of $3,600. For those with incomes between those levels and 150 percent of the federal poverty level ($13,470 for individuals and $18,180 for couples), the premiums and deductibles will increase on a sliding scale.

In addition, it is estimated that this legislation will drive down the price of prescription medication by as much as 20 percent, to yield further savings for seniors. It also sets in place new federal laws that will allow drug manufacturers to bring to market quicker, more affordable generic drugs.

In addition to the new prescription drug coverage, this legislation will improve the quality of care for seniors in a variety of other ways. Most notably, it provides coverage for the first time for important new preventative benefits. Beginning in 2005, all newly enrolled Medicare beneficiaries will be covered for an initial physical examination. All beneficiaries will be covered for cardiovascular and screening blood tests and those at risk will be covered for a diabetes screen. These new benefits will allow for the screening of patients to catch many illnesses and conditions early, allowing them to be treated and managed in a way that improves their health and quality of life while at the same time lowering medical costs to individuals and the program by preventing later serious health consequences.

Finally, this legislation will ensure that Medicare payments for physician and hospital services keep pace with inflation so that we do not lose health care providers who are available to care for the growing population older Americans. It also seeks to stabilize the reimbursement rates and drug coverage for cancer patients, who have faced increasing problems with the reduction in Medicare payments for these services over the past few years.

Mr. Speaker, as the representative of one of the largest populations of Medicare recipients in this Congress, I know first hand the life-line that this program provides for seniors. My highest priority in the development of this legislation was to ensure that we do nothing to diminish or endanger the health care coverage it provides. We have done a good job in seeing that just the opposite is true. With its enactment, H.R. 1 will provide expanded benefits and will ensure that these benefits are more affordable and more available to all.

H.R. 1 also responds to the three major concerns I have heard from my constituents throughout the development of this legislation. First, it guarantees access to the traditional Medicare program, services, and benefits that they currently receive. It will, however, allow those who are interested to consider new Medicare-approved plans where drug coverage is integrated into broader medical coverage or lower cost managed care plans offering expanded benefits.

Second, H.R. 1 maintains the full Federal commitment and backing of the Medicare program. Some were concerned that the final legislation would in some way privatize the delivery of these health care benefits. That is not the case in this bill.

Third, H.R. 1 does not in any way encourage employers or private health care plans to drop current employees or beneficiaries from their health care or prescription drug plans. Instead, it provides a number of important incentives for employers and private health care plans to retain employees and beneficiaries in their health care plans and allows the new Medicare benefits to supplement the benefits they already receive privately.

Addressing these concerns is one of the many reasons the American Association of Retired Persons has endorsed H.R. 1. In a statement earlier this week, AARP said, ''AARP believe that millions of older Americans and their families will be helped by this legislation . . . The bill represents an historic breakthrough and important milestone in the nation's commitment to strengthen and expand health security for its citizens at a time when it is sorely needed. The bill will provide prescription drug coverage at little cost to those who need it most: People with low incomes, including those who depend on Social Security for all or most of their income. It will provide substantial relief for those with very high drug costs, and will provide modest relief for millions more. It also provides a substantial increase in protections for retiree benefits and maintains fairness by upholding the health benefit protections of the Age Discrimination and Employment Act.''

Mr. Speaker, the historic legislation before us today provides long overdue reforms to the Medicare program. It provides for the first time prescription drug coverage for older Americans. For those seniors currently unable to afford their medicines, it provides important new access to many preventive drugs. It also provides access for them to treat serious conditions before they worsen and require emergency room or hospital care.

This legislation also improves Medicare coverage for preventative health care including physicals and cardiovascular health and diabetes screening tests. This too will improve the quality of medical care our seniors receive and will forestall many serious and costly medical problems.

Finally, this legislation modernizes the Medicare program to provide 21st Century solutions to give seniors more health care choices. It also will bring market forces to bear to ensure that they receive better medical care at more affordable and competitive prices.

This is the culmination of a six year legislative effort that included the consideration of three separate prescription drug bills in the House. Our colleagues in the House and Senate have taken a hard look at the problems facing older Americans who receive their care through Medicare and have agreed upon a thoughtful and comprehensive approach. Certainly we will identify problems that will need correcting as the next step in implementing this complex program begins. For our seniors, however, this legislation fulfills a promise to give them access to prescription drug coverage for the first time through the Medicare program. It is a good response to a long overdue problem and I urge support for its final passage.

Mrs. JOHNSON of Connecticut. Mr. Speaker, how much time remains on each side?

The SPEAKER pro tempore (Mr. HASTINGS of Washington). The gentlewoman from Connecticut (Mrs. JOHNSON) has 9½ minutes remaining. The

gentleman from California (Mr. STARK) has 8 minutes remaining.

Mrs. JOHNSON of Connecticut. Mr. Speaker, I yield myself 30 seconds.

I would like to note that the 25 percent discount means you pay 25 percent less. And once the subsidies go into effect, you pay 75 percent less, and half the Medicare recipients are women and half of those women will be covered totally. So this is a big, powerful prescription drug bill that will help half the women on Medicare by providing all of their drug coverage.

Mr. Speaker, I yield 2 minutes to the gentleman from Iowa (Mr. NUSSLE), chairman of the Committee on the Budget.

Mr. NUSSLE. Mr. Speaker, I thank the gentlewoman for yielding me time and for her leadership on this issue, as well as the chairman of the Committee on Ways and Means.

Mr. Speaker, America has got a big decision tonight and seniors have been waiting a long time. The previous gentleman said that seniors when they wake up tomorrow, if this passes, will find out they still have to pay a little bit of money. Some will not have to pay at all, but seniors will really be mad if they wake up tomorrow morning and find out that we failed yet again.

Four budgets in a row we have had the pleasure of putting into our budget plan a prescription drug benefit. This year is the first time we have been able to get it to this point, a conference report; and that is because the President of the United States has provided the leadership to get us to this point.

In Iowa we have been waiting for 20 years for fairness when it comes to reimbursement. We have been waiting for 20 years when it comes to the difficulty of recruiting physicians and other health care providers. We have been waiting 20 years to stop the cost shifting to the private side of health care that drives up the cost for small business people and farmers. We have been waiting for 20 years for seniors to have prevention and drug benefits and basic services.

Tonight we have the opportunity to solve so many of these problems. It is not perfect, as many people have said; but it is on the road toward making Medicare a fiscally responsible, sound and a very beneficial program for seniors. And it is fiscally responsible. I know there are Members who are suggesting that somehow this may not be perfectly fiscally responsible. Let me ask you the question, If we do nothing tonight, is Medicare going bankrupt? Wake up if you want to talk about fiscal responsibility. We are seeing a program go bankrupt before our very eyes. Doing nothing is not an option.

It is fiscally responsible to fix a program that we know is going bankrupt, to fix a program that would have a prescription drug benefit if it were created today, to fix a program that is not paying the bills in rural America and keeping doctors and health care professionals located there to provide quality health care.

Vote for this bill because it is fiscally responsible. We have been waiting long enough. Seniors deserve our answer tonight.

Mr. STARK. Mr. Speaker, I yield myself 15 seconds.

I remind the gentlewoman from Connecticut (Mrs. JOHNSON) that the seniors do not need to be misrepresented. I will not call it lying, but nowhere in that bill does it mention any percentage that they will save on the drug discount. You cannot find it in the bill because it is not in there. So do not tell the seniors something that is not true. It is not respectful.

Mr. Speaker, I yield 45 seconds to the gentleman from Illinois (Mr. EMANUEL).

Mr. EMANUEL. Mr. Speaker, I rise in opposition to this conference report.

The conferees have three opportunities in this bill to lower the price of prescription drugs. They could have opened the markets and allowed prescription drugs to compete and allowed competition and choices to bring prices down. They passed.

They could have allowed Tommy Thompson to lower prices and create a Medicare Sam's Club, a right enjoyed by private companies and businesses everywhere in this country. They took a pass.

They could have included meaningful provisions for generics to get to market to create competition. They took a pass.

This box of Zocor, a cholesterol drug, was purchased in Germany for $41. Here in the United States it cost $90. It went up 10 percent the last year. It is going up another 10 percent this year.

The only immediate benefit that comes out of this bill is the political benefit that its supporters are expecting in 2004. The elderly, on the other hand, will have to wait until 2006. Hopefully, they can survive 2 years while the politicians take their victory lap.

Mrs. JOHNSON of Connecticut. Mr. Speaker, I yield 2½ minutes to the gentleman from Ohio (Mr. PORTMAN), a member of the committee.

Mr. PORTMAN. Mr. Speaker, I thank the gentlewoman for yielding me time, and I thank her for her leadership as chair of the Subcommittee on Health, as well as the gentleman from California (Mr. THOMAS), in getting us to this point.

This is not the first time we have had a Medicare prescription drug bill on the floor, but I think we have the best one. I think it is a great program that has been misdescribed tonight by a number of the speakers, and I just wanted to clarify a few things.

First of all, it is voluntary. People have come to the floor and talked about this is a mandate and people will be forced to get off their existing plans and get on this plan and so on. It is voluntary. If seniors do not choose to take up the prescription drug plans, they do not have to. Those who have looked at it, the Department of Health and Human Services, Special Budget Office, nonpartisan analysts think most seniors will, 90-some percent.

Second, I have heard people talk about the fact that, gee, some people have employer plans already. Let me give some statistics. In 1993, 40-some percent of employers provided coverage for their retirees. In 2002 it was 27 percent. It is happening. It is bleeding. People are not providing retiree benefits as they used to.

What I love about this bill is it goes the other way. It puts $88 billion into helping people be able to stay with their employer plans.

EBRI, which is a nonpartisan group that is called the Employee Benefit Research Institute, has studied this this week. Their analysis is that 2 percent, 2 percent of seniors will migrate from their existing retiree plans because their employers no longer offer it, into this. If this does not get passed, it will be greater than 2 percent. So those who have said this will result in a problem, I think it is just the opposite.

We are beginning to stop what is happening anyway. I think that is a good part of the plan.

People have talked about how puny the benefit is. Well, I have to tell you, over 35 percent of the American seniors, one figure says 38 percent, let us say over 35 percent of Americans who are seniors, who are low income, meaning they are less than 150 percent of poverty, their income, are going to be able to get prescription drug coverage with no premium, no deductible, no share. All they will do is pay a nominal co-pay, $5, $3.

□ 0045

That is over 35 percent of our seniors, represented by all of us. Some of us in this House have districts where that number will be as high as 60 percent. So a puny benefit, I do not know where that comes from.

For other seniors that additional, let us say, 65 percent of seniors more than half of their drug costs, some say as high as 70 percent, more than half of their drug costs for the average senior, that is no average senior, but average senior costs for drugs will be covered, more than half of the drug cost.

This is why the AARP supports this. This is why the AARP is standing up for their seniors. Some people on my side of the aisle think it is too generous. People on the other side of the aisle ought to look at this plan, at what it is, not the politics, but the substance. It is a good plan, and I hope people on both sides of the aisle tonight will support it.

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

There they go again. I do not think they understand their own bill. Between 135 percent and 150 percent of poverty, there is a 15 percent copay, and regardless of what my colleague says, there are many, many poor seniors are going to pay more under this

bill than they do now, but it is sad that the people who wrote the bill do not know what they are talking about.

Mr. Speaker, I yield 45 seconds to the gentleman from Arkansas (Mr. ROSS), the distinguished member of our caucus who is in the pharmaceutical business.

Mr. ROSS. Mr. Speaker, as the owner of a small town family pharmacy and a wife who is a pharmacist, I see seniors who cannot afford their medicine. So I came here to help our seniors with the high cost of prescription drugs. This bill does not do that.

This morning we must decide whether to decide with the big drug manufacturers or side with America's seniors. In 2001, the gentlewoman from Missouri (Mrs. EMERSON) and I sponsored a bipartisan bill that would truly modernize Medicare to include medicine for our seniors, and the Republican leadership refused to give us a hearing or a vote on that issue, and now 2 years later the Republicans offer us a bill that does what? That says the Federal Government shall be prohibited from negotiating with the big drug manufacturers to bring down the high cost of medicine and provide seniors $1,080 worth of help on a $5,100 drug bill.

Have my colleagues ever heard of Medicare fraud? This is Medicare fraud.

Mrs. JOHNSON of Connecticut. Mr. Speaker, I would like to inquire as to the time remaining.

The SPEAKER pro tempore (Mr. HASTINGS of Washington). The gentlewoman from Connecticut (Mrs. JOHNSON) has 4½ minutes remaining. The gentleman from California (Mr. STARK) has 6 minutes remaining.

Mrs. JOHNSON of Connecticut. Mr. Speaker, I reserve the balance of my time.

Mr. STARK. Mr. Speaker, I yield 45 seconds to the distinguished gentleman from New York (Mr. CROWLEY).

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

Mr. CROWLEY. Mr. Speaker, I thank the gentleman for the time.

Mr. Speaker, let me see if I got this straight. In 1965, with a Democratic President, a Democratic House and a Democratic Senate the Medicare program was founded. Am I to believe today with a Republican President, a Republican House and a Republican Senate that somehow you all are going to save a program you did not support in the first place? We have an expression in New York and all around this country, give me a break. You are not about saving Medicare or Social Security. You are about dismantling it, and in 40 years, when I look at my children and they ask me where were you when they tried to dismantle Medicare, I will look them in the eye and I will be able to tell them that I voted against the dismantling of this great program.

I will vote against this, and I will vote against any chance that you may bring up to this floor to dismantle Social Security as well.

Mr. Speaker, I rise to support Medicare and oppose the incredibly offensive bill before us tonight. Medicare was created nearly 40 years ago to protect the health of seniors. And today, sadly, Members of this Congress are seeking to destroy the very program that has been so helpful to so many. In its place, Republicans claim they are inserting a new, better, and expanded program. But the reality is that this is not a bill about providing drug coverage under Medicare.

This is a bill about giving billions of dollars to insurance companies and drug companies. This is a bill about killing the Medicare program that seniors have depended on for generations.

Seniors in my district want and deserve prescription drug coverage. This could not be more true, as far too many of them are struggling without it. But I have yet to hear from a senior in my district who is asking for a $17 billion slush fund to be created for private insurance companies. Not one senior has talked to me about making sure that big drug companies are able to protect their massive profits. Not one of them has asked me for a prescription drug benefit where they have to pay $4,000 out of their first $5,000 in prescription drug costs. Not one of them has asked for a bill that would force seniors out of Medicare and push them into HMOs. And yet that is exactly what Republicans are giving them with this bill.

This bill seeks to help drug companies and insurance companies at the expense of seniors and American taxpayers of all ages. This bill does essentially nothing to bring down drug prices. It does not appropriately provide for reimportation despite this body overwhelmingly voicing its support of reimportation. Moreover, it expressly prohibits the government from trying to negotiate lower drug prices like other government entities have been able to do with much success.

Incredibly, Republicans are electing to protect drug company profits over the cost to our government. I have to wonder whose side the Republicans are really on?

Tonight Republicans are asking us to vote for a bill they claim will help seniors with their drug costs. Only the catch is that, in the process, we have to destroy Medicare, give billions to insurance companies and drug companies, and push seniors into HMOs. This bill is a slap in the face of the ideals that Medicare has stood for. This bill is a slap in the face of seniors who have waited far too long for a real prescription drug benefit.

But don't take my word for it. Listen to what the lead author, Republican Congressman BILL THOMAS of California said about this bill—a bill he wrote—and I quote him, ''To those who say that the bill would end Medicare as we know it, our Republican answer is: We certainly hope so.'' Protect Medicare—oppose this sham bill.

Mrs. JOHNSON of Connecticut. Mr. Speaker, I yield 2 minutes to the gentleman from New York (Mr. HOUGHTON).

Mr. HOUGHTON. Mr. Speaker, in any situation where there is an argument at stake, there are two things that are important. First of all, it is to get the facts. Secondly, to face the fact, and I do not mean to oversimplify this, and a lot of people know much more of the details, but it seems to me two things come to the floor. One, Medicare needs an update, seniors need help with their drug costs, and I think this bill does both those things.

I have since learned that virtually any piece of legislation that comes before this body can be argued and attacked and counterattacked to death, but who are the customers? Who are we trying to help and are they being helped? Are the seniors being helped? Yes, probably not enough, but we do not know yet. Are the hospitals being helped? Yes, but they certainly could be helped more, but this is a never ending process. Are the doctors being helped who are opting out of the Medicare program? Yes. Are the ambulance drivers being helped? Yes, and it is about time.

Will the companies be helped who are thinking about whether to drop programs for their retirees? Absolutely. Will those purchasing drugs be helped? According to the arithmetic I read, there is absolutely no question about this.

I would rate this bill a B+, and the reason I do this is I do not think there is any bill that can come before this body that can get an A, not with the attack and counterattack process we use.

One of the great poets of this country, Ralph Waldo Emerson, used to say history is no more than a biography of a few stout individuals. It is the few stout individuals, Mr. Speaker, that we need tonight.

Mr. STARK. Mr. Speaker, I yield 45 seconds to the gentleman from Texas (Mr. REYES), who agrees with the Albany Times Union that what older Americans can least afford is for Congress to rush into a sweeping overhaul of a successful health care program without doing its research. This is not only an imperfect bill. It may also be a disastrous one.

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

Mr. LAMPSON. Mr. Speaker, the previous speaker said that we do not know, and we do not know what all is in this bill, but during this week I have heard from representatives of thousands of senior citizens in southeast Texas, like my 93-year-old mother, that they overwhelmingly oppose this proposal, and they give three reasons why.

They believe the privatization provisions will cause Medicare to wither. They are astounded that the bill prohibits our government from bargaining for better drug prices. They are concerned about the uncertainty of being put back into HMOs that dumped them recently.

Do our seniors a favor, slow this train down. Put some dignity back in the process and open it up. The benefits will not even go into effect for 2 years. What is it going to hurt to wait two more weeks and do what the seniors requested at that White House Conference on Aging in 1995 at the beginning of this debate. Save Medicare and

let us live our lives in dignity and independence.

In 1995 I was sent as a delegate to the White House Conference on Aging. 4000 seniors gathered for this non-partisan meeting. They set goals at that meeting and asked our government to do 3 things: protect medicare; protect social security; and allow seniors to live their last years in dignity and independence.

We have been debating medicare and a medicare drug component for years now. I have promised to work to create a program that would help seniors achieve the goals I just listed.

During this week I have heard from the representatives of thousands of seniors in Southeast Texas, like my 93 year old mother, that they overwhelmingly oppose this proposal . . . and the reasons they give are 3:

They believe privatization provisions will cause medicare to wither and die;

They are astounded that the bill prohibits our government from bargaining for better drug prices;

They are concerned about the uncertainty of having to go back into HMO's that dumped them.

My colleagues, do our seniors a favor, slow this train down. Put some dignity back into this process and open it up. The benefits won't even go into effect for 2 years. Let's take a couple more weeks and do what the seniors of this country asked at the beginning of this debate 8 years ago . . . save medicare and let them live their last years with dignity and independence.

Mrs. JOHNSON of Connecticut. Mr. Speaker, I ask what time remains on each side.

The SPEAKER pro tempore. The gentlewoman from Connecticut (Mrs. JOHNSON) has 2¾ minutes remaining. The gentleman from California (Mr. STARK) has 4 minutes and 15 seconds remaining.

Mrs. JOHNSON of Connecticut. Mr. Speaker, I reserve the balance of my time.

Mr. STARK. Mr. Speaker, I yield 45 seconds to the distinguished gentlewoman from Oregon (Ms. HOOLEY).

Ms. HOOLEY of Oregon. Mr. Speaker, despite the hard work and good intentions of many Members of Congress on both sides of the aisle, we have lost the forest for the trees, and so I rise today in opposition to conference report on H.R. 1.

We have lost sight of what seniors struggle with most, drug costs and the cost of coverage, and believe me, seniors have noticed that we have lost sight of them.

In the beginning and in the end, for me this issue has always been about the high cost of drugs and the need to affordably expand coverage. Regrettably, this bill prohibits ways to lower costs of drugs for American seniors, and for many, the coverage provided in the bill comes at a high price they simply cannot pay.

I urge my colleagues to reject this bill. Please go back to the negotiating table and give seniors what they really need, affordable drugs and affordable drug coverage.

Mrs. JOHNSON of Connecticut. Mr. Speaker, I yield myself 10 seconds.

The gentlewoman from Oregon should know that with this prescription drug insurance plan Medicare recipients in Oregon who are covered will go from 60 percent up to 96.6 percent. This bill brings a benefit to Oregon.

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

Mr. STARK. Mr. Speaker, I yield 45 seconds to the gentleman from New York (Mr. HINCHEY), and pending that, I would like to remind the gentlewoman from Connecticut that 41,000 people in Connecticut are likely to lose employer-sponsored coverage under this bill.

Mr. HINCHEY. Mr. Speaker, very few people are surprised that as soon as the Republican Party has control of both Houses of the Congress and the White House they move to destroy Medicare, and that is what this bill essentially will do. It will drive Medicare into the ground.

The disguise that they seek to use in order to accomplish that is a prescription drug program, but just today the National Center on Policy Analysis told us that only $1 out of every $16 in this bill will be spent to provide drugs for senior citizens who would not otherwise get them. Most of the rest of the money goes to drug companies and to insurance companies.

But the thing that surprises me about this bill is the Republican party is engaging in price fixing. They fixed the price of drugs so that they cannot go down, they can only go up. They have made sure that we cannot import drugs from Canada or other places at a cheaper price, and they guarantee that every time the prices change it will go up. Price fixing, increasing the cost of drugs.

Mr. STARK. Mr. Speaker, may I inquire as to the amount of time remaining?

The SPEAKER pro tempore. The gentlewoman from Connecticut (Mrs. JOHNSON) and the gentleman from California (Mr. STARK) have 2½ minutes remaining.

Mr. STARK. Mr. Speaker, I yield 45 seconds of that precious time to the gentleman from Texas (Mr. REYES).

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

Mr. Speaker, I have a long been a strong advocate for an affordable, comprehensive Medicare prescription drug benefit, but I am opposed to this bill. I am opposed because the bill before us tonight would harm, rather than help, more than 77,000 Medicare beneficiaries in my district by breaking this program's promise of guaranteed quality health care for our seniors.

In my district, where approximately one in five seniors live below the poverty line, Medicare and Social Security are their only safety net in retirement. To jeopardize this safety net would be unconscionable.

Mr. Speaker, I urge my colleagues to oppose this conference report so Congress can instead offer America's seniors the kind of Medicare prescription drug benefit that they need and more than anything that they deserve.

Mr. STARK. Mr. Speaker, I am delighted to yield 45 seconds to the gentleman from Arkansas (Mr. BERRY), one of the gentlemen who was a conferee but does not know.

Mr. BERRY. Mr. Speaker, I thank the gentleman from California, and I appreciate his leadership on this matter for many, many years.

In the document that founded this great Nation, it says all men are created equal. Under this bill, the drug companies are a lot more equal than the seniors I can tell my colleagues. Why would we for any reason prohibit the negotiation of lower prices by Medicare? Why would we do that?

Tonight, we make a choice. We either serve the drug companies or serve our seniors. I find this a very easy choice to make. I choose to serve our seniors. I will not be a part of the continued effort to allow the prescription drug manufacturers of this country to rob the senior citizens of America.

Mr. STARK. Mr. Speaker, I yield the balance of our time to the gentleman from New York (Mr. RANGEL), the distinguished ranking member of the Committee on Ways and Means.

Mr. RANGEL. Mr. Speaker, I thank the gentleman from California (Mr. STARK) for the fine work he has done over the years on this subject, and as we close one-half of this debate on this historic subject, I would just like to remind those who are recording this event that when you excluded the Democrats from participating in the conference, you excluded 20 Members who are members of the Hispanic Caucus, 39 Members that are members of the Black Caucus.

□ 0100

You excluded the Congressional Asian Pacific Caucus. And you had the arrogance to believe that you had to be Republican to be concerned about our senior citizens. But the three that were selected by the Speaker, the Republican Speaker, was the gentleman from Arkansas (Mr. BERRY), who knows the problems of our seniors out there. It was me, who served for decades on the Committee on Ways and Means and has worked hard to participate to make this a better bill and a better Congress. But it also was the gentleman from Michigan (Mr. DINGELL), former chairman of the Committee on Energy and Commerce and a person who fashioned a program for the aged who are poor. He too was excluded.

So it is a great honor for me to invite up to manage the other half of the time here the gentleman from Michigan (Mr. DINGELL). He is the dean of this Congress, and we should feel proud that we are able to serve with him. His father is the author of the Medicare bill, and we should feel ashamed that he was excluded from the conference.

Mrs. JOHNSON of Connecticut. Mr. Speaker, I yield myself the balance of

my time, and I rise in strong support of this legislation. And, indeed, I believe its founders would be proud that tonight we bring a voluntary, generous drug benefit to all seniors under Medicare.

This is a milestone. That is why AARP describes it as a historic breakthrough in the Nation's commitment to strengthen and expand health security for its citizens. Something that has not been talked about much here tonight is the new support for seniors with chronic illness. We forget that one-third of our seniors have five or more chronic illnesses and use 80 percent of the money under Medicare, and yet Medicare has no way of supporting them to prevent their chronic illness from progressing.

In this bill, we couple the drug benefit and the disease management program to help our seniors prevent their chronic illness from progressing and thereby keep them healthy and keep Medicare costs under control. This is particularly important for minorities, for they tend not to use the medical system early, and they tend not to be diagnosed early. In this bill, we provide an entry-level physical so we can see what early signs of chronic illness they have, and we can help them prevent their chronic illness from progressing.

This will be an extraordinary boon to the well-being of our senior citizens. This is a historic advancement in both bringing prescription drugs to Medicare and improving the quality of health care Medicare is able to deliver, and in assuring that Medicare will be able to deliver 21st-century, cutting-edge health care.

And this is a historic bill for the rural communities of our Nation. Without it, they will not be able to attract the next generation of physicians as the current generation retires. They will lose small hospitals. They will lose small home health agencies. In fact, without this, our inner-city hospitals will not be able to continue to provide clinics for the poor, clinics for those with mental health problems. This is an important payer package because it restores fairness to our payment system.

And lastly, it cuts prices dramatically. It cuts prices dramatically by bringing the bargaining power of the seniors to the table to reduce prices and piercing right through that price support system that keeps State prices high. I am proud to support this legislation, and I urge my colleagues to do likewise, for half of America's women will experience free health care under this bill.

The SPEAKER pro tempore (Mr. HASTINGS of Washington). Pursuant to a previous order of the House, the gentleman from Louisiana (Mr. TAUZIN) will control 30 minutes and the gentleman from Michigan (Mr. DINGELL) will control 30 minutes.

The Chair recognizes the gentleman from Louisiana (Mr. TAUZIN).

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

Mr. Speaker, I hope you will all bear with me for a second as I tell a short story. I recently accompanied my son, Tom, who is 25 years old, to see the movie ''Matrix,'' the third in the evolution of the ''Matrix'' movies, a rather complex series of movies. Young people follow them, I think, better than my generation; but I try to follow them with him.

When we came out of the movie, I said, Son, what did you take from this? What did this mean to you? And he thought a long while and in the car with me he said, what I take from this movie, Dad, is that freedom is meaningless without choice. And I thought about that and I thought, that is pretty profound for a 25-year-old. What he was saying, basically, from this movie, is that if someone else is making all the choices for you, if you are without choice, you are not really free. Freedom, by definition, is choice. It is your capacity to choose for yourself right or wrong what you do with your life.

And then it occurred to me how meaningful that little profound conversation we had was and how it relates to this issue tonight. Because we are talking about a generation of Americans who Tom Brokaw called the Greatest Generation of Americans, who fought for this entire world to be free, for we in this country to have freedom of choice in our lives. And every day that we live in freedom, we have that generation to thank for it. And the ironic thing about it, when it comes to their health care, is that so far we have not given them choice. We have basically said if you want health care as you get older, after you fought to give us freedom, we will give you one plan. We will give you the choice of government Medicare. And if it works for you, great; if it does not work well for you, sorry, that is your choice.

Every despot, every tyrant, every monarch and feudal lord in medieval time took the attitude that the peasants, the servants were not smart enough to make choices for themselves; that they had to make all the decisions for them. That is the nature of people who think government always knows best and always knows the right answer and people are not wise enough to make good choices for themselves. The essence of this debate tonight is whether we are freedom-loving enough in this body, whether we understand and appreciate the freedoms that they fought for and gave to us, that we can, in the context of health care, give our seniors some real choice about how and where they take their health care and their coverage.

Now, it is about adding a significant new benefit to Medicare. It is that. But it is also about creating other choices for seniors. And I brought a picture of my mother with me tonight. I thought about her this evening. It is a small picture, but I wish you could all see it. She is a beautiful lady. She is 85 years old. She chose to remain in Medicare when she had a choice of a private plan in our hometown. She probably is going to choose to remain in Medicare and take her prescription drug benefit from Medicare when this program is completed and we pass this bill and it is signed into law. But I want her to have a choice to choose between that plan and any other plan that might be available, the same way we in this government, the workers and the Members of Congress, have choices to choose different plans for our medical needs.

I want Mom to have the same choice. Her generation fought for me to have choices and to make choices, right or wrong. And sometimes it hurt her deeply when I made bad choices, but she always knew I had the right to make them. And people died to give me that right. I think we owe that generation choice. And that is one of the things we do tonight, we give them choice how they take this new benefit. And if they want to choose, like my mother, to stay with Medicare, we fought for the right to make sure it is still in the Medicare bill, and she will have that right.

The other thing we did was to make sure if she chooses to have Medicare, that, indeed, it is still going to be around for her for as long as, God willing, she lives. She is a three-time cancer patient. A marvelous woman. She won eight gold medals at the Senior Olympics again this year. She took top place in the shot put. You do not mess with Mamma Tauzin. She is quite a gal. And she will probably choose to take her prescription drugs out of Medicare in this program. But if she ever wants to take it out of one of the PPOs or the new programs we develop out of this bill, I want her to have that choice. She deserves it. She ought to get it.

And I think that is why AARP has endorsed our bill, because they know we have gotten a great generous coverage for the low-income American seniors who want to stay in Medicare or who want to choose something else. And we create new plans for seniors and nonseniors to begin saving in their own health accounts; tax free in, tax free out, to build their own long-term care the way they want to design it. And I guess some people do not like that. I guess they think government ought to design it all and say, You got one choice, Mamma Tauzin, and that is it.

But I think, I think the benevolent government of the United States of America, respecting the freedom that so many fought and died for to give us choice and freedom, this government now, that we serve as Members of Congress, with such great appreciation of the people who sent us here, we ought to say here in Washington that we return the gift of freedom; that we give seniors more choices, and we give them a brand-new drug coverage program so they do not have to take chances on the Internet or go anywhere else to get drugs they cannot afford, that they can afford them under an insurance coverage here in America, and they can

get it under a program they choose to live under.

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

Mr. DINGELL. Mr. Speaker, I yield myself 3 minutes.

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

Mr. DINGELL. Mr. Speaker, almost 40 years ago, this body enacted Medicare. It was a great triumph for the senior citizens. Perhaps the most beloved program, with the exception of Social Security, was Medicare. It is also one of the most financially responsible and successful programs in the history of this country. Tonight, the fight is not about whether or not we are going to give prescription drugs to our seniors; it is about saving Medicare from my Republican colleagues, who now, finally, have figured a way to destroy it.

I want my colleagues to look at the kind of competition that the Republican Party is forcing upon the senior citizens of the United States: 120 or 125 percent of the costs of competing with Medicare is going to be given by the Federal taxpayers and by Medicare to, guess who, the HMOs. The Republicans have been trying to destroy this part for years. They are very close tonight.

A flawed process has brought forth a bad bill, which is laid before the House of Representatives in the wee hours of the morning so that the people will not know what is going on. What is at stake here is the existence of the most successful program to provide health care for our senior citizens.

Let me just tell my colleagues, the competition is unfair, 120 percent and more they give. They put forward a sham discount card, which will probably be given mostly by the retailers, not by the prescription pharmaceutical manufacturers. The senior citizens will not get much out of that.

Now, Medicare is going to be rewarding now the Republicans' friends in the HMOs and the pharmaceutical houses, huge amounts of money to each. No competition whatsoever will take place with regard to prescription pharmaceutical costs. Why? Because the Republican Members absolutely forbid that.

No wonder they want to do this at 2 a.m. in the morning. No wonder they want to foreclose the public from knowing. No wonder they would not let the people on this side of the aisle, they would not allow the Democrats into the meeting. Because it was the only way they could bring forward this slippery and dishonest program which is directed at destroying Medicare as we know it. And take the word not of myself on this, but of Mr. Newt Gingrich, of Mr. Armey, and the chairman of the Committee on Ways and Means on the Republican side. They want to destroy Medicare as we know it. That is what is at stake.

We can anticipate that they will allow Medicare to slowly wither away. And the senior citizens who are dependent upon it will no longer have the assurance that a program that they know they can choose their doctor and their hospital will be available to them. They will have to belong to the HMOs or pay more for it, and all in exchange for a proposal which has a huge donut hole which denies senior citizens care after they pay $2,000.

□ 0115

It does not add it at that point, it takes it away. This is a sham. It is a bad bill. It is one which takes from the senior citizens. It is one which threatens Medicare. It is an unfair, dangerous piece of legislation conceived in the darkness of night and slipped through over the heads of the senior citizens.

Mr. TAUZIN. Mr. Speaker, I yield 3 minutes to the gentleman from Florida (Mr. BILIRAKIS), the chairman of the Subcommittee on Health of the Committee on Energy and Commerce.

Mr. BILIRAKIS. Mr. Speaker, I would say I wish I had $100 for every hour that I spent in the wee hours of the morning during the time that the gentleman's party was in charge of this House.

Mr. Speaker, we have before us today an opportunity to finally provide our constituents with a meaningful prescription drug benefit that our Nation can afford. To finally do it; to finally do it, not to merely talk about it and to demagogue it. For four decades the other party controlled, and they did nothing. It seems every time we, since gaining the majority, attempt to meet a need, the Democrats finally awaken with nay comments. They do nothing. We attempt to do something, and they call our efforts a charade. We have not taken a pass, as one gentleman from the other side of the aisle said earlier. I would suggest the gentleman's party, which controlled for 40 years, took the pass.

While the bill before us certainly is not perfect, and we have admitted that, it targets the $400 billion available under our budget resolution towards areas where it can do the most good. Our bill provides a great deal of assistance to our low-income seniors. In fact, seniors who earn under $13,470 as a single or $18,180 as a couple will only be responsible for nominal copayments and will not experience a coverage gap. This is very generous coverage for the population of seniors who need it the most.

The conference report will also ensure that seniors will have the peace of mind of knowing that they will only be responsible for a very small amount of cost sharing once their out-of-pocket drug costs exceed $3,600 annually. It is a critical provision, and one I strongly support. This bill helps the poorest and sickest, and who can argue against that.

The conference report makes many other improvements to the Medicare program; in fact, too many to list tonight. However, I want to point out that the bill contains two provisions that I have long advocated for: Improved reimbursements for our Nation's physicians, and Medicare coverage for a physical exam upon entering the program. I call that the Dr. William Hale, ''Welcome to Medicare Program.'' Dr. Hale of Dunedin, Florida, gave me the idea some time ago. I am confident that this new benefit will ultimately save the program billions of dollars in the long term.

I would like to close by quickly dispelling a number of myths that we have heard on the House floor tonight, and over the past few months. The conference report does not privatize Medicare. It improves it, namely by adding a voluntary prescription drug benefit available to everyone, including those who do not wish to leave traditional fee-for-service Medicare. We are not pushing seniors into HMOs; I will not be a part of that. Or creating a voucher system. We are offering seniors voluntary choices other than traditional Medicare. And, finally, the conference report does not signal the end of Medicare. Instead, it marks the beginning of a new, better Medicare that will be available for generations to come.

Mr. Speaker, I would like to close by thanking all of the staff members who have worked to help make this bill possible.

Mr. DINGELL. Mr. Speaker, I yield 2 minutes to the gentleman from Ohio (Mr. BROWN).

Mr. BROWN of Ohio. Mr. Speaker, I thank the gentleman from Michigan.

Earlier this year President Bush stood in this well and pronounced solemnly, ''Medicare is the binding commitment of a caring society.'' Today just a few short months later, those words sound so empty.

Our Medicare offers the same reliable health coverage to retired and disabled Americans regardless of whether they are rural or urban, whether they are rich or poor, whether they are healthy or sick. Our Medicare is equitable, dependable, it is flexible, and cost efficient; but their bill takes $20 billion out of our constituents' pockets and showers those dollars on HMOs. It rigs the game so that the coverage seniors have today, the equitable, reliable, flexible coverage they have today, is sure to wither on the vine. That is the way they have set it up. As one of the authors of this bill, the gentleman from California (Mr. THOMAS) said, ''To those who say this bill would end Medicare as we know it, our answer is we certainly hope so.''

A binding commitment, Mr. President? Their bill leaves seniors with such high drug costs they still will not be able to afford their prescriptions. Their bill places retiree drug coverage of $12 million seniors at risk. Their bill forces seniors to either pay significantly more if they want to keep their doctor and their hospital, or join an HMO that may or may not cover needed drugs, that may or may not raise premiums beyond the $35 guesstimate,

that may or may not skip town if projected profits are not met. A caring society, Mr. President?

This bill is a big win for drug companies who stand to earn $139 billion in additional profits. No surprise there, the drug companies helped write the bill because the drug companies have given $50–60 billion to President Bush and to the Republican majority. It is a big win for insurance companies who are the beneficiaries of a $20 billion slush fund, no surprise there because the insurance industries and the HMOs gave tens of millions of dollars to the President and Republican leadership.

This is a tragic loss for America's seniors. Medicare should be the binding commitment of a caring society.

Mr. TAUZIN. Mr. Speaker, I yield 2 minutes to the gentleman from New Jersey (Mr. FERGUSON), a valuable, distinguished member of the Committee on Energy and Commerce.

Mr. FERGUSON. Mr. Speaker, in addition to expanding Medicare to include prescription drug coverage for 40 million seniors, this important conference report also represents significant benefits for my home State of New Jersey. For years, my State has offered one of the Nation's most generous prescription drug benefits. It is called PAAD. Under this historic agreement to strengthen Medicare, New Jersey wins big time. In addition to ensuring a seamless integration of the new Medicare drug benefit and PAAD, this conference report also provides New Jersey with billions of dollars to strengthen PAAD and expand the number of seniors who benefit.

By using the drug discount card before the PAAD coverage begins, the State government will save $73 million. Because PAAD's enrollees will receive their drug benefit from Medicare, the State will save $2.8 billion. New Jersey will receive a 28 percent tax free subsidy to offset the drug costs it provides for retired State employees, saving the State $222 million. PAAD will no longer be forced to pay drug costs for seniors who qualify for both Medicare and Medicaid, saving the State $872 million.

How else does New Jersey benefit? In addition to $80 million for increasing the Medicaid reimbursement rate, an additional $756 million will be forwarded to New Jersey's hospitals. That is nearly $5 billion in Federal aid for New Jersey.

This bill has language to require coordination between Medicare and PAAD, no disruption for any senior currently enrolled in PAAD, and billions and billions for our State government to strengthen PAAD, offset low-income seniors' drug costs and expand the number of seniors who are served under PAAD.

My colleagues from New Jersey on the other side of the aisle can try to hide behind their partisanship, but they cannot ignore the fact that this conference report represents one of the biggest and most important victories New Jersey has ever, ever received in Congress.

Mr. Speaker, shame on them.

Mr. DINGELL. Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. WAXMAN).

Mr. WAXMAN. Mr. Speaker, today we should be voting on legislation that makes a good prescription drug benefit a part of the Medicare program. We should give people real help without gaps in coverage requiring seniors and the disabled to pay thousands of dollars for drugs out of their own pockets.

Instead, what we have got is a bill that makes seniors buy private insurance to get drug coverage or go into HMOs where they might not be able to see their own doctor, a bill that lets insurance companies interested in their own profits decide what premium to charge and what drugs to put on their formulary, and a bill that will lead people holding the bag for most of their drug costs in far too many cases.

This is not what seniors and the disabled want. This bill uses the cover of providing drug coverage, inadequate as it is, to make very dangerous changes in Medicare. This bill is based on the point of view that Medicare was a mistake, that we should have left it to private insurers to provide health care for our seniors. Well, if we had done that, we would have a lot more seniors today who would be uninsured and struggling with their medical bills.

I do not want to turn the clock back on Medicare, I want to make it better. Much as I want prescription drug coverage for seniors, this inadequate drug benefit is not worth destroying Medicare. I do not want a Medicare where seniors and disabled people have to spend a lot more just to be able to stay in regular Medicare. I do not want a Medicare where seniors in Los Angeles have to pay premiums that are twice as high as premiums in some other area of the country, and depend on private insurance companies for what benefits they get.

So we might wonder, who benefits from this bill? Well, not the almost 3 million retirees who will end up losing the drug coverage they now have, not the 6 million of our poorest seniors who end up being worst off, and not the 40 million Medicare beneficiaries who cannot use their bargaining power to get lower prices from the drug companies, and not the people who have been able to get their drugs cheaper by going to Canada. It is the drug companies and the insurance companies who benefit from this bill. Let us improve Medicare, not ruin it.

Mr. TAUZIN. Mr. Speaker, I yield 2 minutes to the gentleman from Georgia (Mr. GINGREY), one of the three Members of the House who is an OB–GYN physician, and who happens to know something about health care.

Mr. GINGREY. Mr. Speaker, I thank the gentleman from Louisiana (Mr. TAUZIN) for yielding me this time.

Mr. Speaker, 35 million senior Members of AARP, 330,000 physician members of the American Medical Association who are providing care to hundreds of millions of Americans and 40 million Medicare beneficiaries, the American Hospital Association, the Rural Hospital Association, the United States Chamber of Commerce; Mr. Speaker, with so many for a prescription drug and Medicare modernization for our beloved seniors, who could be against it, and why?

The answer to that first question is pretty obvious, obstructionist Democrats. And why? Because they are more interested in attempting to embarrass President Bush and the Republican leadership of this House than they are in doing the right thing, the compassionate thing.

To suggest that this bill is nothing but a windfall for the pharmaceutical industry is like suggesting that Medicare Part A is nothing but a windfall for the hospital. Who is going to provide the prescription drugs, the chocolate chip cookie company? Give me a break.

But I say to my colleagues on the other side, stop the alliteration, stop the bizarre logic, the Mediscare rhetoric. Vote with us, vote for our seniors and make this truly a bipartisan victory.

Mr. DINGELL. Mr. Speaker, I yield 2 minutes to the gentleman from New Jersey (Mr. PALLONE).

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Mr. PALLONE. Mr. Speaker, I have listened to the rhetoric of the Republicans this evening, and it is cynical. They are trying to fool the seniors. I listened to the gentleman from Louisiana say that seniors are going to have a choice. They are not going to have any choice. They are going to lose their choice of doctors because they are going to be forced into an HMO. I listened to the gentleman from Florida say that seniors are going to get a meaningful benefit. Again they are fooling the seniors. There is no meaningful benefit here. They are going to have to shell out more out of pocket than they are going to get back in terms of a drug benefit. I listened to the gentlewoman from Connecticut earlier saying that she is going to give the seniors a discount. What a joke that is. There is no cost containment in this bill. The bill says that the Secretary cannot in any way negotiate price reductions. There is no reimportation in this bill. There is no way you are even going to be able to get discount drugs from other countries. There is no discount. There is no savings. They are just trying to fool the seniors.

I heard another speaker say that Medicare is going broke. The only reason it is going broke is because you have taken money away from their trust fund through your tax policies. You are trying to fool the seniors again. And then you are saying that the seniors are going to be able to have traditional Medicare, they can stay in

their traditional Medicare. Again you are trying to fool them because they are going to be forced out of traditional Medicare. You are going to limit them to a voucher, a certain amount of money. You have something in the bill that would cap the amount of money that comes from the Federal Government. They are not going to be able to stay in traditional Medicare. They are going to be forced out of it. Then finally you say, oh, they are going to get the drug benefit immediately. You talk about the drug card or whatever it is, the discount card. Again you are fooling the seniors. This bill does not even take effect, there is no drug benefit until the year 2006.

I want to tell you, the last thing of all was when I listened to my colleague tonight here from New Jersey (Mr. FERGUSON) say that New Jersey is going to benefit from this. There are 1.2 million Medicare beneficiaries in New Jersey; 91,000 of them will lose their employer-based prescription drug benefits; 186,000 of them in South Jersey would be subject to premium support and will lose their traditional Medicare. The list goes on. New Jersey is no different than any other State. You are not going to be able to fool the seniors. You should not try to. You ought to be ashamed of yourselves.

Mr. TAUZIN. Mr. Speaker, I yield myself 30 seconds to point out that the statement that this bill does not go into effect until 2006 is erroneous. The fact is that the drug discount card is effective immediately when this bill goes into effect early next year. The fact is that $600 per senior for drug costs is allocated immediately, next year. Not only that, but the $1,200 per couple that is allocated for drug costs for seniors is rolled over. If the senior does not use it the first year, they can use it the second year. It becomes a $2,400 benefit for seniors for that second year while the full program is enacted by the year 2006.

Mr. Speaker, I yield 2 minutes to the gentleman from Michigan (Mr. UPTON), the distinguished chairman of the Subcommittee on Telecommunications and the Internet of the Committee on Energy and Commerce.

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

Mr. UPTON. Mr. Speaker, I would like to focus on one misconception about this plan that we are debating today and set the record straight. I have heard from a lot of retirees who have been led to believe that enacting the conference agreement will cause them to lose their employer-provided prescription drug and health care coverage. That is not true.

First, it is important to note that under current law, employers who provide solid retiree health care benefits receive no assistance at all from the Federal Government. And even in the absence of a Medicare prescription drug plan, many of these same employers under increasing pressure from rising prescription drug and other related health care costs are already cutting back or entirely dropping their coverage that they provide to their retirees today. Under this plan if we pass it today, the Federal Government will partner with employers who maintain or improve their current health care retiree health plans. They will receive a subsidy of up to 28 percent of their retiree drug costs between $250 and $5,000 and the subsidy will not be subject to taxation. So the reality is if we do not enact this plan, there will be no incentives for those employers to maintain or improve their current retiree coverage. Thousands of retirees will wind up with no help with their prescription drug costs, and we most likely will continue to see those retiree benefits continue to be slashed. With this plan, they will have an incentive to keep it.

I also remember back to the days when we passed a catastrophic health care plan, back in the early nineties. It was mandatory. Guess what? We repealed it because it was mandatory. This is voluntary. You can participate if you want; and if you do not want, you do not have to participate. I also remember a woman that came up to me at my son's little league game. Her mom had just had a stroke, $600 in additional costs that she was going to face every month. She said, Mr. UPTON, will this plan help my mom? Yes, it will help her a lot. It will in fact save her family thousands of dollars, provide her with some quality of life that her family expects and the plan will help.

I urge my colleagues to vote for this plan this morning.

Mr. DINGELL. Mr. Speaker, I yield 1½ minutes to the distinguished gentlewoman from California (Ms. ESHOO).

Ms. ESHOO. Mr. Speaker, we have all not only been taught but tried to abide by something, part of the Ten Commandments, honor thy father and thy mother. I think more than anything else this evening, that is really what we are talking about, honoring our fathers and our mothers, our grandfathers and our grandmothers, the seniors, the elders of our Nation that are part of our Nation's family. It is not just my mother and father, and it is not just yours. It is collectively those that have built the country and handed it over to a new generation.

I do not believe that the process in this House for this bill is anything for the Members of Congress to be proud of, because if you do not honor those that represent the mothers and fathers of this country, it is a singular disgrace. So I start with that process. And I do not believe my friends, whom I have worked with day in and day out on the other side, tonight in their heart of hearts can be proud of that. It is dark. It is bad. It is wrong. And it has set a very bad tone for this bill.

We love Medicare on this side. You cannot drive a wedge between us and Medicare. If this were prescription drugs only, it would sail through the House. But that is the loss leader on this. This is about rewriting the contract between our mothers and fathers and our Nation. We object. We do not think it should be parceled out. My grandparents never said God bless the insurance companies. They said God bless America. Vote against this bill. It is wrong and it is bad. It dishonors our mothers and fathers and our grandparents.

Mr. TAUZIN. Mr. Speaker, I am pleased to yield 2 minutes to the distinguished gentleman from Oregon (Mr. WALDEN), a member of our committee.

Mr. WALDEN of Oregon. Mr. Speaker, my parents are both gone now. They died before this Congress could act to provide prescription drug coverage for them under Medicare. So they both paid for it out of their pocket. Let us talk about what this bill would do for those who survive. The agreement would provide 514,456 Oregonian seniors with access to a Medicare prescription drug benefit for the first time in the history of this program. Beginning in 2006, there would be 129,000 Medicare individuals in Oregon who would have access to drug coverage they would not otherwise have, and it will improve it for many more. They will get a $600 card if you are in the lower-income level of $12,000 a year. Couples who make $16,000 a year who lack prescription drug coverage today would be given $600 in annual assistance to help them afford their medicines along with the discount card of 15 to 25 percent. That is a total of $92 million for Oregon seniors that would help 76,000 of them be able to pay for their drugs in 2004 and 2005.

There are 151,000 seniors in Oregon who have limited savings and low incomes who will qualify for even more generous coverage. They will pay no premium, no deductible for their prescription drug coverage, and they will just be responsible for a minimal copayment. They will get the coverage. If you are low income under this plan, they get the coverage. Perhaps that is part of why the Portland Oregonian has endorsed this program. More importantly, my State like many has faced some fairly difficult fiscal challenges. I was there when we implemented the Oregon health plan and helped put it into place. Today because of the fiscal challenges, they are having to cut people off of Medicaid in Oregon. This plan over 8 years will return $279 million by having Medicare pick up the cost of those senior low-income people.

This is a balanced plan that will help our seniors get the prescription drug coverage they need. We ought to enact it.

Mr. DINGELL. Mr. Speaker, I yield 1½ minutes to the distinguished gentleman from New York (Mr. ENGEL).

Mr. ENGEL. Mr. Speaker, for many years I have sponsored and worked for a real prescription drug bill for seniors and this bill breaks my heart. This bill is not a bipartisan bill. It is a Republican fraud. The Republican leadership

would like to privatize Medicare and replace it with private insurance vouchers and HMO health care. That is what this bill does. It is the beginning of the destruction of Medicare and the destruction and privatization of Social Security is next.

You mark my words. We should be giving seniors a clean prescription drug bill under the Medicare program, but we do not have money for that because the Republican tax cuts for the rich and the stealing from the Social Security trust fund make it impossible to have any money left to pay for a real prescription drug program. The hodgepodge of benefits will do nothing but confuse seniors. After spending $2,200 in drug bills, seniors will have to pay the next $1,400 out of pocket without any help whatsoever while they still pay their monthly premiums. What kind of assistance is that? Seniors want a real drug bill and they want it to begin now, not in 2006. They want help in bringing drug prices down. This bill does none of that.

When I first came to Congress 15 years ago, I asked my mother what was the best thing we could do to help senior citizens and she said, give us a prescription drug program. Tonight, my colleagues, my mother gave me some more good advice. She said, vote against this sham bill. And that is exactly what I am going to do. Shame on this Congress for betraying our seniors and ramming this bill through in the middle of the night.

Mr. Speaker, I rise today in strong opposition to the Medicare Prescription Drug and Modernization Act. When I came to Congress 15 years ago, one of my highest priorities was to strengthen Medicare, provide drug coverage for seniors, and ensure that my children and generations to come would always have access to quality health care in their golden years. What the Republican leadership has put before us today does none of these things and threatens the very fabric of the Medicare program. The Republicans chose to give the richest Americans billions and billions of dollars in tax cuts rather than truly provide our seniors with relief from the high cost of prescription drugs. If this legislation is enacted, Medicare, and the cornerstone of Lyndon Johnson's Great Society, will be decimated.

There is nothing I would like more than to vote for legislation that would provide a meaningful Medicare drug benefit for seniors. In fact, I authored legislation to do just that. My legislation would have provided seniors with coverage comparable to most private plans and those utilized by federal employees. But what we have in this Conference Report is a fraction of that coverage. Most seniors will see little relief from the high cost of prescription drugs. Seniors will pay at least $35 a month in premiums with a $250 deductible, but these are just benchmarks and seniors may wind-up paying much more. There is also a gap in coverage where seniors will pay the premium while receiving no benefit. The gap in coverage is between $2,200 and $3,650 of out-of-pocket drug costs. This could mean that for half the year a senior will be paying a premium and getting no assistance. Additionally, the drug benefit doesn't even begin until 2006. Seniors in my district tell me they need help now. They don't want to wait two more years for this benefit to begin. I certainly think that they have waited long enough for assistance in paying for medicines that save and improve their lives. Our seniors deserve better treatment than this.

In keeping with the poor design of this benefit, it is expected that millions of retirees currently receiving drug benefits from their employers will lose it. So the Republican bill offers seniors a paltry benefit while taking away the quality benefits they currently enjoy. Wait till our seniors get a load of this.

As bad as all this sounds, it only gets worse. Despite the large outcry by seniors and Democrats across the country, this Conference Report embodies not the first small step toward privatization, but a giant leap that breaks the promise we made to our seniors and have kept since 1965 when Medicare was created. What is being dubbed as a demo project to ''test'' premium support, what is at best a voucher program, will encompass about 1/6th of Medicare beneficiaries. We're talking about 7 million people being forced out of traditional Medicare and into HMO's. These, the unluckiest of all the Medicare population, will pay higher premiums and receive some type of benefits, but we don't know what they are because the HMO's will package them as they see fit. For the first time in history seniors in different areas will be paying different premiums and receiving different benefits.

What is most troubling is that this legislation is setting Medicare up to fail. This legislation includes a provision that automatically triggers cuts in the program if Medicare spending increases to an amount determined by the Republicans. The likely scenario regarding this is that sometime over the next several years Medicare spending will increase triggering the cuts. In order to get under the arbitrary cap traditional fee-for-service Medicare will be decimated. Republicans will then point to their privatization as Medicare's savior and they will have finally succeeded in their ultimate goal of ending Medicare and leaving seniors to fend for themselves in the private market where HMO's will be the order. Make no mistake, we agreed on the path to full privatization and an end to one of the most successful government programs in our history.

We have all heard that this group endorsed the bill and that group endorsed the bill, so why are Democrats opposing it. The only reason this legislation has any life in it is because the Republicans have doled out billions of dollars in payouts to insurance companies, drug companies, and other special interests. These groups are not endorsing the bill because it helps seniors, they are looking out for themselves. Well I am not going to sell out our seniors.

Mr. Speaker, the greatest generation is about to face the brunt of the greatest hoax since since I have been in Congress. Most seniors are not watching this debate. They will have on their local news that Medicare will soon be covering their prescription drugs and they will be ecstatic. ''Finally'' many will say. What a shame it is that we re playing a political game with the lives of seniors around the country. I urge all of my colleagues to vote this bill down so that the can enact a real benefit that strengthens Medicare and provides a comprehensive drug benefit that will make this wonderful program even better.

Mr. TAUZIN. Mr. Speaker, I am pleased to yield 2 minutes to the gentleman from Texas (Mr. BRADY).

Mr. BRADY of Texas. Mr. Speaker, I appreciate the leadership of our chairman on this important issue. For the last 4 decades, Medicare has helped millions of American seniors get needed health care, helping them live longer than any other generation before them. However, Medicare has become dangerously outdated. In America today, Medicare refuses to pay $80 a month for Lipitor to prevent heart disease, but will pay $20,000 in hospital costs after a life-threatening emergency has occurred. That does not make sense. Medicare needs to keep pace with these medical breakthroughs.

Medicare must also be preserved and strengthened for future generations. We worked hard and we must act now so that seniors, baby boomers, and our young people can count on Medicare decades from now. We have worked hard to make sure Medicare is more like the health care plans Congress enjoys, more choices, better plans, and lower expenses for Medicare down the road. There are thoughtful new reforms to keep Medicare costs from ballooning out of control, and there are exciting new savings accounts that give Americans of every age more freedom to determine their health care costs.

Our seniors deserve a modern prescription plan now and future generations deserve Medicare that they can count on. The bottom line is we can invest a dime now to help seniors afford their medicines, or we can pay a dollar later when they end up in the hospital or face emergency surgery that we could have prevented. Our seniors deserve a modern prescription plan today, and Republicans in Congress are going to deliver it.

Mr. DINGELL. Mr. Speaker, I yield 1½ minutes to the distinguished gentleman from Texas (Mr. GREEN).

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

Mr. GREEN of Texas. Mr. Speaker, I rise in opposition to this so-called Medicare prescription drug conference report. Much as I want to support legislation creating a prescription benefit for our Nation's seniors, I cannot support this bill. First, the bill does absolutely nothing to drive down the outrageous costs of prescription drugs. In fact, it expressly prohibits Medicare from negotiating for 40 million seniors lower prices, and yet it still allows the insurance companies to do it. But they prohibit the government from doing it. The benefit has a huge doughnut hole that forces seniors to pay all their costs from $2,250 to $5,100. I guess I am so frustrated with this bill the best I can do is read a poem about America's Greatest Generation.

Rest gently, America's Seniors
You saved democracy in WW II
You survived a depression, too.
You built this Nation

to a great world power
so it is right you rest
at this late hour.

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But while you slumber
There are voices raised
In our Capitol yonder
Of your high costs for your drugs of wonder.
This proposed legislation
Considered in the dark of night
Will not reduce your cost a ''widow's mite.''
Awake you will from your night's slumber
To repay and respond to those who plunder
Your hard-earned Medicare benefits.

Mr. Speaker, I rise in opposition to this so-called Medicare prescription drug conference report.

Much as I want to support legislation creating a prescription drug benefit for our Nation's seniors, I cannot support this bill.

The bill does absolutely nothing to drive down the outrageous costs of prescription drugs. In fact, the legislation expressly prohibits Medicare from using the negotiating power of 40 million seniors to demand reasonable prices for our Nation's seniors but allows insurance companies to negotiate.

The benefit has a huge ''donut hole'' that will force seniors to pay for all of their costs from $2,250 until their costs exceed $5,100.

So if you have drug costs that are $300–400 per month, you're only going to get a benefit for the first half of the year.

The rest of the year, you'll continue to pay premiums, but get absolutely nothing from them.

And finally, this plan would require Medicare to compete with private plans that would be paid more to treat healthier seniors.

There is no way Medicare could honestly be expected to compete with these overpaid plans, and I think the bill's crafters did that on purpose.

Mr. Speaker, this legislation leaves people worse off than they were before it. The CBO estimates that 2.7 million employees will lose their retiree benefits.

More than 6.4 million Medicaid beneficiaries will lose their wrap-around coverage.

And in the long run, seniors will be left shouldering a significantly higher portion of their health care costs. This is unacceptable, and I urge my colleagues to vote against this bill.

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

Mr. DINGELL. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Ohio (Mr. STRICKLAND).

Mr. STRICKLAND. Mr. Speaker, I thank my friend for yielding this time.

I probably will not need a minute to say what I want to say. But this bill was written by and for the pharmaceutical companies. Do the Members want an example of why I say that? A few days ago the Blue Dogs met with our Secretary of Health and Human Services, Mr. Tommy Thompson, and two Democratic Senators were there, Senator BREAUX and Senator BAUCUS. And in that meeting, a question was asked: Why is there a prohibition against the Secretary from negotiating discounted costs for America's senior citizens? And Senator BAUCUS said it is in there because PhRMA insisted that it be in there. Shame, shame, shame on you.

Mr. TAUZIN. Mr. Speaker, I yield myself 30 seconds.

I want to point out that the language that the gentleman just referred to in the bill first appeared in the motion to instruct by none other than the gentleman from California (Mr. STARK), who offered a motion to recommit H.R. 4680 with instructions that included the very same language that the gentleman is complaining about that was referenced in the Blue Dog meeting.

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

Mr. DINGELL. Mr. Speaker, I yield 1½ minutes to the distinguished gentlewoman from Colorado (Ms. DEGETTE).

Ms. DEGETTE. Mr. Speaker, the Hypocratic oath requires that doctors first do no harm. There is no such oath for Members of Congress. But we would be wise to heed it when we consider the Medicare prescription drug benefit tonight, for this bill certainly will do harm to millions of Americans. I know this. My constituents know this, and seniors across the country know this. They are furious with the organizations and the Members of Congress that support this plan.

This is not an abstract debate. This has a huge impact on real people. It will do harm to people like Helen Lay, my constituent, a retiree in Colorado. Helen is worried because, as she sees it, this bill has something in it for everyone except the senior citizens. Helen and her husband, Frank, are fortunate enough to have good prescription drug coverage through their retirement plan. Right now, they spend about $800 a year on prescription drugs. Without insurance, they would be spending nearly $12,000.

This bill will do great harm to Helen and Frank and millions of other seniors because it will encourage employer retirement plans to end prescription drug coverage, forcing seniors into substandard plans that cost more, and no one knows what the coverage or the price will be.

Helen and Frank have other serious problems. They take 12 brand-name medications per month. But this bill specifically prohibits Medicare from negotiating drug prices, even though private companies like Wal-Mart and agencies like the Veterans Administration are able to negotiate cheaper drugs. That means even if this bill passes, Helen and Frank will still pay exorbitant prices.

I say to Helen that we are here to stand up for her today.

Congress first must do no harm. Send this plan back.

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

Mr. DINGELL. Mr. Speaker, I yield 1½ minutes to the distinguished gentlewoman from California (Mrs. CAPPS).

Mrs. CAPPS. Mr. Speaker, I rise in opposition to the Medicare conference report. Seniors deserve a good prescription drug benefit through Medicare. This bill cripples Medicare and truly is not a prescription drug benefit at all. It forces seniors into private insurance plans to get all of their health care and contains a time-released poison pill that will starve Medicare of needed resources by arbitrarily capping federal funds.

But on top of this, the conference report cuts cancer care by $1 billion a year, $10 billion over 10 years. So many rural cancer centers will close as a result, and others will lay off oncology nurses and critical support staff. These centers are essential to the delivery of cancer care today. How can we do this to cancer patients? It is hard enough to live with this dreaded diagnosis, let alone the horrendous side effects of the treatments. And now this.

I repeat. This bill cuts $1 billion out of cancer care. I am ashamed.

Mr. TAUZIN. Mr. Speaker, I yield 2 minutes to the gentleman from Michigan (Mr. ROGERS) for the purposes of colloquy.

Mr. ROGERS of Michigan. Mr. Speaker, I thank the chairman for his leadership on this for the millions of seniors who today have no access, no access to prescription drugs that will have that when this bill is signed into law. I thank him for each and every one of them.

For the purposes of colloquy, it is certainly not the chairman's intent that the cuts to oncology practices across the country would go below such a level that would cause practices to close, thus jeopardize access to care for thousands of cancer patients, and should we see that CBO's projections were wrong and that oncologists were found not to be made whole for their drug reimbursement under the new Average Sales Price that we would swiftly reverse this payment methodology?

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

Mr. ROGERS of Michigan. I yield to the gentleman from Louisiana.

Mr. TAUZIN. Mr. Speaker, the gentleman is correct, but let me point out that CBO's estimates now indicate that this bill makes oncologists perfectly whole in this first year of the changeover. In fact, for the first 2 years, it is a neutral completely, and oncologists will be getting something like 2½ to 3 times the practice expense allowance that CMS now estimates they would get under their own data. This bill will actually give oncologists 100 million more dollars than they are currently getting under the old AWP formula this year, 2004, and $100 million less the second year. So it is a total neutral policy for that 2-year period.

Mr. ROGERS of Michigan. Reclaiming my time, Mr. Speaker, I thank the gentleman for clarifying.

In addition, it is not the chairman's intent that small rural cancer centers across the country would be detrimentally impacted under the new Average Sales Price reimbursement method for their drugs based on their inability to buy in volume like their suburban

neighbors. And if we found that to be the case, we would swiftly review the specific impact such a payment methodology had on access to care in these rural areas.

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

Mr. ROGERS of Michigan. I yield to the gentleman from Louisiana.

Mr. TAUZIN. Mr. Speaker, the gentleman is of course correct. That is why we built an ASP, Average Sales Price, plus a percentage to give the smaller oncology units a chance to buy, in case the larger units buy at a lower price, they could at least get coverage on top of the Average Sales Price to reimburse them, but we would always review that to make sure cancer care is indeed preserved.

Mr. ROGERS of Michigan. Mr. Speaker, I thank the gentleman for his attention on this matter.

Mr. DINGELL. Mr. Speaker, I yield 1½ minutes to the distinguished gentlewoman from Illinois (Ms. SCHAKOWSKY).

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

Earlier the gentleman from Louisiana (Chairman TAUZIN) waxed poetic about the deep meaning of a movie, of all things, and about the centrality of choice in our democracy. And I agree about choice.

But I have to tell the Members in all the years that I have worked for and with seniors, never, not once, did a senior citizen come up to me and say ''What I really want is a choice of insurance plans. I want more salesmen to call me, send me those brochures, include all those charts and graphs and fine print. I cannot wait to sit down each year and choose among HMOs.'' Never, not once.

Seniors want a choice all right. They want to choose their doctor. They want to choose the drug that their doctor prescribes for them. They want the choice of their pharmacy if they want to go to their neighborhood pharmacy. They want the kind of real choice they get under Medicare, the Medicare that they know and love. And that is the kind of choice they will lose under this bill and under a pile of brochures that they are going to be burdened with. But do the Members know what? That is okay. I want to tell the Members it is okay because the seniors know the difference between real choices and phony choices. And we can put all kinds of fancy pictures on it, but senior citizens will know, and I want to tell the Members that it is to their peril that they vote for this legislation and give seniors a phony choice.

Mr. TAUZIN. Mr. Speaker, I yield 1½ minutes to the gentleman from Arizona (Mr. RENZI).

Mr. RENZI. Mr. Speaker, I thank the chairman for yielding me this time.

There has been some talk about this not being about prescription drugs and more about the changes that we are looking at for Medicare.

In the 1950's and 1960's on the border of Nevada and Arizona at the test sites for the atom bomb, the schoolchildren in Arizona, in Kingman, Arizona, were given the day off to go up on the mountains and watch the A-bomb blasts. The skies would turn brilliant pink and orange. Years later, those adults are the ones that come down with the highest cluster rates of cancer in America. A lot of the folks in the Rust Belt send their cancer patients out to beautiful, warm Arizona, whereas one of the benefits of their suffering has been our ability to understand how to better treat cancer in these communities now rather than in the hospitals.

The nurses who provide that cancer care under the current Medicare are not allowed to bill and get their full amounts. That is because Medicare has not changed enough or at all since its inception.

Medicare must be updated. It must be modernized. To do so denies the ability to provide the proper billable hours for our nurses who provide cancer care and the better system of cancer care that we are seeing out in the West.

Modernize Medicare. Do not deny those nurses that kind of coverage.

Mr. DINGELL. Mr. Speaker, I yield 1½ minutes to the distinguished gentleman from Maine (Mr. ALLEN).

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

Mr. Speaker, we have talked a lot about this bill. I want to say just a couple of words about my seniors up in Maine. Two points. First, they are desperate for lower prescription drug prices. Number two, they want to keep the Medicare program that they have because it is all they have. There are no HMOs in Maine to provide services to them.

And here is what they do. To get lower prescription drug prices, they call my office in Maine every day. They pile into buses to go to Canada. They try to get their prescription drugs from Canada over the Internet.

And so what do they get out of this bill? They get a provision that says the government will not be able to negotiate lower prices for them, will not be able to negotiate lower prices. They get an inadequate benefit that is not as helpful to most seniors in Maine as the Canadian drug prices. It is a big win for PhRMA and a big loss for people in Maine.

Our seniors have come to rely on the stability, predictability, and continuity of Medicare. The chairman of the committee did talk about choice, but as in Illinois, no one in Maine has ever asked me for a choice between insurance plans. They have got the choice that matters now, a choice of doctors and hospitals. This bill over time drives them out of fee-for-service Medicare into HMOs. It is funded by an outrageous overpayment to private plans and HMOs.

My parents for 1 year were in a Medicare+Choice plan. It was not golden. It was not modern, not efficient, not fair. Just a bureaucratic nightmare. Defeat this Medicare bill. It is bad for Maine's seniors.

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

Mr. DINGELL. Mr. Speaker, I yield 1 minute to the distinguished gentleman from New York (Mr. ISRAEL).

Mr. ISRAEL. Mr. Speaker, last June I was one of nine Democrats who voted to move Medicare modernization into a House-Senate conference. That bill was flawed, but I wanted to give it a chance for bipartisan compromise and improvement. It saddens me that this bill was not improved, Medicare was not modernized; it has been privatized in this bill. I said when I voted for H.R. 1 that if it looked like privatization, if it sounded like privatization, if it felt like privatization, if it smelled like privatization, that I would oppose final passage. This bill sounds, it feels, it smells, it looks, it is privatization; and I have to oppose final passage.

Now, some say, well, it is not really privatization; this is just an experiment in six different areas. Do not worry. Mr. Speaker, when you are the guinea pig, you tend to worry.

We could have done a much better job with this bill, Mr. Speaker. We could have come up with a bill that Republicans and moderate Democrats could embrace, a bill that protects seniors and does not subvert them. I gave this bill every chance that I could. Tonight this bill robs our seniors of any hope that they have had for true Medicare reform. Medicare should be the Federal Government's obligation to seniors who need the right bill, not a profit center for the special interests who wrote this bill.

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

Mr. DINGELL. Mr. Speaker, I yield 1 minute to the distinguished gentleman from New Jersey (Mr. ANDREWS).

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

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

Several Members of the majority have said that this is a historic morning. They are correct. History will record that this is the day that any pretense the majority had, the Republican Party had of fiscal responsibility, ended.

Mr. Speaker, for every $100 we are spending to run our government tonight, we are only taking in $80, and you are taking every nickel out of the Social Security trust fund and then some to make up the difference. So what is your strategy to deal with this deficit? It is to add a $400 billion entitlement that you cannot pay for. You are using Social Security funds that are supposed to fund future retirements for our kids to pay for a sham prescription drug benefit for our grandparents.

This borrowing will purchase a Trojan horse, a massive giveaway to the health insurance industry disguised as a prescription drug benefit for senior citizens.

I listened to your speeches when you came here 10 years ago and said we could not afford to expand entitlements, and many of us on our side stood with you and made sure that we did not do that.

To have a real prescription drug benefit, you should repeal your sacred tax cut and pay for what is really necessary for America's seniors. Shame on the Republican Party for turning its back and releasing a torrent of red ink that we will pay for, for generations to come, when this bill metastasizes in the future. Oppose this ill-considered bill.

Mr. TAUZIN. Mr. Speaker, I yield myself 30 seconds. That was an interesting speech, but I got a letter from the Congressional Budget Office indicating that they prepared a preliminary estimate of the impact of the Democratic amendment to H.R. 1, the Democratic plan; and the estimate of CBO of their plan is $1 trillion. So a speech complaining about the fact that we in this House passed a budget that included $400 billion for this important program for seniors is wrong, when the other side prepared an amendment for $1 trillion; that is a little outrageous.

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

Mr. DINGELL. Mr. Speaker, I yield 30 seconds to the distinguished gentleman from Arkansas (Mr. BERRY).

Mr. BERRY. Mr. Speaker, I rise at this time to just express my gratitude and the gratitude of my caucus to the two gentlemen who have worked tirelessly for years on this issue, the gentleman from Michigan (Mr. DINGELL) and the gentleman from New York (Mr. RANGEL). And I hope that this entire body, even though they have been treated shamefully and disgustingly by the Republican leadership and by this conference committee, I hope that everyone here this evening will join me in thanking them for the magnificent job that they have done for America and America's seniors.

Mr. TAUZIN. Mr. Speaker, I yield myself 30 seconds. While he is not here, I think the Members on our side ought to show their appreciation for the chairman of the Committee on Ways and Means, the chairman of the conference who did an amazing job in bringing this excellent bill to the floor for our consideration, the gentleman from California (Mr. THOMAS).

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

Mr. DINGELL. Mr. Speaker, I yield 1½ minutes to the gentleman from Massachusetts (Mr. MARKEY).

Mr. MARKEY. Mr. Speaker, 40 years ago today, President Kennedy's assassination released an energy in our country that led to the passage of the Civil Rights Act and Medicare. By contrast, the bill before us today was conceived in secret, crafted by special interests, and cloaked in a prescription drug benefit to disguise its real purpose: the destruction of the Medicare program as we have known it in the United States over the past 40 years.

This bill is a Thanksgiving turkey, and this turkey will not fly. It forces senior citizens into HMOs. It gives HMOs billion-dollar subsidies. It raises drug costs for the poorest Americans, and it drops millions of seniors from their retirement plans.

Some claim this bill will provide America's senior citizens with new prescription drug coverage, but it will force millions of our frail elders to pay more for prescription drugs than they do now. Some claim it will lower Medicare premiums, but it will require Medicare beneficiaries to forfeit the power to choose their own doctors or their own drugs. Some claim it will make the Medicare program more efficient, but it will stick taxpayers with the bill for billions of dollars in subsidies to HMOs and new tax shelters for the rich.

This bill is not the elixir for Medicare; it is, rather, a poison pill that leads to the destruction of the Medicare program as John F. Kennedy and Lyndon Johnson envisioned it.

Mr. TAUZIN. Mr. Speaker, I yield myself 3 minutes.

Mr. Speaker, it is the season of Thanksgiving, and this House is about to say thank you to a generation of Americans who we ought to say thank you to, and we are about to say it in the most important way we can. We are about to pass a $400 billion-insured drug account for these citizens who have no drug insurance today. We are about to pass a voluntary plan that gives them the right to join or not join, their choice, not mandated by government. It includes catastrophic coverage so they never have to lose everything they have worked for and saved for all of their lives. And we give to all Americans on this Thanksgiving holiday a chance to open up health savings accounts, tax-free in, tax-free out, tax-free interest earned to build their own long-term health care plans for the future.

This, indeed, is a time of Thanksgiving, and it is indeed a time for this generation to be true to our obligations of the previous generation. This bill does that. It gives the new generation choice in drug coverage for the first time.

It is amazing to me tonight, this debate. I have taken my parents to the hospital many times during my dad's life and my mom's. I do not ever once remember a doctor asking me as I checked in to the room there whether my mom was a Democrat or a Republican. This is not a partisan issue. I have gone and filled my mom's prescriptions every now and then for her. They never asked me at the pharmacy what party she belongs to. And when health deserts us in our senior years, when the ravages of time take us and we pass away, no mortuary worker stamps Democrat or Republican on our tombstones.

Health care is not a partisan issue, and it should not be a partisan issue. We have a chance today to do something that seniors desperately need, and we ought to join tonight together to do it.

There are a lot of people who helped write this bill. Let me tell you who they were. They were, of course, the members of the conference committee who worked together to put this bill together, but there were a lot of staffers; and I want to mention them today. They are the staff of the House and Senate legislative counsel. Special thanks to the House legislative counsel, Ed Grossman, who is a draftsman extraordinaire. Additional thanks go to Pierre Oisson and Peter Goodlow.

From the Senate side, Ruth Ernst and John Goetchus and Jim Scott.

Other staff members of the Congressional Budget Office and analysts, these individuals deserve great compliments for their analysis, their integrity, and their hard work. I want to thank Doug Holtz-Eakin and Steve Lieberman, Tom Bradley, and the entire CBO staff who worked night times and days for us.

I want to thank Tom Scully and the whole staff at HHS and CMS who sat and worked with us day after day to craft this bill.

I specifically want to thank the staffs of our committees. From Ways and Means, John McManus, who did such a great job; Madeleine Smith and Deborah Williams, and Joel White. From the majority side of the Finance Committee, I would like to thank Linda Fishman, Mark Hayes, Leah Kegler, Colin Roskey, and Jennifer Bell. Recognition is deserved to Liz Fowler and Andrea Cohen, Pat Bousilman and Jonathan Blum.

Last, but not least, all of the Committee on Energy and Commerce staff who toiled so hard for us, let me thank them again, over and over again: Dan Brouilette, Patrick Morrisey, Chuck Clapton, Jeremy Allen, Patrick Ronan, Kathleen Weldon, and Jim Barnette. They did a marvelous job for this House, and we owe them a debt of thanks. Thank you all.

Mr. DINGELL. Mr. Speaker, I yield such time as she may consume to the gentlewoman from California (Ms. ROYBAL-ALLARD).

(Ms. ROYBAL-ALLARD asked and was given permission to revise and extend her remarks.)

Ms. ROYBAL-ALLARD. Mr. Speaker, I rise in strong opposition to this bill.

Mr. Speaker, I rise in strong opposition to this extremely flawed bill. A bill that takes care of drug and insurance companies at the expense of our Nation's seniors.

Instead of helping our seniors, Mr. Speaker, this bill will result in higher drug prices, increased Medicare premiums for seniors who refuse to be forced into HMOs, and the erosion of retiree coverage for over two million seniors.

These are just a few of the problems with this bill, Mr. Speaker. There are far too many to name in the limited time I have.

Our seniors deserve better. They have worked and sacrificed and contributed greatly to our country.

We must not turn our backs on them, Mr. Speaker, with the passage of this bill. Instead let us honor our seniors by defeating this bill and coming back with a prescription drug plan that is affordable, comprehensive and guaranteed. A plan, Mr. Speaker, that protects Medicare not destroys it.

Let tonight's victory be for our seniors, not the pharmaceutical and insurance companies.

Mr. DINGELL. Mr. Speaker, I yield such time as he may consume to the gentleman from South Carolina (Mr. SPRATT).

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

Mr. SPRATT. Mr. Speaker, I rise in strong opposition to this bill.

Mr. Speaker, when we began this quest several years ago, our object was to make Medicare better by filing a big gap in its coverage. This conference report covers that gap with a drug benefit that is barely adequate and badly in need of redesign. The bill then goes on not to make Medicare better, but to move Medicare toward privatization, heavily subsidizing managed care with funds that could better be used to improve the meager drug coverage this bill provides.

I will vote against this bill not to kill it but to send it back to an open conference, where all participate, in an effort to make the bill worthy of our senior citizens who badly need this coverage, and depend on Medicare.

Here are some of the problems and objections that I find with this bill:

H.R. 1 couples meager drug coverage with major changes that move medicare toward privatization. The terms of coverage seem reasonable at first until you realize that they are not guaranteed. The premium of $35, the deductible of $250, and the co-payment of 25 percent are illustrative of what insurance companies may offer, but not written in stone. In any event, coverage stops after $2,250, just when it is needed most, and catastrophic coverage does apply until one has spent $5,100. For this first $5,100 in coverage, the consumer pays $4,020. Put another way, the plan pays 20 percent the consumer pays 80 percent. Catastrophic coverage starts after $5,100 has been spent, and seems reasonable, until you realize that this threshold, like all the other terms of coverage, is indexed to the rising cost of prescription drugs, and is likely to double in ten years. This is meager coverage, and a poor trade-off for all the changes crammed into this package to move Medicare toward privatization.

H.R. 1 contains a drug benefit that is flawed and needs to be fixed before it becomes law. Rather than providing continuous coverage, the Medicare benefit has a $2,850 gap in coverage that will leave millions of seniors without drug coverage for a good part of the year, even though they continue to pay premiums.

The drug benefit has a deductible of $250, and a coverage gap that begins at $2,250 in drug spending and ends at $5,100. According to CBO, this coverage gap of $2,850 will double to $5,065 by 2013. The structure of the benefit means that there will be several months out of the year when seniors are paying premiums and are not receiving any additional drug coverage. This odd benefit design, with its coverage gap does not currently exist as an insurance product.

H.R. 1 needlessly complicates prescription drug coverage by making it available only through private insurance policies and not through medicare. Even through stand-alone drug policies don't exist, and health insurance companies, fearing adverse selection, have made clear that they do not wish to write it, this bill provides primarily for private insurance coverage. Out of disdain for Medicare, the bill does not choose the simple solution and make drug coverage a feature of Medicare. Instead, in one of many steps toward privatization, this bill calls for drug coverage to be written by private insurance companies, adding unnecessary cost, complexity, and uncertainty.

H.R. 1 requires that drug coverage be purchased from a private insurance company even when there is only one underwriter and no competition. In regions where only one insurance company offers a drug-alone policy, Medicare will not provide ''fallback'' coverage under this bill, so long as there is a Medicare PPO or HOM in the area. The beneficiary will have three unappealing choices: take the coverage at a non-competitive price, leave Medicare fee-for-service and join the HMO, or go without drug coverage.

H.R. 1 bars the Federal Government from using the purchasing power of 40 million seniors to drive down the price of drugs—H.R. 1 flat prohibits the Secretary of Health and Human Services from negotiating better prices for prescription drugs. The bill divides Medicare's 41 million beneficiaries into numerous regions and to one or more private plans within each region. This fragmentation runs contrary to trends at the state level, where states have used the purchasing power of big beneficiary pools to negotiate better prices. This prohibition also flies in the face of prevailing federal practice, which requires government officials to seek the best possible price when spending the taxpayers' money—especially when spending $400 billion.

H.R. 1 overpays HMOs to induce them to join medicare and draw seniors into private plans—H.R. 1 provides $16.5 billion to sweeten subsidies paid to managed care plans and induce them to enter markets they have not found profitable. After spending billions to subsidize managed care plans, this bill then forces traditional Medicare to compete with the plans. This competition, known benignly as ''premium support,'' will destabilize Medicare as we have known it and lead to premium increases for seniors who want to stay with the government-run program.

According to the Medicare Payment Advisory Commission, Medicare already overpays managed care plans by 19.6 percent. They are paid 19.6 percent more than their members would cost if enrolled in traditional fee-for-service Medicare.

H.R. 1 increases HMO payments by another $4.5 billion and sets up a $12 billion fund to induce private plans to enter new markets. According to MedPAC, these changes will result in overpayments to managed care plans of 25 percent.

Medicare fee-for-service will then have to compete with private plans in six metropolitan areas starting in 2010. Obviously, the increased payments will allow private plans an advantage in the competition, one they will enhance by marketing their services to healthy seniors.

Managed care plans have a record of designing and marketing benefit packages that appeal to healthy beneficiaries. As private plans ''cherry pick'' healthier beneficiaries, traditional Medicare will be stuck with sicker, more expensive beneficiaries. If competing private plans run costs below traditional Medicare, the beneficiaries in fee-for-service Medicare will be assessed the difference through their Part B premiums. Traditional Medicare premiums will spiral upwards, forcing seniors who cannot afford the rising premiums to move into private plans that limit their access to doctors. The process will repeat itself year after year, beginning an insurance ''death spiral'' that will destroy traditional Medicare.

H.R. 1 will cause over six million low-income seniors to be worse off—The 6.4 million low-income and disabled individuals who now receive health coverage from both Medicare and Medicaid will be worse off under this bill.

Under current law, when a benefit or service is covered by both Medicare and Medicaid Medicare serves as the primary payer and Medicaid ''wraps around'' that coverage. Medicaid fills gaps in coverage that exist under the Medicare benefit. Medicaid also picks up most or all of the beneficiary co-payments that Medicare charges.

This bill largely eliminates Medicaid's supplemental—or ''wrap around''—coverage under the new Medicare drug benefit. As a result, substantial numbers of poor elderly and disabled people would be forced to pay more for their prescriptions than they now do.

In addition, in cases where Medicaid covers a prescription drug but the private plan that administers the Medicare drug benefit in the local area does not provide that particular drug under Medicare, poor, elderly and disabled beneficiaries who now receive the drug through Medicaid could lose access to it.

Under current law, low-income beneficiaries have co-payments that run from zero to as high as $3; but these amounts do not increase from year to year. The conference report raises cost-sharing for those with the lowest incomes by requiring $1 and $3 co-payments for beneficiaries whose income is less than $8,980 a year and $2 and $5 co-payments for beneficiaries whose income is between $8,980 and $12,123 a year. In addition, the $1 and $3 co-payments grow at CPI (1.5 percent to 3 percent). The $2 and $5 co-payments will rise at the same level as prescription drug spending, which is projected to average 10 percent a year, far exceeding the annual 1.5–3 percent. Social Security COLAs.

According to the Center on Budget and Policy Priorities, this provision will result in higher drug costs for 4.8 million seniors.

H.R. 1 will cause nearly 3 million seniors to lose retiree coverage—According to CBO, some employers will stop providing retiree coverage due to the structure of the drug bill, and this will result in 2.7 million seniors losing retiree drug coverage, in many cases far better than this plan.

According to the Congressional Budget Office, 11.7 million seniors currently have retiree coverage through their former employers. However, 23% of these seniors, or 2.7 million individuals, will lose this coverage. This loss of coverage results from the structure of the drug benefit, which gives employers an incentive to drop retiree coverage.

The drug bill targets Federal assistance toward those seniors who lack supplemental private drug coverage, most noticeably through the requirement that payments made by supplemental coverage don't count toward the beneficiaries' out-of-pocket limit. In effect, the out-of-pocket provision reduces Federal subsidies for beneficiaries with supplemental insurance. As a result, it provides a clear financial disincentive for employers to supplement the benefit.

Second, some employers see the enactment of a drug benefit as an opportunity to reduce the costs and risks of providing drug coverage.

H.R. 1 spends nearly $7 billion on tax shelters for the healthy and wealthy—Rather than marshaling funds to improve drug coverage, H.R. 1 diverts $7 billion to Health Security Accounts, which have nothing to do with Medicare drug coverage, and create an unprecedented tax break, which could undermine our employer-sponsored insurance system.

Under H.R. 1, tax-advantaged savings accounts to pay out-of-pocket medical expenses would be made universally available. These could be used with high-deductible health policies, but not with the comprehensive health coverage traditionally offered by employers. Holders of these accounts could make tax-deductible deposits, watch the earnings compound tax-free, and pay no tax upon withdrawal if the funds are used for medical expenses.

This would establish an unprecedented and lucrative tax shelter. In the existing tax code, when funds deposited in a tax-favored account are deductible, withdrawals are taxed. On the other hands, withdrawals are not taxed when deposits are not deducted. There is no precedent in the tax code for providing both ''front end'' and ''back end'' tax breaks. The political pressure to do the same for other types of savings and retirement accounts could become irresistible. A proliferation of such tax-free accounts would only send Federal deficits higher.

These savings accounts would also undermine comprehensive health insurance. Healthy, affluent workers would have an incentive to opt out of comprehensive health insurance in favor of the Health Security Accounts. They would receive a large tax break, and would not be much affected by switching to a high-deductible health policy since they generally use fewer health services. If large numbers of such workers opt out of comprehensive plans, the pool of people left in comprehensive plans would be older and sicker, causing premiums for comprehensive insurance to rise significantly.

That, in turn, would drive still more healthy workers out of comprehensive insurance, making those that remain even more costly to insure, adding pressure on employers to stop offering comprehensive coverage. Older and sicker workers could wind up paying more for health coverage or losing it altogether and becoming uninsured.

This suggests what could be done to make this bill better if it were taken back to a fair and open conference committee. The $7 billion allocated to Health Security Accounts and the $17 billion allocated to subsidizing HMOs could be used instead to narrow the ''doughnut hole,'' the zone where there is no coverage between $2,250 and $5,100. This is just one example of how this bill can be fixed and improved, and should be before it is passed.

Mr. DINGELL. Mr. Speaker, I yield such time as he may consume to the gentleman from Pennsylvania (Mr. FATTAH).

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

Mr. FATTAH. Mr. Speaker, I rise in opposition to this conference report.

Mr. DINGELL. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Arkansas (Mr. ROSS).

Mr. ROSS. Mr. Speaker, I thank the gentleman from Michigan for yielding me this time.

Mr. Speaker, in 2001, the Republican Congresswoman, the gentlewoman from Missouri (Mrs. EMERSON), and I offered up a bipartisan plan that would truly modernize Medicare to include medicine for our seniors, that recovered 80 percent of the cost of prescription drugs for our seniors, while taking on the big drug manufacturers, and the Republicans told us that we could not afford it. They said we could not afford $750 billion over 10 years.

But what has happened since then? They passed a $350 billion tax cut for the wealthy, and now they are proposing a $400 billion major prescription drug plan. I was not real good in math in high school, but I think I can figure that one out. That totals $750 billion. Two years later, we are getting a plan that does not even kick in until 2006. Our plan would be in effect today.

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Seniors get $1,080 worth of help on the first $5,100 worth of medicine they need every year, and the Republicans even had the nerve at the urging of the big drug manufacturers to put language in the bill that says the Federal Government shall be prohibited from negotiating with the big drug manufacturers to bring down the high cost of prescription drugs. This is a bad bill. This is a bill that does not even fit our seniors, only the big drug manufacturers.

Mr. TAUZIN. Mr. Speaker, I yield myself 30 seconds.

Mr. Speaker, again let me read the language of the bill that the gentleman just referred to, that terrible piece of language. It says in effect that in administering the prescription drug benefit program established under this, the Secretary may not, number two, interfere in any way with negotiations between private entities and drug manufacturers or wholesalers; or, three, otherwise interfere with the competitive nature of providing prescriptive drug benefit through private entities. That language in the bill comes from a motion to recommit prepared and filed in this House in the 106th Congress by the gentleman from California (Mr. STARK) on his motion to recommit. It is language of the other side that they are complaining about.

Mr. DINGELL. Mr. Speaker, I yield 2½ minutes to the gentleman from Texas (Mr. TURNER) for purposes of explaining the motion to recommit, which will be offered at the conclusion of the debate. I hope my colleagues will listen closely to this.

Mr. TURNER of Texas. Mr. Speaker, for years the pleas of our hurting seniors fell on the deaf ears of our Republican majority until one day our Republican friends were struck with an ingenious idea, wrapping a plan to privatize Medicare into a deceptive package called prescription drugs for seniors.

It keeps the drug companies happy because they can still charge twice as much for medicine here as anywhere else in the world. It keeps insurance companies happy by paying them 25 percent more to cover seniors than taxpayers pay to cover seniors under traditional Medicare. It keeps doctors and hospitals happy by paying them billions while leading them like sheep into the perils of managed care.

And it costs taxpayers $400 billion for a meager prescription drug savings of 25 percent, a savings that could be achieved at no cost to taxpayers by giving seniors the right to buy drugs at the same price they can get them in Canada. All this slight of hand to force seniors into private insurance and some day to give them a voucher and tell them fend for yourself. No security, no certainty, no guaranty of coverage, you are on your own. And the promise of Medicare is no more.

My seniors in east Texas see right through this. In a poll conducted tonight, over 6,000 seniors in my district, 85 percent said they were opposed to the Republican plan. Dress it all up as fancy as you can, it is a bad deal for America's seniors and they know it.

Mr. Speaker, I will be offering a motion to recommit to give seniors a meaningful prescription drug plan. This motion matches the conference report dollar for dollar on provider payments. It allows the Secretary of HHS to negotiate lower drug prices. It eliminates premium support ensuring that seniors will not have to pay more to keep the Medicare coverage they know and trust. It rejects the poison pill language that guts reimportation, and it prevents millions of retirees from losing their benefits and protects

low-income seniors by allowing Medicaid to provide wrap around coverage.

Mr. Speaker, let us give the greatest generation the certainty, the security, and the guarantee they deserve. Vote for this motion to recommit.

The SPEAKER pro tempore (Mr. HASTINGS of Washington). The Chair would advise Members that there are 2 minutes remaining on either side. The gentleman from Louisiana (Mr. TAUZIN) has the right to close.

Mr. TAUZIN. Mr. Speaker, I might inquire of the gentleman from Michigan (Mr. DINGELL) if he has further speakers. I am reserving for the Speaker of the House to close.

Mr. DINGELL. Mr. Speaker, at this time I would inform my distinguished friend in the House, the gentleman from Louisiana (Mr. TAUZIN) that we have only one speaker remaining who will close for this side.

Mr. TAUZIN. Mr. Speaker, then I would advise my friend to take advantage of that time at this time and the Speaker will close on the Republican side.

Mr. DINGELL. Mr. Speaker, is my good friend assuring me he has only one speaker remaining?

Mr. TAUZIN. Mr. Speaker, I can assure my friend that is true.

Mr. DINGELL. Mr. Speaker, then with a great deal of pride and pleasure I yield the remainder of my time to the distinguished minority leader, the gentlewoman from California (Ms. PELOSI).

Ms. PELOSI. Mr. Speaker, I first I want to invite my colleagues to join me in expressing our appreciation to our Democratic conferees who have been true champions of a defined affordable prescription drug benefit under Medicare, the dean of the House and ranking Democrat on the Committee on Energy and Commerce, the gentleman from Michigan (Mr. DINGELL), the distinguished ranking Democrat on the Committee on Ways and Means, the gentleman from New York (Mr. RANGEL), and a true champion for health care in this Congress and the country, the gentleman from Arkansas (Mr. BERRY), all for their leadership on this important issue.

Sadly, Mr. Speaker, the Republicans would not let these appointed conferees into the conference room. And this bill does not reflect the benefit of the thinking and experience of our very diverse caucus. That is a great loss to this debate and a great loss to our country.

Mr. Speaker, the Democratic Party has made ensuring the dignity and security of our seniors a cornerstone of our mission for generations. Nearly 40 years, ago a Democratic Congress and the Democratic President, Lyndon Johnson, honored that mission by making Medicare the law of the land. Ever since then, America's seniors have known where Americans stand. We created Medicare, we want to protect it and strengthen it.

Americas seniors have also known where Republicans stand. For 40 years, they have waged war on Medicare. When Congress passed Medicare in 1965, only 13 Republicans in Congress supported it. Only 13 in Congress supported it. When Newt Gingrich and the Republicans tried to gut Medicare in 1995, President Clinton stopped them. That same year, Newt Gingrich made his intentions about Medicare clear. He said, ''Now, we did not get rid of it in round 1, because we do not think that is politically smart, but we believe it is going to wither on the vine.'' And tonight the Republicans want to deliver the final blow. On behalf of America's seniors and disabled, we must stop them.

Recognizing the desperate need of America's seniors citizens, Democrats proposed a guaranteed, defined, affordable prescription drug benefit under Medicare. Instead of joining us in this historic opportunity, Republicans offered up a Trojan horse, a deceptive gift intended to win their 40-year war against Medicare.

Republicans said this is a first step toward a prescription drug benefit. This Republican plan is not a first step, it is a false step, it is a mistake. It puts profits for HMOs and big pharmaceutical companies over seniors, providing a $12 billion slush fund for HMOs and gives a $139 billion in windfall profits to the pharmaceutical companies over 8 years.

The Republican plan does not lower costs for prescription drugs. It prohibits the government from negotiating for lower prices. It privatizes Medicare and pushes seniors into HMOs. It makes seniors pay more to keep the Medicare they know and trust. It does all of this for a deceptive plan that makes most seniors pay $4,000 out of their first $5,000 in prescription drug costs. How do you explain that to mom? You are going to get a new benefit, this is the Republican plan. And of the first $5,000 of prescription drugs cost, you, senior citizen of America, are going to pay the first $4,000.

Nearly half of all Medicare beneficiaries, up to 20 million seniors and disabled Americans, will fall into a coverage gap, meaning they will pay premiums all year without receiving benefits all year. Under the plan most seniors will be worse off than before, and millions of retirees will lose their existing employer provided coverage.

Republican priorities are clear: They place the special from interest of the HMOs and the pharmaceutical companies before the public interest of America's seniors and disabled. This is not the beginning of a real prescription drug benefit under Medicare. On the contrary, this is the beginning of the end of Medicare as we know it. The more seniors across America learn about the details of this scheme, the less they like it, and the more they want us to keep fighting for real prescription drug benefit that really answers their needs.

Mr. Speaker, this is an hour of decision. Tonight there is own one way to improve this bill and that is to and to provide the benefit seniors need and deserve and that is to vote no. I urge my colleagues to vote against this Republican hoax. I urge them to send all of the conferees, Democrats and Republicans, to the conference room to produce a bipartisan bill that will be sustainable over time and meet the needs of our seniors and disabled. I urge them to stand with 40 million seniors and disabled Americans who look to us for help and hope at this defining moment.

Speaking on the day when he signed Medicare into law, President Johnson said that this Nation's commitment to its seniors was part of a noble tradition that calls upon us never to be indifferent toward despair, never to turn away from helplessness, never to ignore or spurn those who suffer untended in a land that is bursting with abundance. Tonight the hopes of 40 million seniors and disabled Americans rest upon us. They have waited too long, fought too hard, endured too many broken promises, only to be sacrificed on the alter of the special interest. We cannot, we must not, and we will not abandon them now.

Mr. TAUZIN. Mr. Speaker, in order to close this historic debate we yield the balance of our time to the distinguished Speaker of this, the whole House of Representatives, the gentleman from Illinois (Mr. HASTERT).

Mr. HASTERT. Mr. Speaker, I thank the gentleman from Louisiana (Mr. TAUZIN). I also want to thank those many, many staff members who spent uncounted hours, night and day, to help make this bill possible. I especially want to thank my own staff member, Darren Willcox, who sacrificed many late nights and early mornings and long weekends despite having a wife and a baby boy at home. I want to thank Brett Shogren of the majority leader's staff, and many, many other young men and women who committed their time, dedicated their time to try to do a good job in this people's House.

I want to thank those folks at the legislative counsel who spend untold hours of trying to craft the right language to make this legislation the right legislation for the American people, and those folks at the Congressional Budget Office who crunched numbers day after day after day to make things work.

In this time and space of legislative arena, there are times when things come together. There are times of great opportunity. And there is a time for change.

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This, indeed, is one of those times for that opportunity. This, indeed, is one of those times for great change. A poet once said that ''things fall apart, the center cannot hold. The best lack conviction while the worst are full of passion and intensity.''

For the good of our senior citizens and for the good of our Nation, the center must hold. The best must be full of

passion and intensity. And today, we must pass this historic legislation.

I want to thank all of those who have put aside their partisanship and worked together for the good of this Nation. I want to thank the conferees, especially the gentleman from Louisiana (Mr. TAUZIN), the gentleman from California (Mr. THOMAS), the gentleman from Texas (Mr. DELAY), the gentlewoman from Connecticut (Mrs. JOHNSON), the gentleman from Florida (Mr. BILIRAKIS) in the House, and Senator FRIST and Senator BAUCUS and Senator BREAUX of the Senate.

They have worked long and they have worked hard on this product through many late nights and long weekends, and they deserve our gratitude.

The third time is a charm when it comes to prescription drugs. This Congress under this leadership passed drug prescription legislation in the 106th Congress. The House passed a prescription drug bill only to see it die in the Senate. In the 107th Congress, we passed a prescription drug bill only to see it die in the Senate. And finally, we are poised to complete this long journey.

When Medicare was first conceived, the baby boomers were young adults and most seniors got their health care from a doctor's visit or a trip to the hospital. Thus, those who constructed the program were not overtly concerned about long-term cost projections or about prescription drugs.

Today, we face a different story. The baby boomers are now thinking about retirement, and they want their prescription drugs. Prescription drugs now make up more than a third of health care costs.

This conference report makes two fundamental changes to the Medicare system. It makes it more sustainable in the future, and it provides seniors with a prescription drug benefit. Why do we have to make Medicare more sustainable in the future? Because if we do not, my kids and all those other young adults out there will be forced to pay 30 percent of their salary in the next decade or two for the Medicare program. And I just do not think we can make that happen, and that will not sustain Medicare; and I do not think it is fair to them.

So in this bill we start the process of making Medicare more sustainable. We means test the part B premium and index the deductible to inflation. We introduce free-market principles and give consumers more power to choose their health care. We include cost-containment measures so that if Medicare costs grow too quickly, the Congress and the President will be forced to confront that fact.

Finally, we create health savings accounts which might be the most dramatic and exciting reform of our health care system in generations. These health savings accounts give consumers the ability to make health care choices. This will hold down skyrocketing health care costs and deliver better health care for our citizens and for our seniors.

As we make these necessary financial reforms in Medicare, we also modernize the program with a prescription drug benefit. And after this legislation goes into effect, low-income seniors will never be confronted with the choice of putting food on the table or paying for life-saving prescription drugs. Low-income seniors will finally have the benefit that will take care of their drug costs, and this will save the deposit money in the long run. For example, if a low-income senior has diabetes, the monthly cost of Glucophage, a drug that helps control that disease, is about $30 a month. But if diabetes is left untreated, a single hospitalization for renal kidney failure is about $6,700. The benefit is both penny-wise and pound-wise.

It will also help the typical senior by cutting down their drug costs by 40 percent. And those seniors with high drug costs will save even more, up to 60 percent or more. In other words, this prescription drug benefit is a good deal for all seniors.

This legislation has other important factors. It includes incentives to employers so that they will not drop their current plans. In fact, this bill will make it more likely that if you have coverage with your employer, that employer will continue to offer that benefit. It also includes vitally important help to rural America. And if you live in the cities or urban America, it is probably not a problem. But if you are trying to compete with your rural hospitals and keep doctors and hospitals going in rural areas, you know that is a problem.

This bill solves the problem. It takes care of rural hospitals. It provides rural health care. That is something that many of us have been fighting for for a long, long time. Let me be the first to admit that this conference report is not perfect. The far left does not like it. And some of our friends on the far right do not like it. But let me tell you who does like it.

The AARP has endorsed it. So has the American Hospital Association and the American Medical Association and almost every other major seniors organization and doctor and patient group.

I urge my colleagues to put politics aside. I urge you to consider this piece of legislation for the good of this Nation. I urge you to stop and think when is the last time that we have really been able to change the paradigm of health care in this country. When is the last time that we have really had the chance to offer our seniors in this country a future for good health care, for good pharmaceutical coverage and for a chance to live and enjoy a great future.

I ask for a positive vote.

Mr. FILNER. Mr. Speaker, I rise today to say shame on this body for passing this reprehensible Medicare bill that has been rammed through Congress today by the Republican leadership.

This legislation does nothing that its supporters claim it does. They claim that this bill will help seniors with their prescription drug costs and give them more choices in their healthcare. But actually, this bill does none of that. It does not provide a comprehensive, affordable or reliable prescription drug benefit. Further, it unravels the consistent, guaranteed healthcare coverage that seniors have come to expect under Medicare. This bill is so bad, that even some Republicans refused to support it. Opponents of this terrible legislation see through the smoke and mirrors that supporters are putting up and realize that this bill was not about helping seniors pay for their prescription drugs or giving them access to better care, but that this bill was actually about helping the bottom lines of private insurance companies, HMOs and the pharmaceutical companies.

There are many, many bad provisions in this legislation, and I would like to highlight some of the worst of them here.

One: Under this bill, Medicare as we know it is completely unraveled. First, Medicare Part B will be forced to compete with private managed care plans. This leaves the health of our seniors to the whims of private insurance companies and does not guarantee that all seniors will be receiving the same benefits across the country. That means seniors in my District in San Diego, CA, might have better coverage than seniors in New York. Or seniors in New York might have better coverage than those in San Diego—we just don't know—it's completely up to the private insurance companies and HMOs to decide how much coverage they want to provide. Not only is the amount of coverage going to vary, but so are the costs of the premiums. Again, that means seniors in San Diego might pay more than seniors in New York—or vice versa—depending on how much the private insurance companies and the HMOs decide they want to charge!

Secondly, this bill would institute a ''means test.'' In layman's terms, that means that in 2007, the Medicare part B premium would be linked to income. This not only goes against the main tenet of Medicare—which grants coverage to everyone, regardless of income—but also, higher premiums create an incentive for healthier seniors to leave Medicare. This would leave only the sickest seniors in Medicare and drive up premiums even more.

Two: The so-called prescription drug ''benefit'' is absolutely inadequate and actually decreases coverage for some seniors and can cost them more than they're paying right now. Supporters of this bill claim that the prescription drug benefit will help seniors cover the costs of their medications. However, there are so many problems with this benefit that it's hard to decide where to begin. First of all, this benefit does not even kick in until 2006. When it finally does begin, seniors are expected to pay a high deductible. Then, there is a piece de resistance of this so-called benefit: there is a big hole in coverage. Rather than providing continuous coverage throughout the year, this bill has a $2,850 coverage gap in which seniors don't receive any coverage at all. Half of America's seniors fall into this hole. The icing on the cake is that despite the fact that they would not be receiving coverage for part of the year, they are still expected to continue to pay the premiums.

Additionally, more than 2 million retirees, who currently have drug coverage through

their former employers, will lose that coverage. Because drug costs keep rising and this bill has no measures to keep drug costs low, it is very tempting for employers to simply drop their coverage and force seniors onto this inadequate drug coverage plan. Furthermore, rather than having Medicare kick in when a retiree reaches catastrophic coverage, this bill forces the employer-provided benefits to cover those costs—yet another reason for employers to pull their coverage.

Three: This bill explicitly prohibits the government from negotiating with drug companies for lower drug prices. One of the greatest strengths of a prescription drug plan under Medicare is that it could reduce drug prices for participants using the large number of participants in the Medicare program to bargain with pharmaceutical companies for better prices on their products. Yet this bill denies Medicare participants those lower costs, ensuring continued skyrocketing prescription drug prices.

It is for those reasons—and many many more—that I could not support this poison pill for Medicare and a placebo of a prescription drug benefit.

Mr. THORNBERRY. Mr. Speaker, like most bills brought before us, this bill is a mixture of provisional I support and provisions I oppose. Unlike most bills brought before us, it affects every American and will have significant, long-term consequences for our Nation.

I believe that providing access to quality health care is one of the most formidable challenges facing our Nation now and in the decades to come. The retirement of the baby boom generation, which begins in less than 8 years, will make that challenge enormously difficult.

When the House considered its version of this bill in June of this year, I said that our objective should be to ''update and strengthen Medicare so that it does a better job of providing health care for seniors and at the same time put Medicare on a sound financial footing so that it can be sustained through the baby boom generation retirement.'' This conference report does begin to update Medicare by adding prescription drug coverage. It does little to put Medicare on a sound financial footing.

Making prescription drug coverage available to all seniors is very important. Not only will that benefit keep seniors from having to choose between buying medicines and other necessities of life, it will help them stay healthier. As they stay healthier longer, hospital and other medical expenses should be less.

This bill includes reforms of the system which are also important. Allowing all Americans to choose Health Savings Accounts gives everyone a new option to pay for health care and could help stem the tide of rising insurance rates and rising health care costs. Beginning to consider income in calculating Part B premiums is a significant change in the law. Other provisions related to provider reimbursements and reducing the discrimination against rural health care providers are worthy of support.

I am concerned that the total cost of this bill is vastly underestimated, as has happened before in Medicare. There are payments or tax credits for virtually every group interested in health care, yet of all of the groups affected by this bill, I worry that the interests of those paying the bills, especially future taxpayers, are given the least consideration.

So, we are left weighing the benefit of modernizing Medicare and some reforms versus the danger that this bill will hasten the day of Medicare' collapse. It is not an easy judgment to make.

It is clear that if we do nothing, millions of seniors will go without the prescriptions they need and that none of the reforms essential to Medicare's survival will occur. We must begin somewhere. Reluctantly, I have concluded that this most imperfect bill is at least a place to start.

If we are honest, we have to admit that this bill is something of a gamble. We are betting that the limited reforms begun here will flourish and work to strengthen Medicare for the 21st century. If we are wrong, the added benefits and payments may sink the entire program. Tonight, I choose to vote with my hopes rather than my fears, prayerfully mindful of both my parents and my children.

Mr. UDALL of Colorado. Mr. Speaker, I want to support a Medicare drug bill, but I can't support this bill. Instead of giving us a foundation to build on, I believe it will compromise the effectiveness of a very popular healthcare program for seniors in order to deliver an inadequate, unreliable and unfair drug benefit. Under this bill seniors will pay higher premiums, higher deductibles and higher prices for drugs. It will force seniors into HMOs, and millions of seniors will lose drug benefits that they get through their retirement plans. Instead of crafting a drug bill, the Republican leadership has used the opportunity to dismantle Medicare and turn it over to private insurance and drug companies.

I have long believed that Congress should act to help seniors with their prescription drug expenses. Congress should give seniors greater choice in coverage, but it should not force seniors into HMOs in order to get a drug benefit. Colorado could be chosen as part of the demonstration project under this bill, which would force seniors into HOMs in order to get the drug benefit. According to a recent analysis by the Department of Health and Human Services, most seniors would see increases in their premiums with some facing increases as high as 88 percent. Colorado seniors would pay some of the highest premiums in the country. For example, seniors in Adams County, CO would pay $100 a month while seniors in some parts of North Carolina will pay $58 a month. Why should Coloradans pay higher premiums than seniors in other parts of the country for the exact same benefit?

It's no wonder that seniors in my district are skeptical about this plan. Let's not forget, we tried private competition in Medicare when HMOs were allowed to participate in the program as a result of legislation that passed in 1997. Seniors were told that managed care was better able to deliver healthcare services to them. Managed care aggressively courted seniors to join Medicare+Choice plans and then dropped them because they couldn't make a profit. That left millions of seniors searching for doctors and coverage. Now, this bill includes billions of dollars in subsidies to managed care to provide coverage. If privatization is such a good idea, why do insurance companies need these large subsidies in order to participate in Medicare?

There are a few provisions in this bill that I support, such as the payment increases for hospitals and physicians and other providers. In fact, I have consistently voted to increase provider payments and I have cosponsored legislation to change the flawed formula upon which these payments are based. But those payments should have been brought up separately rather than as part of the Medicare bill.

It is grossly ironic that Medicare will pay for a senior's care following a stroke but will not pay for the anti-hypertension drugs that prevent them. The time is ripe to pass a Medicare prescription drug benefit, but not as proposed in this legislation. I had hoped that we would vote on a bill that created a fair, workable, financially sound prescription drug benefit. But I am not willing to set in motion forces that will lead to the destruction of a program that seniors and the disabled have trusted for nearly 40 years in exchange for a feeble prescription drug benefit. We should work to get it done right rather than get it done right now.

Mr. BUYER. Mr. Speaker, the measure before the House tonight, the conference agreement on the Medicare Prescription Drug and Modernization Act, H.R. 1, is not a perfect bill. But, it is also not the bill that I opposed several months ago when the House first considered the measure. As with any conference agreement, this bill is a product of compromise and negotiations. It is an improvement in the House-passed bill in some respects, a disappointment in others. Nonetheless, I think it is time to end the debate on a prescription drug plan in Medicare and move forward.

While this bill has some troubling flaws, it does take major steps forward in improving access to health care of our nation's seniors. It serves as a blueprint for enhancements to Medicare that will enable Congress to resolve the long-term solvency issues in Medicare's structure.

Reform cannot occur in a vacuum. We must be vigilant as we take these necessary steps to reform Medicare to provide greater choice and health care services to beneficiaries.

This measure will require close scrutiny by Congress to oversee the implementation of the drug plan to insure that it provides cost containment and prevention of drug overutilization. The provisions before us to enhance Medicare are likely to require annual maintenance by Congress.

If the provisions of this bill that expand Medicare Advantage plans, that improve Medical Savings Accounts in Medicare, and that create Health Savings Accounts, are successful in the marketplace, beneficiaries will have alternatives to government-run health care and greater choices to meet their health care needs.

I applaud the inclusion in this bill of provisions to address the needs of rural providers, especially rural hospitals. Under this bill rural hospitals will see an equalization on reimbursement on inpatient care as compared to their urban counterparts. This bill includes provisions which I have urged that give Critical Access Hospitals more flexibility in their bed limits. I also applaud the conferees for including a provision that will enable hospitals to seek a reconsideration of their classification. The bill also extends Medicare cost contracts until Medicare Advantage plans are available. These are good provisions that will directly address patient care in my district.

I am also pleased to see the inclusion of regulatory reforms that this House has passed twice.

Finally, the bill gives seniors help with their prescription drugs almost immediately by authorizing a discount drug card. In a serious level of effort, I worked with four of my colleagues in drafting legislation to add a drug card to the Medicare program. Under our approach seniors would have been able to choose from a variety of discount drug cards available at a very low annual fee. We also included funds for seniors, based on income, to help seniors pay for drugs; a catastrophic limit; and a mechanism for seniors to save and for others to help seniors pay for their drugs.

Frankly, I think this is a better approach and I would have preferred to see it made a permanent feature of this bill, rather than expiring at the end of 2 years. Nonetheless, the discount drug card provisions of H.R. 1 do incorporate many of the ideas that my colleagues and I advocated. It would be my hope that Congress will see the wisdom of extending the drug card program.

I am troubled by the present fallback provisions, by the extent of the subsidies permitted under the bill, and by the uncertainty as to whether Medicare will be adequately reimbursing physicians for providing care to patients needing injectable drugs. I am also concerned that this bill still does not effectively keep the costs in-line with the ability of the taxpayers to fund the benefits.

Nonetheless, the bill, on the whole, is more positive and I am fully aware that Congress will have to tackle difficult issues down the road, however, I will support H.R. 1, to add a prescription drug benefit to Medicare and create long-term solutions to solve access, choice, and solvency of Medicare when baby boomers become seniors.

Mr. BEREUTER. Mr. Speaker, this Member wishes to add his support for the Medicare conference report and would like to commend the distinguished Chairman of the House Ways and Means Committee (Mr. THOMAS); the distinguished Chairman of the House Energy and Commerce Committee (Mr. TAUZIN); and the other Medicare conferees for their leadership, expertise, and good efforts on this comprehensive Medicare reform package. This Member would especially like to thank the distinguished gentleman from California (Mr. THOMAS) and his staff for the time he spent briefing this Member on the rural health provisions as Medicare conference negotiations were taking place and for his work to bring greater equity to the rural health care delivery system.

This measure may well be one of the most complex and important bills that this Member has ever had to consider during his tenure in Congress. Although the conference report lacks immediate controls on the high cost of pharmaceuticals—the market-oriented and pro-competition cost-containment provisions provided for the existing Medicare program are critically important reforms. The conference report makes Health Savings Accounts available for the first time ever to all Americans, and includes the undoubtedly controversial, but necessary means-testing of Part B premiums on a sliding scale, beginning at $80,000 (for singles). The rural health care reforms are also exceedingly important for millions of Americans. The conference report is certainly not perfect, for the prescription drug benefits may be both unaffordable and a huge disappointment to the intended beneficiaries. Yet, the Medicare reform and greater Medicare equity for citizens of rural and non-metropolitan areas make this conference report on H.R. 1 worthy of an ''aye'' vote. Congress will have ample time and opportunity to address concerns, enhance, revise, and improve upon this historic legislation.

Until this year, there has been nothing but gridlock and delay in terms of how to reform the Medicare program. The Medicare conferees worked long and diligently to develop the Medicare reform agreement before us today. We cannot afford to let this prospect of Medicare reforms slip away.

Mr. Speaker, the rising cost of prescription drugs has become an issue that simply must be addressed. Senior citizens in Nebraska and throughout the United States should not have to compromise their quality of life or their health because the cost of their prescriptions is more than their income allows. Without an end to the ever higher prescription drug cost—the product largely of huge international cost-shifting onto the backs of American consumers—the prescription drug benefits we are adding will cost more than the $400 billion allocated—it will quickly be too expensive for our Nation to bear, even with Federal taxpayer funds. Therefore, this Member is very concerned that the measure lacks immediate restraints on the high cost of pharmaceuticals.

This Member is extraordinarily disappointed, but not surprised, with the intentionally unimplementable reimportation language included in the conference report. Drug re-importation from Canada was not the best approach to meeting the problem of escalating drug costs and it could be only an interim approach, but it is the only tool now available. The provisions of the bill allow for the importation of drugs from Canada, but the measure contains language in which the Department of Health and Human Services can say it cannot responsibly or legally implement the provision, as it has done on two previous congressional efforts. This language is the ''poison pill,'' and it is wholly unsatisfactory.

Mr. Speaker, it is additionally important that the conference agreement authorizes $50 million for fiscal year 2004 for the Agency for Healthcare Research and Quality (AHRQ) to conduct research on health care outcomes, comparative clinical effectiveness, and appropriateness of health care items and services—including prescription drugs. This Member has been a strong advocate for such research, as evidenced by his amendment to the Labor, Health and Human Services, and Education appropriations bill (H.R. 2660).

Americans deserve the best health care for their dollar. Clinicians, patients, and those financing health care services need credible, objective information on the benefits, risks, and costs of prescription drugs so that they can make informed decisions about the prescriptions they consume and prescribe. Consumers need information regarding the effectiveness, quality, and cost-effectiveness of new drugs, in comparison with existing alternatives, especially when new drugs can cost much more than those now on the market. This Member is pleased that the conference report language authorizes the AHRQ to conduct such research and that comparative clinical effectiveness is referenced but is concerned that cost-effectiveness is also not mentioned.

Mr. Speaker, in addition to adding a long overdue prescription drug benefit to the Medicare program, the conference report provides for robust reform of the rural health care delivery system. It is the best bill ever for the health care of citizens living in rural and non-metropolitan areas; it moves them to a more equitable position with respect to their urban counterparts.

This Member is extremely pleased that the Medicare conference report includes a substantial amount of funding specifically for rural areas and small communities. As the Interim Co-Chair of the House Rural Health Care Coalition, this Member has been working diligently to address rural health care issues and the needs of those individuals who practice, work, and live in rural areas. This conference report includes funding that is dedicated to assisting community hospitals, outpatient facilities, home health agencies, skilled nursing facilities, ambulance service providers, rural physicians, and other skilled health professionals. Such funding is crucial for cash-strapped rural facilities which are near a breaking point and in need of urgent aid.

This Member is especially pleased that the Medicare conference report includes language to address the significant differential in Medicare reimbursement levels to urban and rural skilled health care professionals. For the past 2 years, this Member has introduced the Rural Equity Payment Index Reform Act to assure that physician work is valued, irrespective of the geographic location of the physician. The Medicare conference report establishes a 1.0 floor on the Medicare physician work adjuster from 2004 to 2006, thereby raising all localities with a work adjuster below 1.0 to that level. This is a huge victory for this Member, my very able legislative assistant, Ms. Michelle Spence, for Nebraska, and for all Medicare localities with a physician work adjuster below 1.0.

Several other provisions are included in the Medicare conference report to assist rural areas physicians and other skilled health professionals. For example, the measure protects senior citizens' access to physicians by replacing a 4.5 percent across-the-board physician payment cut—scheduled to take effect on January 1, 2004—with 2 years of payment increases. Additionally, this Medicare agreement provides a five percent bonus payment for primary and speciality care physicians who practice in scarcity areas.

This Member is also pleased that the Medicare conference report addresses hospital payment disparities to ensure that facilities in rural areas and small cities can stay in business and continue serving patients who need care by permanently extending the standardized base payment. This policy will help maintain access to care in rural and less populated urban areas of the country by better aligning hospital payments to actual costs. The estimated impact of eliminating the base rate differential will result in $26.7 million over 10 years for Nebraska hospitals in the First Congressional District, according to the American Hospital Association.

Additionally, the Medicare conference report lowers the labor share of hospital wage index to 62 percent. This change will increase inpatient reimbursement for many rural hospitals and will more accurately reflect the labor costs of many rural facilities. According to the American Hospital Association, this provision would bring $3.3 million over 10 years to the First Congressional District of Nebraska.

Several other provisions are included in the Medicare conference report to address rural hospitals. For example, the agreement increases disproportionate share hospital payments for small rural and urban hospitals and increases critical access hospital payments to 101 percent of reasonable costs.

Mr. Speaker, in closing, this Member supports the Medicare conference report. It finally gives the American people some of the critical reforms that are essential if the system is to avoid fiscal disaster or unaffordable burdens on American employers and employees. And, on what is a gamble, at least until we reduce the huge international pharmaceutical cost-shifting onto Americans, it will provide senior citizens with access to prescription drugs when they need them most and it will greatly improve health care for Americans living in rural areas.

Mrs. MALONEY. Mr. Speaker, the seniors in my district have made their views on Medicare clear.

They believe that it should provide the same coverage for prescription drugs that it does for doctors' appointment and hospital stays. And they think that they should no longer pay the highest prescription drug prices in the world.

Unfortunately, however, the bill before us will provide inadequate benefits that would leave half our seniors paying more out of pocket for prescription drug coverage than they do now. And it contains a gap in coverage that will leave half of seniors without any drug coverage for part of the year.

Just as bad, this bill will impose a global ceiling on the size of Medicare. If the overall cost of the Medicare program exceeds a predetermined cap, Congress will immediately be forced to slash benefits or hike premiums for those currently on Medicare.

To add insult to injury, this bill will undermine initiatives to cut the cost of prescription drugs. It would bar by law any effort by the Secretary of Health and Human Services to try to negotiate with pharmaceutical companies to lower prescription drug prices.

This bill will undermine and ultimately destroy Medicare as we know it.

It's not a magic potion. It's a poison pill.

I urge my colleagues to vote ''no.''

Mr. LANGEVIN. Mr. Speaker, I rise today gravely disappointed by, and opposed to, the Medicare Modernization and Prescription Drug Act of 2003. The 108th Congress has squandered our best opportunity yet to provide a meaningful prescription drug benefit for our nation's seniors. I am outraged that the republican leadership has taken advantage of the public's cry for medication coverage. They have used the demand to exploit the elderly, funnel money to drug and insurance companies and privatize Medicare. Sadly, this debate is no longer simply about a prescription drug benefit. This debate is about the survival of the health care system that has been serving and protecting our seniors since 1965.

In a striking divergence from the universal nature of Medicare, the conference report we are voting on today establishes a system wherein seniors rely on private, drug-only companies to administer their drug coverage. Each of these companies will develop their own rules about premiums, deductibles and what medicines are covered. The standard this bill sets for the companies only offers 75 percent coverage of the costs up to $2,250—and no coverage at all until the expenses then reach $5,100. During that significant gap in coverage, seniors will still be responsible for paying a $35 monthly premium. Even more infuriating, that premium will not count toward their out of pocket expenses, making it take even longer for them to reach the catastrophic level. The Republican conferees claim to offer help for the poor, and indeed, premium subsidies are available to individuals earning less than $6,000 a year or couples earning less than $9,000. But these vulnerable, low-income seniors must first meet a strict assets test, where cars, burial plots and even wedding rights will be counted as assets. Additionally, I remain deeply concerned that the legislation fails to include a meaningful fallback plan seniors can rely on if private companies fail to emerge in their area, an all too likely scenario that it is our duty to protect against.

The prescription drug component of this bill contains a particularly troubling provision that strictly forbids the Secretary of Health & Human Services from using the bulk purchasing power of Medicare beneficiaries to negotiate for lower drug prices for senior citizens—a tactic that has proven effective in the state programs, as well as 25 other industrialized nations. America's seniors have made it clear that they want the government to assist them in obtaining their prescription drugs at a fair price. It infuriates me that that we have over 40 million people with a common and basic, need, yet instead of taking advantage of that power to secure lower prices for the most rapidly increasing component of health care, the Federal Government, under the proposal put forward, would outlaw that practice. This tremendous missed opportunity makes it clear to me that this bill was written with the interests of drug companies, not America's seniors, in mind.

The problems with this conference report go far beyond the inadequacy of the drug benefit. This bill not only fails to meet the needs of seniors and jeopardizes the retiree coverage used by 12 million Americans, it also lays a strong foundation for the demise of the Medicare program as we know it. Beginning in 2010, this agreement will expose millions of seniors to new cost and benefit uncertainties in as many as six large metropolitan areas, possibly including my home state of Rhode Island and neighboring Massachusetts.

This vast demonstration project, which will involve up to 7 million seniors, will subject Medicare to competition with private companies, coercing seniors into HMOs and private plans. These private companies will be given huge financial incentives to offer health coverage for seniors, funneling critical resources away from Medicare and those who rely on it. If a senior wishes to stay in the Medicare program, he or she will be required to pay the difference between the cost of the private plan and the cost of Medicare—which will, no doubt, skyrocket as private plans court the healthier seniors out of Medicare, leaving Medicare the more costly task of providing for a sicker, poorer risk pool. This plan breaks the fundamental promise of Medicare. It replaces a guarantee of quality health care with increased premiums, provides a voucher for health insurance, and leaves seniors and people with disabilities to fend for themselves in a market where they may not be able to find a health care plan that meets their needs. Medicare was created in 1965 because the private industry was unable to provide adequate health coverage for this population. The virtue of the system is that it creates a large risk pool. Injecting private competition, and subsidizing that competition with billions of taxpayer dollars, will leave the healthiest seniors with the ever-changing and unstable options of private plans, and will resign those who are not as fortunate, our most vulnerable population, to an even more uncertain fate.

Seniors in Rhode Island, and no doubt the rest of the country, will see through this scheme. My constituents remember the devastating effect of the abrupt departure of Harvard Pilgrim, an HMO that covered over 150,000 Rhode Islanders. The scramble to find a health insurance plan that would allow patients to keep their doctors, and the struggle to understand new sets of benefits that followed Harvard Pilgrim's exit from our state would be replicated on a regular basis in the regions affected by the so-called demonstration project contained in this bill.

I must also touch upon the issue of provider relief. I am a strong supporter of doctors and hospitals that serve Medicare beneficiaries, and voted three times this year in favor of striking the premium support provision from this bill and using that money to update provider payments instead of subsidizing private companies. The conferees failed to take this approach, instead providing some temporary relief to providers for the upcoming year, but no long term fix to the systemic problem that plagues doctors and hospitals year after year. Providers are already overburdened by Medicare-related paperwork and receive lower-than-average reimbursement rates for their services. Should the premium support provisions in this conference report become law, providers will be forced to negotiate new terms for payment annually with every private plan that emerges to serve Medicare beneficiaries in a region. This bill signs away the rights and responsibilities Congress currently has to these providers, leaving decisions about provider payments up to the CEOs of insurance companies. The high turnover rate of providers in participating Medicare + Choice plans signals the instability this will cause, for providers and patients alike.

In this year's debate over Medicare, once again, Congress has lost sight of what the public has asked for, and what American seniors need. Our seniors are choosing between paying their rent of buying food and obtaining the medication they need to stay alive. They need relief from prescription drug costs. They do not need the additional challenges, burdens and costs of navigating through a system of HMOs, subjected to a different plan, a different doctor and higher premiums each year. Our Medicare providers need a fair payment system over the long term. All Americans need their government to take action against the soaring cost of prescription drugs. Given the opportunity to make a difference in each of these areas, the Republican leadership chose to put their resources and their trust in the hands of insurance companies and drug companies. This Is a matter of priorities and principles. I urge my colleagues to make American seniors our priority, vote no on the conference report and immediately begin to take meaningful steps to solve these problems.

Ms. HOOLEY of Oregon. Mr. Speaker, over the last 7 years, Oregon seniors have told me

that their top concern is the high cost of prescription drugs coupled with the lack of coverage for these lifesaving medicines under the Medicare program.

Regrettably, the bill before us today does nothing to address the high cost of drugs, and it comes at too high a price for coverage. Many seniors would lose the expanded coverage they currently have through their retirement and many others couldn't afford the high premiums, deductibles and gaps in coverage.

Despite the hard work and good intentions of many members of Congress on both sides of the aisle, we have lost the forest for the trees.

And so I rise today in opposition to the conference report on H.R. 1.

In August, I sat in the House gallery with some guests as the reimportation bill came to the floor. We sat with a group of interns and junior staffers. Along the back wall was a line of representatives of the pharmaceutical industry. It was an interesting mix.

From that unique vantage point, we watched members on the floor who were not speaking to represent ''sides of the aisle,'' but who joined together across the aisle to form the People's House. It was an interesting perspective on the situation.

You couldn't necessarily tell what anyone's party affiliation was by the impassioned way they spoke about an issue that cuts across party lines. The vast majority of us were adamant about fighting for the people we represent back home who are no longer willing to tolerate the fact that people in Mexico and Canada can get their drugs for less than Americans.

That bill passed overwhelmingly, and yet this conference report has failed to include drug reimportation. It has failed to address the elephant in the middle of the living room: the high cost of drugs.

Seniors can't afford drugs, and they can't afford high priced coverage, or loss of coverage they currently enjoy.

Unfortunately, when we were closest to getting agreement on making medicines more affordable for all of the Nation's seniors, the pharmaceutical companies, who make the lifesaving drugs that patients need, killed every attempt to allow Americans to benefit from the same low drug costs that other countries enjoy.

They also made sure that this legislation specifically prohibits the Medicare program from negotiating the prices of drugs, a power that even other government agencies, such as the Department of Veterans' Affairs, have. Why? Because seniors would finally have the leverage to lower drug costs for themselves in this country. They would make one heck of a purchasing pool.

And, when we were closest to getting agreement on improving coverage for everyone, the conferees failed to adequately protect retirees' health coverage. Unfortunately, somewhere along the way we forgot that this isn't just a pharmaceuticals bill, this is a seniors' bill.

We lost sight of what senior's struggle with most . . . drug costs and the cost of coverage. And believe me, seniors themselves have noticed that we've lost sight of them.

Take 79-year old Ruth Beale of Portland who was just diagnosed with Parkinson's disease who writes: ''I still work 3 days a week as a companion to a 103 year-old. This gives me just enough cash to pay the $300/month for my prescriptions. Of course that doesn't include the pain medication for the Parkinson's, my doctor gives me free samples when she can, though sometimes she runs out.

My Social Security check is barely enough to cover rent, (and I live in a subsidized senior apartment), food and the $72 per month for my Medicare HMO premium. Under this plan, I wouldn't get any help for my drug costs. I really can't afford to pay any more than I do now. So I guess I'll just keep on working until I can't anymore—I'm going to give this Parkinson's a run for it's money though.''

And God bless her.

Although Dorothy Patch of Salem has supplemental insurance, she still pays over $230.00 per month out of pocket for her prescription drugs. Dorothy is concerned about being pushed out of the coverage.

Dorothy figures that she would actually pay more for her coverage if this legislation passes. Why?

1. Only 75 percent of her drugs would be covered up to $2,250 per year.

2. From $2,250 to $5,100 Dorothy would fall into the ''donut hole'' and not receive any coverage at all, while she is still responsible for paying a $250.00 deductible and $35.00 monthly premiums.

3. Even though under her current plan, Dorothy is paying $230.00 per month, there is no donut hole in her coverage and she is covered no matter how high her drug costs become per year.

4. She is using a fee for service system and does not want to be forced into an HMO.

The truth of the matter is that people who currently have no coverage would gain a little at a very high price, a cost that many who have contacted me say they cannot afford. For many in the district I represent, this legislation is a step backwards. For others, it is a sore disappointment that we were unable to slay the giant and make reasonably priced medicines within their grasp.

At the beginning and in the end, for me, this issue has always been about the high cost of drugs and the need to affordably expand coverage. Regrettably, this bill prohibits ways to lower drug costs for American seniors and, for many, the coverage provided in the bill comes at a high price they simply cannot pay.

I urge my colleagues to reject this bill, go back to the negotiating table and give seniors what they really need: affordable drugs and affordable drug coverage.

Mr. MATSUI. Mr. Speaker, I rise to express my strong opposition to the Medicare conference report before us today. It shortchanges seniors who have waited far too long for a comprehensive, affordable prescription drug benefit and it undermines the Medicare coverage they have counted on for almost four decades.

First, the drug benefit in this bill is woefully inadequate. Seniors will have to pay a $250 deductible before they receive any benefit, and there is a significant gap in coverage, or ''donut hole'', where seniors will continue to pay monthly premiums but receive no assistance towards the cost of their drugs. In fact, a senior with $5,100 in annual drug costs would pay $4,020 of that cost out of their own pocket.

The fact that seniors have to pay 80 percent of their first $5,100 in drug costs is appalling. But, it doesn't stop there. This bill does nothing to lower drug prices. To the contrary, it explicitly prohibits the government from using the collective purchasing power of more than 40 million seniors to negotiate lower drug prices. So, not only does this bill make seniors pay 80 percent of their first $5,100 in drug costs, it prevents the use of reasonable tools to bring those costs down.

Now, let me address for a moment the 12 million retirees who already have health insurance from their former employers. The Congressional Budget Office estimates that this bill will cause 2.7 million of them to lose their existing coverage. This happens because the bill excludes employer contributions from counting towards the prescription drug catastrophic cap. This will incentivize employers to reduce their coverage to the level in this bill or drop it altogether to avoid having to pay the cost of prescription drugs in the donut hole.

Finally, this bill undermines the fundamental commitment of Medicare to seniors. Beginning in 2010, Medicare will be forced to compete with private companies for the provision of all Medicare and prescription drug benefits. Often referred to as ''premium support'' or ''privatization'', this provision shifts Medicare from the guaranteed, defined-benefit program it currently is to a defined contribution plan. Under this legislation, privatization is aided by almost $20 billion in subsidies to insurance companies and HMO's, creating a competitive advantage that allows them to attract healthier seniors, leaving sicker or chronically ill seniors in Medicare. The result will be a Medicare program that is unaffordable for the seniors who need it the most.

Mr. Speaker, as we consider the merits of this legislation, it is critical to look at the history of health coverage for seniors in this country. Medicare was created in 1965 because seniors were unable to find health insurance in the private marketplace. The bill before the Congress today would return us to that very same scenario and I urge my colleagues to vote against it.

Mr. CASTLE. Mr. Speaker, I rise today in support of the Medicare Prescription Drug Conference Report, and thank all the Conferees for their dedication to providing relief for our seniors. This landmark legislation updates Medicare and finally brings the program into the 21st Century by modernizing the program and providing a prescription drug benefit. While not perfect, this bill presents us with an historic opportunity of providing 40 million Medicare beneficiaries with relief in the face of rising prescription drug costs. Every member of this body has identified health care reform as a top priority and now we have the opportunity to make progress. The reality is clear—every year we postpone this debate and fail to compromise on a Medicare and prescription drug bill, while the burden of drug costs on seniors continues to increase.

In 1965 when the Medicare program first began, the average senior's spending for prescription drugs was $65 a year. In 2002, overall spending had risen to $2,149—a 35-fold increase. The average retail prescription price increased more than three times the rate of inflation from 1998 to 2000. Over 60 percent of seniors spend more than 1,000 per year on prescription drugs and of those seniors, 17 percent spend more than $5,000. And with 80 percent of retirees using a prescription drug every day, the expense for many is out of reach. These statistics clearly show the transition of patients relying mostly on hospitals and

physician for their health care needs to patients relying more on prescription drugs as measures for health treatment and prevention.

The bill aims to make prescription drugs more affordable and more accessible by creating a voluntary prescription drug benefit. For the first time, since the creation of the Medicare Program, seniors, no matter where they live, will be able to receive financial assistance to help pay for these drugs, which are becoming increasingly integral to disease prevention, management and treatment. Seniors can keep whatever drug coverage they have now, choose a private plan or stay in the traditional Medicare program.

Once the benefits is in place, Medicare will pay 75 percent of seniors' drug costs up to $2,250 per year, with a $250 deductible and a monthly premium of $35. With the CBO estimate indicating that the average senior will spend $1,891 on drugs in 2006, I think most seniors will find this to be a strong improvement. Importantly, this legislation provides the most generous benefit to the lowest income seniors. These seniors do not pay a premium, nor do they have a deductible and there will not be gaps in coverage for the drug benefit.

This bill also takes strong steps towards preparing Medicare for future challenges, such as being equipped to meet the needs of retiring baby boomers. We offer new preventatives measures including an initial physical and certain preventative benefits such as diabetes and cholestrol screening as well as chronic care disease management. These common sense reforms are long over due—who can believe that Medicare was not covering an initial physical for our seniors? Encouraging beneficiaries to participate in preventive and early detection programs can not only improve their immediate health, but has potential to save billions in future healthcare costs.

Another key component of this legislation are incentives for employers to retain and enhance retiree coverage. During the debate in both the House and Senate a significant amount of time focused on employer-based coverage. With increasing costs of health care as a whole, it is logical that employers are looking for a way to reduce their overhead. Most likely, retirees who tend to be more costly than younger, healthier workers, are targeted for cost cutting measures. These are concerns that provisions would be included in this legislation to allow employers to drop coverage based on age, but fortunately, due to the work of many, that did not happen.

One-third of all Medicare beneficiaries currently have prescription drug coverage through their former employers. Retirees want to keep that coverage and frankly, I believe they should be able to make that choice for themselves. This legislation provides a percentage subsidy to employers who maintain coverage for their retirees, which also saves Medicare money. Specifically the legislation will provide a federal subsidy to employers equal to 28 percent of drug spending by their retirees between $250 and $5,000. This applies not only to private companies, but also to state governments, and unions, like teachers unions, which often have very generous retiree packages. Of course, this is not a fail-safe solution. The higher costs associated with retiree health care coverage is an expensive matter for most corporations, unions and other providers. But, we hope that these incentives will help curtail the problem.

Importantly, this legislation also contains numerous provisions intended to speed the entry of generic drugs into the market by preventing multiple 30-month stays by brand drugs and incentives for generic manufacturers to challenge weak or inappropriately listed patents. Generic drugs often provide consumers with a low cost alternative and I hope that the medical community will continue to make efforts to inform patients about the availability of generic drug options.

We also address the reoccurring problem of physician fee cuts by increasing reimbursements by 1.5 percent instead of earlier proposals to cut them by 4.5 percent. I have spoken to a lot of doctors in Delaware who said these cuts were likely to put them out of business. With the rising cost of malpractice premiums compounded by cuts in reimbursements, some physicians may have already been forced to close their doors, which clearly impacts all of us. However, this is only a temporary fix. We must now move forward to fix this physician fee formula that was laid out in the Balanced Budget Act so doctors are not strung along year in and year out worrying about this potential cut. I hope to work with my colleagues to ensure this formula is fixed in the coming years.

This legislation is not perfect and no one here today will tell you that it is. One of the major issues missing from this bill is a good faith provision allowing the reimportation of prescription drugs. Despite the overwhelming support in the House for true reimportation, this bill simply encourages the status quo by requiring the Secretary of Health and Human Services to certify the safety of these drugs coming from Canada. Essentially this is the current law of the land, yet we do not see pharmacists and wholesalers importing drugs from Canada and passing those savings on to consumers. Seniors will be forced to continue the bus trips to Canada and mayors and governors will continue to negotiate agreements with Canada, until we truly address our prescription drug costs. This bill does include a study to research the major safety and trade issues regarding reimportation, and I hope it will be conducted in good faith and in a timely manner so we can return to this important discussion.

I also have serious concerns about premium support and forcing Medicare to directly compete with private insurance plans because I believe it can lead to higher costs for those seniors who choose to stay in Medicare. While I believe the demonstration language in this legislation is far less disconcerting than a full premium support provision, I will continue to monitor this closely. In the end, we cannot undermine the basic tenets of the Medicare program, which has a history of providing an equal benefit no matter where seniors live. Varying premiums within and among states is surely not the message we want to send our seniors. Hopefully this demonstration program will yield positive results that drive costs down—only time will tell. I will work to ensure that Medicare is viable and that seniors who choose to stay in Medicare are protected.

I commit myself and I hope others will join me, in continuing to address the rising cost of health care, prescription drugs and the rising ranks of the uninsured. According to the U.S. Census Bureau, an estimated 15.2 percent of the population or 43.6 million people were without health insurance coverage during the entire year of 2002, up from 14.6 percent in 2001. That is an increase of 2.4 million people. What's even more disconcerting is the percentage of people who are employed but lack health care coverage. That number dropped from 62.6 percent to 61.3 percent. However, these are clear and challenging issues that we must address in the upcoming session.

Despite these and other concerns I have, I am supporting this legislation because I believe it provides desperately needed relief to Americans suffering from their overwhelming health care costs. American seniors have waited long enough for this assistance and I encourage my colleagues to provide them with the immediate relief in this bill.

Mr. RODRIGUEZ. Mr. Speaker, I rise to express my strong opposition to the Medicare Prescription Drug Conference Report that we will be forced to vote on today. This bill has been crafted behind closed doors with the help of those corporate interests which will most benefit. Unfortunately, the bill they have created offers nothing more than empty promises to our Nation's seniors.

Medicare was built on the principle that all seniors should have access to health care, regardless of how much you make or where you live. And for over forty years, this program has successfully worked to provide access to health care, offering hope and security to America's seniors. As the nature of health care has changed over the years, however, we recognize there is a need to improve upon the program and address the prescription drug price crisis.

Seniors that I have met with back home have asked that I fight for a prescription drug benefit under the traditional Medicare plan and that is exactly what I have done. Over the years, I have worked to enact legislation that would establish a guaranteed and affordable prescription drug benefit for all Medicare beneficiaries.

The industry-backed bill that Congress will vote on today falls far short of a benefit that will truly fit seniors' needs. While the bill provides $112 billion to entice managed care companies to participate in the program, seniors will receive little assistance with their drug costs. For the first $2,000 of coverage, the consumer will pay over $1,100; for the first $5,100 of coverage, the consumer will pay approximately $4,000. Put another way, if a consumer buys approximately $5,100 of drugs a year, the consumer will pay nearly 80 percent of that cost.

Despite the $400 billion price tag, millions of retirees and low-income beneficiaries will find themselves in an even worse situation. Up to 6.4 million of the poorest and sickest Medicare beneficiaries, including close to 390,000 Texans, could have drug coverage reduced. The bill prohibits Medicaid, the nation's low-income health insurance program, from helping with co-payments or paying for prescription drugs

not on the formularies of the private insurers administering the new Medicare benefit. And 2 to 3 million seniors could lose retiree prescription coverage, including at least 132,000 Texas retirees, due to a provision that lowers Medicare assistance to employer-sponsored retiree health plans.

Furthermore, by relying on private companies to deliver a benefit, we force seniors into the arms of the health insurance industry. We have learned all too well that private Medicare insurance plans do not work. In the early 1990s, Medicare HMOs were touted as the way to control escalating costs, but by the end of the decade, private plans abandoned thousands of seniors in rural regions. Over the past couple of years, Medicare+Choice beneficiaries in metro areas have faced dramatic increases in premiums and co-payments, and reduced benefits. Given that the Republican Medicare bill does not guarantee a defined premium and plans will have substantial flexibility to create their drug benefit, millions of beneficiaries will face the same situation in the years to come.

Lastly, this bill forces us down a path towards privatization. By employing measures like the voucher-type premium support system and the creation of an overall budget cap, we end Medicare as we know it. Congress established Medicare to rescue seniors from the failure of the private sector to offer insurance or health coverage. Now we are going back.

This 600-page measure will produce the biggest change to our safety net system in over forty years. The crafting of the legislation was done behind closed doors with the help of special interest groups. Incredibly, most Members of Congress have had less than twenty-four hours to pore through the pages and analyze how the bill will truly impact America's seniors.

I understand there are important provisions in this bill for certain hospitals and providers such as increased Medicare reimbursement rates for physicians and an increase in the Medicare DSH cap for rural hospitals. I have supported similar measures in the past either by cosponsoring legislation or voting in support of such legislation.

However, there are also provisions in this bill that will hurt patients tremendously. The Medicare bill still contains drastic cuts to our nation's cancer care system. Despite several efforts by the cancer community to reach a compromise, the bill will deprive America's cancer care system of $1 billion a year. A cut like this will be devastating to cancer care. If this happens, many cancer centers will close, others will have to admit fewer patients, and still others will lay off oncology nurses and other critical support staff.

Mr. Speaker, I urge my colleagues to vote against this bill. I do not agree with those who say something is better than nothing. I say a bad bill is worse than no bill at all. This proposal goes against the fundamental principles of a program created to serve all seniors. Let's not give America's seniors more bad medicine. Reject the Republican plan and adopt one that provides real coverage for all seniors.

Mrs. TAUSCHER. Mr. Speaker, ''I strongly believe that seniors deserve and need a prescription drug benefit that's part of Medicare. I believe we should strengthen Medicare by adding drug coverage that will save seniors money and preserve the choices that matter. I will vote against this bill because it does not get us where we need to be.

''This legislation prohibits Medicare from negotiating lower drug prices; gives big drug and insurance companies $82 billion in subsidies just to compete with Medicare; and will privatize Medicare by pushing seniors into HMOs.

''I introduced a bill that would have provided immediate, real drug discounts to all seniors without turning over part of Medicare to HMOs. Unfortunately, it was not brought to a vote.

''There are many serious problems with the bill being debated today that people are trying to sweep under the rug. Up to a quarter of seniors on Medicare would pay more for prescriptions than they do now. Up to seven million seniors would pay higher Medicare premiums unless they join an HMO and give up their choice of doctor. Two to three million retirees would lose the drug coverage provided by their former employers. Millions of seniors would go without drug coverage for parts of every year, even though they would be charged premiums year-around. Seniors would be prohibited from purchasing American-made drugs from Canada at lower prices. After they have spent $1,169 on prescription drugs, seniors will have to pay their full drug costs until they reach $3,600 in drug expenditures.

''I am deeply suspicious that this bill, written almost entirely by Republicans, put the special interests of HMOs and pharmaceutical companies over seniors' interests. It will give $82 billion to private insurance companies so they can compete with Medicare, yet Medicare will be forbidden from negotiating lower drug prices with drug companies and competing in the same way. Even AARP has a financial stake in this bill. The company derives almost 60% of its annual revenue from selling insurance products. If they capture even 10% of the prescription drug market, their profits would be $1.5 billion.

''As a former investment banker, I know risk management. The magic of Medicare is that everyone has always been in the pool—the wealthy and healthy as well as sick and lower-income seniors. This bill will turn that on its head—driving the healthy and wealthy out of Medicare and creating large tidal pools in which sick and lower-income people are left without anything.

''It is a bad bill that will hurt millions of seniors and not really benefit anyone but the drug and insurance companies. I will vote against it, and I encourage all of my colleagues to stand up for seniors and do the same.''

Mr. HOLT. Mr. Speaker, I rise in opposition to this legislation.

As my constituents in central New Jersey know, I have been working ever since I came to Congress to provide Medicare beneficiaries with coverage for the prescription drugs that improve their quality of life and often save or extend lives. Today we are considering a bill that purports to provide such coverage, but unfortunately fails on several counts.

I have pledged to the seniors in my district that I will not support any legislation that undermines Medicare, a program that has succeeded in providing adequate health care to tens of millions of seniors for nearly 40 years. That is why I cannot and will not support the proposal that is before us. We can do much better, and with something this important, we should not get it wrong.

First and foremost, this legislation would devastate the Medicare program. It forces several million seniors into private plans and lays the groundwork for privatizing the traditional fee-for-service program. In New Jersey alone, an estimated 186,000 seniors will be affected. We need to strengthen Medicare with a drug benefit, not use prescription drug coverage as a mechanism for dismantling the entire program. It is simply not good policy to spend $12 billion of taxpayers' money just to set up a for-profit competitor to Medicare.

Second, even after the government spends all this money, seniors will not even get a very good benefit. It is true that any level of assistance will be of some help to seniors, but the gap in coverage under this bill will leave most seniors still paying thousands of dollars out-of-pocket. In fact, seniors with high drug costs must pay over $4,000 to receive $5,100 worth of medications. For many seniors, after August or September or whenever their drug bills reach $2,250, they would get no benefit—even though they would continue to pay their monthly premiums.

Third, this bill clearly undermines the universal nature of the Medicare program. Everyone, no matter what his or her income level, pays Medicare payroll taxes, and everyone is entitled to an equal benefit. But under this legislation, many low-income seniors would be subject to an assets test to see if they qualify for low-income subsidies. I know seniors in my district will be up in arms when they hear they have to send in bank statements or declare the value of things they own, potentially even having to sell some to get the benefit.

This bill is also bad news for the 220,000 seniors who currently receive prescription drug coverage through New Jersey's highly successful Prescription Drug Assistance for the Aged and Disabled (PAAD) program. While the bill will allow the state to receive Medicare funds for its PAAD spending, it also means that seniors will not receive their prescription drugs in the same simple, reliable way they did under PAAD. Seniors may find themselves limited to a list of approved drugs and face other restrictions not imposed by PAAD.

The bill also fails our physicians and other health care providers. While it purports to solve the problem of insufficient reimbursements, it actually offers little more than a Band-Aid. Two years of a 1.5 percent increase will provide some small measure of relief, but Congress must still address the long-term problems inherent in the current physician payment system.

Health care providers should also be alarmed by the provision that triggers an automatic congressional procedure once general revenues make up an arbitrary proportion of Medicare spending. This means that a few years down the road, providers may find themselves facing drastically insufficient reimbursement levels, and seniors will find themselves with fewer benefits and fewer doctors willing to accept Medicare patients. One editorial writer noted that the spending trigger would sound an alarm if Medicare spending exceeds certain levels, but the bill itself does almost nothing to control spending.

This bill fails our seniors, and unfortunately, it will fail the test of history. We have a historic opportunity to craft a bill that genuinely helps seniors afford the medicine they need. Sadly, the Republican leadership has decided to write a bill that privatizes Medicare, moves

seniors into managed care plans, leaves gaping holes in coverage, and puts current retirees' benefits in jeopardy. I will not support such a plan.

I urge the Congress to address this again in January. I firmly believe we can pass a bipartisan prescription drug benefit that is universal, voluntary, dependable, and affordable, if we make the choices that put seniors first.

Mr. SKELTON. Mr. Speaker, there is no truer indication of a nation's priorities than the investment it makes in the health of its citizens, particularly our senior citizens. Medicare was created nearly 40 years ago with a basic fundamental principle in mind: health care coverage should be guaranteed, affordable, and equitable to all seniors. Throughout the time I have been privileged to serve in Congress, I have worked to make sure Medicare remains strong for those currently benefitting from its coverage and for those who will rely upon its benefits in the years ahead. As a member of the Rural Health Care Coalition, I was pleased when the administration and congressional leadership announced earlier this year that providing a prescription drug program within the reliable Medicare system was a high priority for the 108th Congress. However, it has become clear throughout the year that efforts to provide a meaningful prescription drug benefit within Medicare were being undermined by a systematic attempt to destroy the Medicare program. I am disappointed that the bill before us today, H.R. 1, does just that, undermining the very foundation of Medicare while creating a confusing and inadequate prescription drug coverage program for rural Missouri's seniors.

As I visit with seniors throughout Missouri's Fourth Congressional District, it remains clear that they depend on Medicare for their health care. They understand Medicare and trust it cannot be taken from them. Medicare is part of a health care contract with the senior citizens who brought this Nation out of the Depression, fought in our wars, and paid into the Medicare trust fund so they would have health coverage when they need it most. Unfortunately, H.R. 1 seeks to destroy the Medicare system on which these Americans have depended for nearly 40 years. Under this bill, in just six short years, millions of senior citizens in America could be coerced out of Medicare and into private insurance plans that generally don't do business in rural America. While the drafters of this measure explain that these private plans are simply a demonstration project and seniors don't have to participate if they don't want to, once the door is open to privatizing this vital government program, I am afraid it will not be closed.

It is also troubling that if these so-called demonstration projects take root around the nation as H.R. 1 prescribes, seniors within Missouri could be paying very different prices for the exact same health care benefit. It would create a very confusing situation, where folks in Versailles could pay more than citizens of Blue Springs or Lamar for their health care needs. Show-Me State seniors trust Medicare because they know that everyone participating in this program will pay the same rate for their health care insurance no matter where they reside. H.R. 1 undermines this fundamental principle, which could create even more disparity in the health care coverage of rural Missourians.

In addition to undercutting Medicare, I am concerned that the prescription drug portion of H.R. 1 will negatively impact seniors living in rural Missouri. This measure would require Medicare beneficiaries who wish to receive the new prescription drug benefit to enroll in private drug plans which rarely operate in rural America. These plans would be run by large insurance companies that would likely charge different premiums for the same prescription drugs. As an added benefit to large insurance companies, H.R. 1 would provide them with a $12 billion taxpayer subsidy while creating a $2,800 gap in prescription drug coverage for seniors. According to an article published in The Wall Street Journal on November 18, 2003, ''for the drug industry, the legislation is good news, at least in the short run.'' This is just plain wrong.

For rural Missourians, H.R. 1 would also impose an assets test on low-income seniors who earn below 150 percent of the federal poverty level. Seniors whose income falls within this financial threshold may be forced to either pay additional prescription drug costs if their assets—their car, their farm equipment, or their acreage, for example—total $10,000 per individual or $20,000 per couple, or sell their possessions to get cheaper pills. Many seniors in rural areas rely solely on their Social Security checks to get by each month and they should not be forced to sell their belongings or their property to qualify for a more comprehensive drug benefit.

While I am dismayed that the leadership of this Congress would work to dismantle Medicare through this legislation, I am pleased that conferees were able to address Medicare reimbursement rates for rural doctors and hospitals. Through the years, I have worked with my colleagues in the Congressional Rural Caucus to boost reimbursements to those who provide health care in rural America. In fact, time and time again on the House floor, I have voted to instruct the conferees writing the Medicare bill to abandon divisive ideas of privatization in order to provide more adequate reimbursement to rural providers. Unfortunately, these motions were defeated each time.

Mr. Speaker, senior citizens throughout Missouri understand and trust Medicare. They have worked all their lives, paid their taxes, and contributed to a system that takes care of their health care needs. Medicare is a contract with our seniors that should not be broken. That is why I will oppose H.R. 1 and urge all my colleagues to do the same.

In the days ahead, I look forward to working with my colleagues in a bipartisan manner to provide senior citizens with a real prescription drug benefit that strengthens Medicare.

Ms. CORRINE BROWN of Florida. Mr. Speaker, today the Republican party will finally do what it has been trying to do for 35 years, destroy Medicare.

Claude Pepper, my mentor on health care issues, the most well known advocate for seniors, a man who fought for years and years to strengthen Medicare and Social Security, would be rolling in his grave if he were here today.

This is a life and death issue for many of our senior citizens, and this hollow bill does nothing for them.

A snake is a snake, no matter what color it is. And AARP is getting into bed with a snake, the Republican party, in supporting this bill. To the AARP leadership, I have some sage advice that my Grandmother used to tell me: ''Those who sleep with dogs, wake up with fleas''.

Each provision in this bill is one more nail in the coffin of a program that has guaranteed health care for this Nation's seniors for 38 years. Under the Republican plan, HMO's that offer an alternative to Medicare will pick and choose their customers, and get paid more than Medicare to do it. And yes folks, these are the same Plus Choice providers that are fleeing your districts in droves, and leaving your seniors with absolutely no healthcare options.

Even more disturbing is the fact that this bill prohibits, yes, prohibits, Medicare from using its bargaining power to cut drug prices.

What happened in the 2000 election is a U.S.A. coup d'etat. This is what happens when you don't have fair elections. Folks, it matters who is in the White House. This is entirely a Republican initiative, and their goal is to destroy Social Security and Medicare entirely. Their goals is not to modernize it, but to have it wither on the vine.

Mr. STRICKLAND. Mr. Speaker, today, this Congress is missing a golden opportunity to pass a real prescription drug benefit for all seniors. During the Energy and Commerce Committee's consideration of the prescription drug bill this summer, my colleagues and I offered many amendments that would have improved this bill to ensure that all seniors, regardless of where they live, have access to an adequate, affordable, reliable prescription drug benefit. But my Republican colleagues defeated our amendments and pushed through a partisan bill that will do little to give meaningful help to the middle income seniors who most need a prescription drug benefit.

In other words, Congress is passing up an opportunity to ensure that the retired, 68-year-old steelworker who had a heart surgery last spring and lost his retiree health insurance this summer, and who, along with his wife, has an annual income of about $28,000 can afford the prescription drugs they need to stay healthy. This bill does not even ensure that a person under these circumstances can access affordable prescription drugs from Canada or elsewhere in the world. For shame that we are passing up such an opportunity to do the right thing by our seniors.

The AARP says that the prescription drug bill we are considering today is better than nothing, that it's one foot in the door. I disagree. The voucher demonstration program in the bill lays dangerous groundwork for a privatization scheme that I believe will undermine Medicare's ability to provide a guarantee of health security for all Americans when they turn 65. In addition, the drug benefit created by this bill will force many seniors to private insurance plans for their drug benefit. My colleagues who support this bill say that seniors want ''choice'' and that the private plans will give them the choice they want. Well, the seniors I talk to want choice, but not choice of a private plan. Instead, they want choice of their doctor, pharmacist, and hospital; they want the ability to choose their treatment plan when they are sick and the choice to access preventive services to keep them as healthy as possible. If seniors in my district have the choice of a private plan, the Medicare safety net as we know it today is no longer there. This is especially true since the bill we are considering tonight doesn't require these private plans to offer a standard premium, deductible,

or copayment—in fact, where these private plans have been tried, monthly premiums have ranged as high as $85 a month, not the $35 promised by proponents of this bill. I cannot overstate this: the bill we are voting on does not mandate a $35 premium.

Additionally, this bill includes a $12 billion slush fund to bribe private HMOs to participate in Medicare. This $12 billion is in addition to about $8 billion in huge overpayments to private plans. I believe that the billions we are spending in this bill in payments to private plans are simply to support an ideology of privatization that seeks eventually to destroy Medicare. This ideology is needless when you consider that traditional Medicare has both a strong track record with seniors and the amazingly low administrative overhead cost of only 2 to 3 percent.

It is for all of these reasons that I cannot support this bill. However, it does include some good provisions that I wish I could vote for today. I wholeheartedly support the physician and hospital provisions, particularly for rural providers. For the last 2 years, doctors have faced significant scheduled cuts in their Medicare reimbursements, leading some to stop-taking new Medicare patients or drop out of the program altogether. Especially in the current environment of high malpractice rates, rising medical school costs and medical school debt, rising overhall health care costs, and a growing Medicare population, it is unacceptable for Congress to ask doctors to continue providing the same care for less money. And our rural hospitals are struggling to maintain their ability to serve as our health care safety net for the uninsured. Seniors depend on a strong network of physicians and hospitals to provide care; each time a physician decides he or she cannot afford to take new Medicare patients, seniors are forced to look elsewhere to find care. This is particularly troubling in rural areas, where there are fewer physicians and where it may be more difficult to travel to a doctor's office.

I realize how important these provider provisions are, and I would say to the doctors and hospital advocates who are asking me to vote yes tonight that it is unfair to hold their needed reimbursement increases hostage in a bill that includes so many controversial provisions. We can and should pass a provider reimbursement bill apart from this Medicare package. In fact, I hope that we can defeat this Medicare bill and immediately pass these provider increases in a stand alone bill before we leave this session.

In closing, I reiterate my support for adding a strong, adequate prescription drug benefit to Medicare. Seniors need such a benefit and Medicare is not a complete health insurance program without it. But the benefit before us tonight does more harm than good, particularly in the long term. I urge my colleagues to vote no.

Mr. SERRANO. Mr. Speaker, I rise in strong opposition to the conference report on H.R. 1, the Republicans' Medicare ''reform'' bill. On procedure and on substance, the legislation is deeply flawed and the best course now would be to start all over and work toward a bipartisan package that truly provides benefits to our elderly and disabled Medicare participants.

Others have eloquently expressed the reasons to oppose this legislation, so I will not take much time to repeat what has been said. But I will quickly mention the major flaws.

This enterprise was meant to help seniors and the disabled get the prescriptions they need at affordable prices, but that's certainly not where it is ending up. This bill both increases the burden on seniors and lays the groundwork for taking Medicare apart altogether.

Coverage is limited and complicated, and there is a huge ''donut hole'' in coverage that, when combined with premiums, deductibles and copayments, can leave seniors paying up to $4,000 of the first $5,000 of prescription expenses as well as paying premiums but receiving no benefits for part of the year. Worse, dual eligibles, the Medicare beneficiaries who are poor enough also to be eligible for Medicaid, will end up worse off under an all-Medicare regime.

Drug prices in this country are high and rising fast, keeping even seniors with drug coverage through their employers facing difficult choices between medicines and other necessities. But the bill before us explicitly prohibits the Federal government from negotiating lower prices for Medicare beneficiaries. It also ignores the will of most Members of Congress who support reimportation of prescription drugs from Canada and other select countries. What a windfall for the pharmaceutical companies!

Millions of retirees who now have coverage through their former employers may end up without it when the bill's incentives cause employers to drop retiree health benefits.

The premium support demonstrations present insurers with the opportunity to cherry-pick healthier, wealthier beneficiaries, leaving Medicare covering the high-cost sicker and poorer elderly and disabled, which would force fewer beneficiaries to pay higher premiums until Medicare became unaffordable and unsustainable.

There are many other reasons to oppose this conference report. Let me just note that it does not include the Senate provision to remove the 5-year bar on federal health benefits for legal immigrant children and pregnant women.

The Republicans have not been shy about announcing their intention to dismantle the Medicare program, and this bill is a major step down that path.

Mr. Speaker, this is a profoundly bad bill that should go back to the drawing board. As the National Committee to Preserve Social Security and Medicare wrote to Members yesterday ''. . . a bad bill is worse than no bill at all''.

Mr. Speaker, I urge my colleagues to vote ''no.''

Mr. MORAN of Virginia. Mr. Speaker, I rise in opposition to the Medicare prescription drug benefit conference report that the House is scheduled to consider today.

I want to make it clear that I strongly support a Medicare prescription drug benefit for our nation's seniors and am supportive of a universal, affordable, voluntary and guaranteed Medicare prescription benefit for all.

Unarguably, the enactment of the Medicare program in 1965 was one of the wisest things Congress has ever done. At that time, there were very few prescription drugs with wide applicability, and that is why Medicare did not cover prescription drugs.

In large part, because of Medicare and Social Security, we have raised the life expectancy of our citizens, lifted millions of Americans out of poverty, and vastly increased the quality of life for our nation's senior citizens.

Unfortunately, this conference report does not reflect the vision and ideals of Medicare set forth by President Johnson and Congress, and will, if passed and signed into law, harm the 57,000 seniors that reside in my congressional district and millions of other seniors in America.

It had been my hope that any expansion of the Medicare program to include a prescription drug benefit would be above partisan politics. We have all heard first-hand from seniors how the high prices of their prescription drugs negatively impact their already limited incomes.

This issue which cuts across political lines should be about what's in the collective interest of our nation's seniors.

Unfortunately, this debate on one of the most important domestic issues, which not only affects today's seniors, but future generations as well, did not rise above partisan politics or enhance our democratic process.

In a decade, 10,000 people a day will turn 65 years old and with the retirement of the Baby Boom generation, America's senior population will almost double.

This conference report provides a weak prescription drug benefit for all seniors—regardless of income, and will change the Medicare program as we currently know it, by overpaying private insurance companies to administer this drug benefit, while giving them great latitude in setting premiums, deductibles, and pharmacy choice with little oversight through a premium support system.

One of the reasons why I voted against the House version of the Medicare Prescription Drug and Modernization Act of 2003 (H.R. 1) was that Medicare beneficiaries would pay 20% of their drug costs up to $2,000 and 100% of drug costs from $2,000 to $3,500, while still subjecting them to monthly premiums that would result in a gap of prescription drug coverage for most beneficiaries.

The coverage gap that exists in this conference report is even worse. Seniors will pay 100% of costs between $2,250 and $5,100—a gap of $2,800 which will be increased to over $5,000 by the year 2013.

I also cannot support a conference report that does nothing to alleviate the high costs of drugs imposed on seniors. This conference report actually prohibits the Secretary of the Health and Human Services from negotiating lower drug prices with the bargaining clout of the 40 million Medicare beneficiaries as well as the importation of drugs from countries where drug prices are lower, except Canada and only if they are certified by the Food and Drug Administration.

While I am pleased that this Congress has finally addressed the issue of reimbursement rates for doctors, hospitals, and other important health providers, I am discouraged that this conference report is still a bad deal for our seniors, and the endorsement of this legislation by the AARP, comes into question. The AARP is not recognizing its membership's need and desire for a true Medicare prescription drug benefit without the heavy reliance on the private health insurance industry.

It is with great sadness that I will have to vote no on this conference report. My constituents want a legitimate Medicare prescription drug benefit, lower drug prices and better Medicare services.

This conference report undermines the Medicare system, and I am afraid, will do

more harm in the long run than good in the short term for our seniors.

Mr. ETHERIDGE. Mr. Speaker, I rise in opposition to H.R. 1. As the Representative of North Carolina's 2nd District, I know firsthand how hard our older people have to struggle to pay for their prescription medicines. Since I began my service in the people's House in 1997, I have worked to create a prescription medicine benefit for our seniors. Seniors deserve a guaranteed Medicare prescription medicine benefit, not empty promises. I have consistently supported a prescription medicine benefit plan that features low, predictable premiums and allows seniors to obtain medicine from any doctor they choose. And I want seniors to be able to get their medicine from the local pharmacy, not some huge mail order company.

I oppose H.R. 1 because it does not deliver on its promises. This bill will force 73,000 Medicare beneficiaries in North Carolina to lose their retiree health benefits entirely and leave thousands more with significantly reduced benefits. According to the nonpartisan Congressional Research Service of the Library of Congress, this bill will force 222,800 Medicaid beneficiaries in North Carolina to pay more for the prescription medicines they need. Under this bill 99,500 fewer seniors in North Carolina will qualify for low-income protections than under the Senate bill because of the assets test and lower qualifying income levels. This provision will hit particularly hard the many farmers in North Carolina whose farm equipment and land are considered financial assets even if the farmers' income is below the poverty line. Also according to CRS, under this bill, 37,920 Medicare beneficiaries in North Carolina will pay more for Part B premiums because of income relating. And according to the CMS Actuary Tables, the premium variation under the bill's premium support program would range form $1,225 in some parts of North Carolina to $675 in other areas of the state. The bill contains a huge hole in coverage which will result in no benefit at all for seniors with prescription costs between $2,200 and $5,044.

I oppose H.R. 1 because this bill will have devastating economic consequences because the $400 billion price tag will be added directly to our massive national debt of $6.8 trillion. A few short years ago, we had achieved surpluses as far as the eye could see and were on pace to erase the national debt. But this Administration's tax policies have produced record budget deficits that will be compounded by the conference report on H.R. 1. Deficits matter for our current economy because increased borrowing means the government has to spend more and more tax money on interest costs and will have less available for other important priorities. ''For example, even before this bill passage, this year the federal government will pay $156 billion for interest on the national debt. That is three times what the federal government will spend on education. When I asked a White House representative where the money will come from to pay for this bill, I was told that it is ''new money.'' This is not new money. These are borrowed funds that will be paid for by our grandchildren and their grandchildren.

Mr. Speaker, prior to holding elected office, I spent nearly twenty years as a small businessman. There can be no doubt that I strangely support the private sector. But there are some things the private sector does well and some things the private sector does not do well. Medicare was created because the private sector by itself does not do well at the important priority of providing a strong public health system for older Americans. This bill is a $400 billion ticket back to the days when senior citizens were forced to fend for themselves in the private health care marketplace. This bill sacrifices Medicare as we know it, and will cast senior citizens to the mercy of HMOs and force them to give up their own doctors and pharmacists.

Congress should reject this flawed bill and go back to the drawing board and get it right once and for all for our seniors. I urge my colleagues to vote ''no'' on the Republican Medicare Privatization bill.

Mr. EVANS. Mr. Speaker, this has been a disappointing week in Washington for seniors around the country. Not only are we voting on a bill that provides a meager prescription drug benefit through Medicare, but the once-regarded AARP has apparently put their profit margins before the health of the seniors by endorsing this Republican Prescription Drug bill.

There are so many disturbing provisions in this bill that I will only take the time to mention a couple.

This bill explicitly prohibits the Secretary of Health and Human Services from negotiating lower drug prices on behalf of America's 40 million Medicare beneficiaries. With my support, the Veterans' Administration adopted this practice some time ago, and the VA enjoys the ability to negotiate drug prices for numbers of veterans. This restriction on the Secretary of Health and Human Services clearly crimps efforts to keep prices down for seniors.

Another troubling provision is the ''demonstration project'' in this bill that coerces seniors out of the traditional Medicare program they know and enjoy to sign on with an HMO. Up to 7 million seniors may be forced to choose between staying in Medicare and purchasing a likely expensive drug-only plan from a private insurer or leaving their trusted doctors to join an HMO or other plan that would provide Medicare-like benefits including drug coverage. This is hardly a choice for our nation's greatest generation.

As our healthcare delivery system moves increasingly toward managed care, many people have expressed concerns about the care they receive from HMOs. Today it is frighteningly common for insurance companies, rather than doctors, to make the medical decisions that affect people's lives. As these concerns are aired, we are ready to throw our seniors into this lion's den. Until doctors are free to give the best medical advice based on a patient's need, not an insurance company's bottom line, our seniors are better served by traditional Medicare. While others have let HMO reform legislation die away, I still believe that we need to address these concerns, and they should be addressed before seniors are coerced into the system.

This debate has been fundamentally changed from one focused on providing seniors with a solid prescription drug benefit to defending the integrity of one of America's finest programs, Medicare. I have been part of the Democratic fight for years to add a meaning drug benefit for our nation's seniors, but I will not be a part of destroying a vital program that seniors have trusted for almost 40 years to settle for inadequate drug coverage. I strongly urge my colleagues to reject this bad bill.

Ms. SOLIS. Mr. Speaker, in 1965, Congress created Medicare and promised seniors that after a lifetime of working and paying into the system they would have access to health care coverage during their retirement years, regardless of where they live, their age or their income. Thirty-eight years later, instead of honoring our commitment to affordable, accessible health care for all seniors, Congress is set to create a prescription drug benefit program that will destroy Medicare as we know it and turn it over to the unreliable for-profit insurance industry.

A Medicare prescription drug bill should use the purchasing power of our nation's seniors to negotiate lower prescription drug costs, just as we do for veterans now, and it should provide assistance to low-income seniors who need extra help in their retirement years. Our hard working seniors and their families expect a high quality, affordable, universal and guaranteed prescription drug benefit within their trusted Medicare program.

Unfortunately, the Republican plan dismantles Medicare as we know it by turning it into a voucher system with private HMOs competing with the traditional Medicare system. Under this system, seniors who want to stay with the traditional Medicare system they trust would face premiums that could vary dramatically across the nation. Premiums for traditional Medicare in the Los Angeles area could be as much as $1,700 per year—119% more than seniors in other parts of California.

This bill is especially troubling for retirees who have health benefits through a former employer. I have received dozens of calls and letters from retirees concerned about the Medicare proposal's impact on the prescription drug coverage they have through a former employer. Well, under the Republican bill an estimated 244,860 Medicare beneficiaries in California will lose their retiree health benefits because the bill does not sufficiently stem the tide of employers reducing or dropping their retiree health coverage.

Nearly 6,000 seniors in my district are living below the poverty level, so I am especially troubled about what this bill will mean for low-income seniors struggling to pay for the medicines they need. The bill will increase drug costs for six million elderly and disabled Medicaid beneficiaries by imposing co-payments on their prescription drugs and prohibiting Medicaid from filling in the gaps of the new Medicare benefit. It is shameful that this bill would harm our most vulnerable seniors.

The supporters of this bill talk about the funding it provides for disproportionate share hospital (DSH) payments to hospitals that serve a high number of indigent patients and for improved Medicare payments to physicians. I have a strong record of supporting DSH funding, which is critical to protecting California's safety not hospitals. I have also long supported fixing the flaws in the Medicare physician payment system in order to help doctors who serve elderly patients, and recently voted to increase physician payments. It is important to note that the Democratic Medicare prescription drug proposal would have done substantially more to help doctors and hospitals than the bill before us today.

I would like to take a moment to comment on AARP's endorsement of the bill. AARP

claims to represent the needs of seniors throughout the country, but I can tell you that the seniors I represent are upset that AARP has chosen to endorse this wrong-headed bill that doesn't even meet the criteria they set back in July. I encourage seniors to continue to contact their lawmakers and let them know their views on this Medicare bill.

Let's be clear—the endeavor to make prescription drugs more accessible for seniors began as a bipartisan effort to modernize Medicare for our new era. Now it has turned into a fight for the soul of Medicare. I am tremendously disappointed that my Republican colleagues have chosen to reward the private insurance companies and big pharmaceutical industry at the expense of seniors. However, I will continue my efforts to ensure that seniors have access to the medicines they need.

Mr. REYES. Mr. Speaker, it is with great regret that I rise in opposition to the conference report on the Medicare Prescription Drug and Modernization Act of 2003.

I regret that I must do so, because I have long been a strong advocate for providing America's senior citizens with an affordable, comprehensive prescription drug benefit under Medicare. Unfortunately, however, the bill before us today would harm rather than help the more than 77,500 Medicare beneficiaries in El Paso County, Texas, which I represent, and millions of others like them across the country.

For example, instead of a comprehensive, continuous prescription drug benefit, the bill offers a benefit that has a $2,800 gap in coverage that will leave about half of Medicare beneficiaries without any prescription drug coverage for part of the year, even though they will still be paying monthly premiums. While without coverage, many Medicare beneficiaries in my district will have to pay the entire cost of their prescription drugs out of their own pockets, which is the very circumstance we are supposed to be remedying.

Rather than doing more to help low-income seniors, this bill fails to ensure that they will receive the prescription drugs they need under the proposed new program. The bill would, for the first time, prohibit federal Medicaid funding from being used to pay for drugs not paid for by Medicare. In Texas alone, it is estimated that 389,400 Medicaid beneficiaries would pay more for their prescription medications under the bill. In my congressional district, where approximately one in five people over age 65 lives below the poverty line, this change could be devastating.

At the same time, the bill requires states to make large annual payments to the federal government, offsetting the savings states would have realized by having the federal government provide drug coverage for low-income seniors under Medicare. In short, for the first time ever states will have to fund a federal Medicare benefit, at a time when my state of Texas and many other states are facing budget troubles.

Insteaad of expanding re-importation of prescription drugs, with appropriate safety checks, the bill blocks re-importation. By doing so, it ensures that Americans will continue to subsidize low drug prices in other countries, while paying the highest drug prices in the world here at home.

Rather than empowering Medicare with the authority to use its purchasing power to negotiate better drug prices, as the Veterans Administration currently does, the bill specifically prohibits Medicare from doing so. As a result, the pharmaceutical companies benefit, but hard-working taxpayer will have to foot the bill for the higher costs.

Perhaps most troubling, the bill puts us on a path toward privatizing the entire Medicare system, breaking our government's solemn promise to America's senior citizens to provide guaranteed, quality healthcare under Medicare. Two generations of seniors have relied on Medicare and Social Security to ensure their quality of life in their retirement years. For many poor seniors in my district, these programs are their only safety net. To jeopardize that safety net would be unconscionable.

This bill, with all its shortcomings, will cost the American people nearly $400 billion over the next decade. It does include a few provisions that I strongly support and have voted in favor of repeatedly—most notably provisions providing increased Medicare reimbursement rates for healthcare providers and funding to reimburse local governments and emergency medical providers for providing care to undocumented immigrants. However, the bill would do such significant harm to Medicare recipients and the Medicare program that, on balance, I find that I cannot support the legislation.

Mr. Speaker, I urge my colleagues to oppose this conference report, so Congress can instead offer America's seniors that kind of Medicare prescription drug benefit they desperately need and truly deserve.

Mr. BACA. Mr. Speaker, I rise in opposition of the Republican Conference Report on H.R. 1.

I oppose this Republican plan because it is bad for seniors. It's bad for California. And it's simply bad for the American people.

There are 40 million seniors across this Nation that need a safe and reliable healthcare plan that protects them, whether they are sick or not.

This plan will not help seniors. This is a $400 billion plan that will privatize care and cost seniors more than they pay now.

This plan is similar to having car insurance that doesn't really protect you. You're fine as long as you don't get into an accident.

Seniors are only fine under this plan if they don't get sick. But because of privatization, when a senior gets sick, this plan offers no guarantee that their premium will stay the same or that their carrier will continue to cover them.

Under Medicare, seniors at least had a guarantee that they would be insured. They at least had a guarantee that if they got sick; someone would be looking out for them.

Under this plan, privatization could force as many as 7 million seniors into HMO's. Seven million. How is this fixing Medicare? Who is this guaranteeing that all seniors have coverage?

Our parents and grandparents deserve better. They do not need privatization. They need to know they are going to be insured.

They need to know that they are going to be protected despite the cost.

Under this plan, there is a $2,800 gap that will leave millions of seniors without drug coverage. This plan leaves seniors uninsured for part of the year despite the fact that they are paying premiums.

Much like car insurance, if you knew your car wasn't going to be insured for half of the year, you wouldn't drive it.

But we can't do that with our health. Seniors can't say I just won't get sick. It doesn't work that way.

In my district of San Bernardino, California, we have seniors who board buses to travel down to Tijuana to purchase life saving prescription drugs.

Will this plan help the seniors in my district get off that bus?

No. If we pass this bill, seniors will still have to travel to Mexico to get their prescriptions.

The practice of forcing seniors to go across the border must stop. We have no way of knowing what our seniors are actually purchasing. This isn't safe and it isn't fair.

This bill could actually raise the cost of prescription drugs for over 6 million low-income seniors, and one in six Hispanics. In my home state of California, almost 900,000 will have to pay more.

Those are the people in my district. Those are the people that are risking their lives, going across the border, to purchase their prescriptions. And this bill does nothing to help them.

The Republicans are ignoring what seniors need.

Under this plan, over 3 million low-income seniors are going to be forced to pass a test before they get help paying for prescription drugs.

If you are a senior and you simply own a home, a car, or even a burial plot you could be considered too wealthy to get help with prescription drugs, under this plan.

If you are a homeowner, you'd better catch the bus for Tijuana because that is the only way you will be able to afford your prescription drugs because the Republicans think that you are too wealthy.

Many seniors in my district have worked hard their entire lives trying to put food on the table for their families. Many of them have been fortunate enough to have some health coverage from their employers.

Under this plan, 3 million retirees could lose that coverage. That affects over 250,000 seniors alone in California.

This plan leaves the seniors in my district will no option but privatized healthcare.

Our abuelos, our grandparents, have worked too long and too hard to be ignored.

They need a prescription drug coverage that preserves traditional Medicare, helps low-income seniors afford prescription drugs and keeps retirees in employer sponsored health plans.

It's time to give seniors what they want, what they need, and what they deserve.

Mr. OSBORNE. Mr. Speaker, I rise in support of H.R. 1, the Medicare Prescription Drug, Improvement and Modernization Act.

Today, this House will consider landmark legislation to help our Nation's seniors afford their prescription medications. I am particularly pleased with the generous assistance this legislation provides for the low-income seniors in my district.

Those seniors with incomes below 135 percent of poverty (individuals with incomes under $12,123 and couples under $16,362) will be eligible for a prescription drug discount card that immediately applies $600 annually toward the purchase of their medicines and covers up to 90 percent of their prescription drug costs. Seniors with incomes between 135 and 150 percent of the federal poverty level ($12,123–$13,470 for individuals and

$16,632–$18,180 for couples) could ultimately have 85% of their drug costs covered.

Beginning in 2006, seniors without coverage would have the option to join a Medicare plan that requires a $35 monthly premium and would cut seniors' yearly drug costs roughly in half. For example, a senior without any drug coverage and monthly drug costs of $200 would save more than $1,700 each year. Seniors with no drug coverage and monthly drug costs of $800 would save nearly $5,900 on drug costs each year. In addition, seniors would be protected against high out-of-pockets costs with Medicare covering as much as 95% of drug costs over $3,600 each year.

Mr. Speaker, this legislation also provides a historic opportunity to help strengthen the rural health care delivery system with billions of dollars in additional Medicare payments. For far too long, Medicare has short-changed rural health care providers in my district, which threatens seniors' access to care. This legislation eliminates many of the disparities that exist between rural and urban physicians, hospitals, and other health care providers.

Finally, this bill includes important cost-containment provisions. These accounting safeguards will alert future Congresses and Presidents if the expenditures of the entire Medicare program exceed 45 percent of total Medicare spending so they can address the problem.

This may not be a perfect bill, but it is a good bill, and I urge my colleagues to support the Medicare conference report.

Mr. KANJORSKI. Mr. Speaker, I rise today to speak about the conference report on H.R. 1, the Medicare Prescription Drug, Improvement, and Modernization Act of 2003. While I wholeheartedly support providing a prescription drug benefit to our Nation's seniors, I cannot support this bill in its current form because it does more harm than good.

Since the House of Representatives first began debating the creation of a prescription drug benefit for Medicare recipients, I have consistently maintained that this proposal must adhere to four key principles to garner my support. In my view, we must create a benefit that is affordable, easy to administer, nationally available, and comprehensive. I believe that the bill crafted by the conference committee falls short on all counts.

In addition, there are many other provisions folded into this bill that will substantially alter the Medicare system as we know it. These provisions would privatize the program, cause millions of seniors to lose their prescription drug coverage through their employers, and result in insufficient reimbursements for some Medicare providers. These ill-crafted proposals also influenced my decision to vote against this bill.

AFFORDABLE PRESCRIPTION DRUGS

In working to create a prescription drug benefit, we must ensure that the plan is affordable for Medicare participants. The benefit that is outlined in this legislation, however, will provide little relief for the senior citizens in my district. Because the plan requires sizable premiums, deductibles and copayments, seniors can still expect to pay between 50 and 80 percent of the cost of their prescriptions. This bill also creates a gap in coverage that will leave millions of seniors with drug costs between $2,250 and $3,600 without any benefit, even though they continue to pay premiums. While some may conclude that this is a good start to providing a prescription drug benefit, I disagree. We must do more to make prescription drugs affordable.

Seniors across the country, and especially in my district, cannot afford to pay thousands of dollars each year in prescription drug costs. Those seniors living on fixed incomes must already sacrifice on other necessities in order to afford their costly medications. These seniors need immediate relief and this legislation will not provide that help. In addition to the cost-sharing provisions of this bill, the benefit does not even go into effect for another two years. In the interim, seniors will receive a discount drug card that will provide only minimal relief.

This legislation also purports to protect low-income senior citizens. Individuals at the poverty level will not pay premiums under the program and will have copayments of only $1 to $3 for each prescription. In addition, for individuals slightly above the poverty level, assistance with premiums and the deductible will be available. These individuals, however, will be subject to an assets test. Individuals must have less than $6,000 in assets to receive the benefit while married couples must have less than $9,000 in assets. Therefore, any low-income senior who owns a home, a car, or any other large asset will not be eligible for this financial assistance. In my view, we should not force senior citizens to choose between selling their homes and getting their prescription drugs.

In addition, this legislation does nothing to address the high cost of prescription drugs. Under the current bill, there is no methodology for insurance companies to negotiate for lower drug prices. If the program were administered through Medicare, the Government could negotiate with the pharmaceutical companies for lower, more affordable prices because the program would cover a larger number of seniors.

Furthermore, with my support, the House recently passed legislation that would allow for the reimportation of prescription drugs from 24 foreign countries. These medications are often the same as those sold in the United States. They are, however, sold at a much lower price. Unfortunately, this legislation provides only for the reimportation of drugs from Canada and requires that the U.S. Food and Drug Administration certify that the reimportation of drugs is safe. While this may seem like progress, it is not. The Food and Drug Administration has already indicated its unwillingness to consider such a certification. Consequently, this legislative sleight of hand on drug reimportation will not increase the availability of affordable prescription drugs in the United States.

EASE IN ADMINISTRATION

A Medicare prescription drug plan must also be easy to administer. The proposal before us fails to meet this standard. This plan will create a complicated system of payments and programs. As a result, it will be difficult to administer.

In particular, senior citizens should not have to worry about whether the amount of money they spend on prescriptions during the year will leave them paying the whole amount of their drug costs at some point during the year as this bill does. Seniors who annually spend more than $2,250 for prescription drugs will find themselves without any coverage at all for a portion of the year. In order to remain in the program, however, these seniors will need to continue to pay the monthly premium, whether the program provides assistance or not.

Such a system will create confusion for seniors. This benefit should provide a sense of security for the elderly, who are used to receiving their benefits through the Medicare program. Instead, this complicated program will only serve to provide older Americans with more worries about their health care needs.

NATIONWIDE AVAILABILITY

An effective Medicare prescription drug plan must also be available nationwide. By making the benefit available through private insurance companies, there is no way to ensure that benefits will be equal across the country. in an area like Northeastern Pennsylvania, this scheme would have a devastating effect. By moving towards privatization, areas like mine would be disadvantaged because insurance companies would not be enticed to operate there. Northeastern Pennsylvania has a higher concentration of older residents than most areas in the country, and insurance companies will not want to operate in our area because they would not find it profitable, unless they charge exorbitant premiums. As a result, the government fallback provision would engage, but it would still result in these seniors paying more than those in other areas across the country.

We have tried such a scheme before. In 1997, we created the Medicare+Choice program. This failed experiment operated in Northeastern Pennsylvania for awhile. Initially, this program provided tens of thousands of seniors in our area with prescription drug benefits. Insurance companies, however, discovered that they could not make a profit because of the economics of the region. As a result, they abandoned the program, leaving thousands of senior citizens without affordable prescription drugs once again. By providing a prescription drug benefit through private insurance companies, we can expect this legislation to result in a similar outcome for Northeastern Pennsylvanians.

In addition, this faulty Medicare plan already anticipates that there will be a problem with providing prescriptions through private plans in areas like Northeastern Pennsylvania. Included in the bill is a provision to set aside $12 billion to pay insurance incentives to provide the prescription drug benefit. One must ask why, if we already anticipate the failure of the program, we are not considering alternatives, such as adding the benefit through Medicare.

COMPREHENSIVE BENEFITS

Finally, a prescription drug program must be comprehensive. Under a government program, seniors should have access to any drug prescribed by their doctor and the program should cover the costs of that drug. This bill, however, establishes a limited list of categories and classes of drugs, and only these drugs will be covered under the program. Hence, this exclusion will leave many seniors to cover more costly medications and experimental treatments out of their own pockets.

PRIVATIZATION OF MEDICARE

In addition to the prescription drug coverage, there are other changes made to ''reform'' Medicare by this legislation. If passed, for example, this legislation would put in place a radical system to privatize Medicare.

For example, rather than providing a prescription drug benefit through the current Medicare system, it will, as I have previously noted, instead be offered through private insurance companies, which can profit from their

participation in the prescription drug program. Once the system is in place it will be difficult to go back and make the necessary changes to make the prescription drug benefit affordable, easy to administer, available nationwide, and comprehensive. Earlier this year, I supported the Democratic version of this legislation that would have provided prescription drugs through Medicare and achieved these objectives. We should be considering that bill today.

This bill will also change the way the current Medicare program is run and move it towards a total privatization of the benefits Americans have worked their whole lives for and have come to depend on in their golden years. In 2010, this legislation would create a premium support demonstration program. This program would require seniors to enroll in a private plan and would provide a voucher for the cost of the insurance premiums. In addition, this bill would break the country into sections, providing different benefits in each. Therefore, the amount of money a person in Northeastern Pennsylvania pays could be substantially higher than the amount paid by a senior living in another part of the country.

In my view, this program will move the country on the slippery slope towards the total privatization of Medicare. Rather than providing health care benefits to senior citizens that are guaranteed, money would instead be provided to insurance companies to support seniors in a private program. We should not allow Medicare to wither on the vine. There is also no reason to believe that other benefits, such as Social Security, would not also eventually be privatized if we begin to privatize Medicare now.

PROVIDER ISSUES

This prescription drug bill also seeks to increase Medicare payment to physicians and hospitals. I must acknowledge that some of the provisions in this bill would provide relief to the doctors and hospitals in my area. In particular, the bill's provision altering the weight given to labor costs when determining the reimbursement rate for an area would provide millions of dollars to the hospitals in my district. In addition, physicians who are anticipating a 4.5 percent cut in their payment through Medicare would instead receive a 1.5 percent increase. Further, this bill provides additional funding for rural hospitals and for teaching hospitals.

For hospitals like the ones in my district, this legislation provides only minimal relief and these changes should not be used as a justification for voting for this bill. As one hospital administrator in my district said, ''If you are dying of thirst in a desert, even a drop of water looks good.'' Rather than providing a band-aid fix to these hospitals experiencing genuine financial difficulties, we should have worked to equalize reimbursements across the country.

In addition, there are portions, of this bill that will have severe impacts on the providers in my district. For example, the legislation provides for a system to competitive bidding for durable medical equipment to begin in 2007. This change in the program will have a devastating effect on the numerous small- and medium-sized medical equipment providers in my district. The competitive bidding system will cause a race to the bottom, resulting in cost cutting measures like layoffs and the loss of services provided for users of durable medical equipment.

RETIREE COVERAGE REDUCED

Beyond privatizing Medicare, this legislation will result in millions of retirees losing their employer-sponsored drug coverage, dealing an irreversible blow to the employer-based system that is the backbone of our Nation's health care system. Employer-sponsored retiree health benefits are the single greatest source of drug coverage for retirees, providing benefits to one in three Medicare beneficiaries. They also generally offer the best coverage available—generous benefits and low-cost sharing.

The Congressional Budget Office, however, projects that 2.7 million seniors in employer-based retiree plans will lose the coverage they have today due to the discriminatory treatment of seniors with retiree coverage in this legislation. As a result, those individuals would be forced into the flawed prescription drug program outlined in this measure. Men and women who have worked their whole lives with knowledge that they will have health and prescription drug benefits in their retirement should not be forced into a program that could leave them with inadequate benefits.

CLOSING

In sum, I cannot support this legislation. It falls short of providing seniors with an affordable, widely available, easily administered, and comprehensive prescription drug benefit. It will privatize the program and it will result in millions of retirees losing coverage through their former employers. Ultimately, this legislation will hurt senior citizens more than it will help them. We should do better for Americans in their golden years by defeating this bill and drafting a new one.

Mr. PASTOR. Mr. Speaker, I strongly support efforts to give prescription drug coverage to the Medicare patients who do not currently have it. But, this bill does a poor job of meeting our prescription drug needs, and it drastically and negatively alters the overall structure of the Medicare program.

We have the ability to give Medicare patients prescription drug coverage. But our hands have been tied by the arbitrary budget limits Congress has set on funding such a program.

Congress and the President decided that, over the next 10 years, $400 billion was all we could spend on helping the elderly who need prescription drugs. So, in order to meet this number, a prescription drug bill has been written that will prove inadequate for meeting the basic needs of today's senior citizens while proving itself a champion at destroying health care for the senior citizens of the future.

Simply put, Mr. Speaker, this bill is no longer about prescription drug coverage. It is about ending traditional Medicare coverage.

I oppose this bill for several specific reasons.

First, the bill will do little to alleviate significant out-of-pocket costs for most senior citizens. A senior who spends $2,200 a year, less than $200 a month, on prescription drugs, will be required to pay almost $1,200 for this coverage and the drugs. A senior spending $3,500 a year on prescription drugs will be forced to pay almost $2,500 out of his pocket. That is 70 percent of the total drug costs. While this bill provides some help, I fear it will not be enough to keep the poorest of our elderly from making the difficult choices between buying medicine and groceries.

I am also opposing this bill because, in essence, it is designed to privatize Medicare. The ''demonstration'' projects to be established in six areas of the country, the so-called Premium Support Program, is nothing more than a first step toward complete privatization. The authors of this bill hope that more and more people will forego traditional Medicare for cheaper private HMOs with less overall choice and coverage. In fact, the private insurance companies would receive billions of dollars in subsidies for luring patients away from the traditional program. We all know that the private insurance companies will only accept the healthiest of patients, leaving the sickest patients in traditional Medicare. This, in turn, would result in higher costs for traditional Medicare because it would serve a sicker population.

Additionally, I am opposing this plan because it will mean that a good portion of the 75 percent of Medicare patients who already have prescription drug coverage, many through former employers, will be dropped from their current plan and forced into a more expensive plan with less coverage. In hopes of avoiding that event, this bill is paying a tremendous subsidy to keep these companies from dumping their beneficiaries.

So, this bill provides billions and billions of dollars to private companies to help them lure senior citizens away from traditional Medicare and to continue to provide prescription drug coverage to former employees.

There is some disconnect here. As Robert Robb, the noted Arizona Republic conservative columnist writes, ''Congress is proposing to subsidize private drug plans that are currently being offered at no cost to taxpayers, in order to offer taxpayer-financed drug coverage to seniors that Congress hopes they won't take.'' He continues, ''See what I mean about being sort of stupid.''

Mr. Robb and I rarely agree on issues. But he has hit this nail right on the head.

A more logical solution might be to take these subsidies and use them to simply pay for prescription drugs for those who don't currently have coverage.

Mr. Speaker, I say, let's give prescription drug coverage to the senior citizens who need it. We could do that, in a fair and meaningful way. We only need the desire to do so. But, let's not hurt the seniors who have coverage, and all those in future generations, by passing this ill-advised legislation. We have the opportunity to do something good and important. Yet, the drafters of this bill have taken it as an opportunity to change the Medicare program so drastically that it can only prove devastating to this country's older population. Let's reject this bill and force ourselves to set aside partisan ideologies and help the current and future senior citizens of this great land.

Mr. BLUMENAUER. Mr. Speaker, our senior citizens need help with spiraling drug costs. It is outrageous that moderate income seniors pay the highest prescription drug prices in the world. The idea was to fix this problem, but somewhere along the line, the bill was hijacked by the Republican leadership for other purposes. I can't remember how many of my Republican colleagues have told me that they think this is a bad bill. From the Wall Street Journal to consumer advocates, thoughtful conservatives to people who classify themselves as very liberal, all find this bill deeply flawed.

Spending what's claimed to be $400 billion, but will actually entail far more cost to the

Treasury, and the unprecedented pressure and advertising may pass this bill. The fascinating reversal of position by the leadership of the AARP gives a public relations boost, but that move has already been attacked by its own members.

The authors of this bill are putting something in for almost everybody: not just the drug companies, but doctors, hospitals, insurance companies, and so on, but ignoring the fundamental needs of senior citizens. As over a thousand pages come into focus, details leak out and are investigated by outside groups, the press, even Members of Congress, it is clear the bill still does not meet the needs of our seniors. After all the dust settles, our senior citizens will still pay out of their pockets the highest drug prices in the world.

There's something wrong when the only people who appear to be happy with the Medicare Prescription Drug bill are the drug companies. They were able to strip out provisions that would have allowed reimportation of cheaper drugs from Canada. It will be illegal for the government to negotiate lower prices for Medicare recipients. Future price increases will not be indexed to inflation, but to the rate of runaway drug costs, ensuring that spending will continue to spiral out of control.

For the drug companies, the holidays may come a little early this year. Sadly, deserving senior citizens who need help won't even get this inadequate drug plan until 2006. Told that even in 2006, they will have to pay $4,000 of their first $5,100 of drug costs, they'll feel that they didn't get a present. I will vote against the conference report.

Ms. JACKSON-LEE of Texas. Mr. Speaker, this is about as ugly as it gets. Just when I thought the Republican Leadership could not work any harder to undermine the Democratic process, to abuse their power, and to play politics with critical issues at the expense of the American people—they have just taken it to a higher, or should I say lower level. Call it what you will. The Alliance for Retired Americans calls the Republican drug bill a lemon. Others call it a rotten turkey. Whatever it is, it sure isn't medicine for the American seniors who need it.

When Medicare was founded in 1965, U.S. Government formed a covenant with the people, and said, ''If you work hard and pay your share, we will make sure that you have access to health care when you retire.'' Modern medicine has made great strides over the past decades at managing health problems, not just through surgery and hospitalizations, but also with pharmaceutical drugs developed through great research at the National Institutes of Health, and in pharmaceutical companies here and around the world. These drugs can lead to dramatic improvements in quality of life, by helping Americans live longer, more comfortable, more productive lives.

As great visionaries Lyndon Johnson and the Members of Congress designed Medicare, however, they did not predict that prescription drugs would revolutionize medicine, and therefore they did not include drug coverage in Medicare. Medicine has changed, but the promise that the U.S. Government made to the American people has not. It is time for Medicare to change with the times. It is time to do the right thing and create a real prescription drug benefit for our Nation's seniors in Medicare.

I, with my Democratic colleagues, have been fighting day after day to make that happen. We have gone to the people of this Nation, and to our academics, and health care providers and developed bold plans to get people the medicine they need. We had developed great momentum and help might have been on the way. The problem is that ever since the times of Newt Gingrich, the Republican dream has been to privatize or destroy Medicare. That is why the Republican plan is a risky scheme only an HMO could love.

The Bush administration's Medicare Administrator has called traditional Medicare dumb and a disaster, highlighting Republicans' hatred for a program that Democrats have been fighting for since 1965. While Democrats have worked to modernize Medicare with prescription drugs, preventive care and other new benefits, Republicans are insisting on a riskier course even the conservative Wall Street Journal calls a business and social experiment.

When this process first began, and the President and the House and Senate leaders proclaimed that they intended to produce a prescription drug plan, my Democratic colleagues and I tried to give them the benefit of the doubt. We tried to work in a bipartisan fashion. At one point, I wrote a letter to the Members of the House-Senate Conference Committee and encouraged them to include fair provisions for our physicians and hospitals, so that they would be able to afford to continue providing excellent care for our seniors. I am pleased to say that they did respond to that request, and have put in some funds for those deserving groups. But that is where the collaborations ended. I wish that they could take the handful of good pieces in this bill and move them as separate legislation—the reimbursement pieces I asked for, the rural health provisions, the Hatch-Waxman Reforms—but they won't. These good things are being held hostage to leverage passage of a terrible bill.

Ultimately, the core mission of this bill is to provide prescription drugs to seniors and the disabled on Medicare. On that, this bill fails horribly. The Democrats on the Conference Committee, among them, had decades of experience in the field of health policy. No one could question their commitment to helping seniors, but in a deeply cynical move by Republican leadership, Democrats were barred from even entering conference meetings. That is against everything our Founding Fathers intended this ''People's House'' to be. We got our first glimpse of this bill just over 24 hours ago. Even in our haste to get it read, we have found numerous flaws and pitfalls in it. In 2006, if it is allowed to come into effect, I am sure our seniors will find many more.

Instead of merely blocking our ideas, as they have done for years, they hijacked this issue and in the name of a prescription drug bill, they are trying to shove a piece of legislation through Congress that will destroy Medicare as we know it. It privatizes Medicare, pushing seniors into HMOs and private insurance plans expecting them to do what is right for seniors. And we know from Medicare+Choice, that we cannot count on that. In one year alone, 46 percent of Medicare beneficiaries in Houston were chopped out of HMOs. Switching plans every year jeopardizes health and wastes time and money. The Republicans have invented new gimmicks like artificial caps on spending, and buzzwords, like ''premium support'' instead of what it really is a ''voucher'' system to replace Medicare in 2010.

It is a misdirected attempt, with a terrible benefit—with a giant doughnut hole in coverage. And as bad as the benefit package is—even it is not guaranteed. The entire system is just basically a guideline that Republicans hope and pray insurance companies will follow, and develop drug plans for seniors.

It seems like at this point, we might say, ''well money is tight, so let's just take what we can get, and be happy with this bill.'' But the conference report that we are now finally getting a glimpse of is so bad, it would actually leave millions of senior citizens worse off than they were without it. And as doctors say in the Hippocratic Oath, the most important rule in healthcare is do no harm.

Furthermore, there is no rush to pass this bill. The Republican authors conveniently made their plan kick in in 2006, well after the Presidential elections of 2004. Obviously, they don't want seniors to go to the polls furious when they realize how bad this plan is. The point is, we can wait until spring and do this job right—and still make their 2006 timeline.

AARP used to agree with us on every point I am making, but in a bizarre twist, this week the group, that supposedly represents the interests of our Nation's seniors declared that they would support this lousy bill. I was mystified by this until I learned that, according to a study done by Public Citizen that AARP will make an extra $1.56 billion in profits if this bill goes through. AARP is in the insurance business, and has become too tied to that industry and the Republican leadership. They have breached the trust of the American seniors, and seniors are angry. It is a sad turn of events.

With the measly Republican benefit, the average senior will actually be paying more for their prescription drugs a year after the bill kicks in, than they are paying now. And as every senior knows, it has a giant donut hole in the benefit plan, where seniors have to pay every nickel for their medications—thousands of dollars—while they keep paying premiums. This is tragic for seniors on fixed incomes, and it will be an administrative nightmare for pharmacies. It is a gimmick to compensate for the fact that the Republican administration has squandered and mismanaged our economy to a point that now they say we have no money to fund critical programs.

It seems that at every turn, the people who need our help are getting the short end of the stick. Minorities, who already suffer from tremendous disparities in health and health care, are left behind. While this bill gives a giant gift to the drug and insurance industries and other special interests, it does little to reverse those life-threatening disparities. My Democratic colleagues and I, in both the House and Senate, all came together recently and put forth the Healthcare Equality and Accountability Act of 2003. Our bill is the kind of thoughtful and comprehensive approach that healthcare deserves. One provision I wrote will create a Center for Cultural and Linguistic Competence to help every American take advantage of the health revolution that is upon us. The Republican Medicare bill seems to have the opposite goal.

For example, this conference report does not contain the Legal Immigrant Children's Health Improvement Act (ICHIA), included in the Senate Medicare bill, which would have

removed the 5-year bar on Federal health benefits for legal immigrant pregnant women and children. While these children and pregnant women may still get emergency medical care, States are unable to cover this population with basic medical services that may reduce the need for such emergency care. This unnecessarily increases the cost to taxpayers.

Hispanics are the largest minority group in the United States, and it's estimated that by 2025, Hispanics will account for 18 percent of the elderly population. Currently, one in six Hispanics seniors live under the poverty level. For these Americans, an increase in prescription drug payments or doctor's visits could mean disaster. Houston has a strong Hispanic population, and therefore my district will be hit especially hard by this bill.

And there is more bad news for Texas. 132,300 Medicare beneficiaries in Texas will lose their retiree health benefits. 389,400 Medicaid beneficiaries in Texas will pay more for the prescription drugs they need. 209,000 fewer seniors in Texas will qualify for low-income protections than under the Senate bill because of the assets test and lower qualifying income levels. 97,420 Medicare beneficiaries in Texas will pay more for Part B premiums because of income relating.

When we look at the health care system for our seniors in the United States today, we see two undisputable facts. One is that Medicare is an excellent program that seniors trust, and that delivers quality care at a fair price to those who pay in. The other is that drug costs are out of control and need to be brought down.

The Republican bill preserves the bad, the high cost of drugs—and it dismantles the good—Medicare.

Americans pay about twice as much for drugs as people do in other rich countries in the world—Canada, Germany, England, Japan. This is outrageous, since many of those drugs were developed here, by our workers, trained in our universities, funded by our National Institutes of Health. Our seniors deserve to get the same prices as they get across the border in Canada. The reason they don't is because the Canadian government negotiates with the drug companies, and says ''Hey, there are 30 million of us in Canada buying your products, give us a fair price.'' Both the Republican bill forbids the Secretary of Health and Human Services from bargaining on behalf of the 40 million seniors on Medicare. That is outrageous, especially considering how well such negotiations have worked at the Veterans Administration. This bill is a gift to the pharmaceutical industry and HMOs and the insurance industry.

This bill really is the epitome of just how bad partisanship and political demagoguery can get. Trying to pass it before Thanksgiving is a cruel—and expensive—joke on our seniors on Medicare. I don't want to do that to Houston. Let's don't do that to America.

I will vote against this bill, and keep fighting to get this done right.

Mrs. CHRISTENSEN. Mr. Speaker, I have listened to the debate tonight, and I think everyone agrees that some seniors and disabled would benefit by this bill. But if truth be told, many would lose, which is not what we set out to do—we need and promised a bill that provides a prescription drug benefit for all Medicare beneficiaries, not just a few.

What is clear and why we should oppose this bill, is that if passed it would sound the death-knell for Medicare.

We must insist that the Republicans provide funding to shore up our rural hospitals. We must insist that the Republican leadership not only increase the physician payments this fiscal year, but fix the formula, so that the payments won't be cut again next year.

But what we must not do, is let this divide and conquer tactic make us pass a bill that would do more harm than good and physicians and hospitals should not allow themselves to be used to dismantle the very program they and the patients they are sworn to serve, depend on for the long run.

With a few crumbs to seniors and the disabled, and playing on the dire need of hospitals and doctors, this bill is nothing more than another corporate give-away.

We can afford to vote this bill down, start again, with an inclusive process—the benefit doesn't start for two years anyway. What we cannot afford to do and must not do is to kill Medicare; we must vote no on H.R. 1.

Mrs. KELLY. Mr. Speaker, I rise in support of this important legislation. The Medicare Prescription Drug and Modernization Act will provide prescription drugs to seniors, and provide additional money for doctors and hospitals, both of which are the front line in providing health care.

I am particularly pleased with provisions in the bill which seek to provide financial assistance to hospitals currently experiencing difficulties with inadequate wage index reimbursement rates. And I am encouraged by the potential this bill holds for assisting hospitals in the Hudson Valley which are adversely affected by their proximity to the New York City Metropolitan Statistical Area (MSA).

I would also like to direct my colleagues' attention to an aspect of this legislation which perhaps hasn't received a great deal of attention, and that's the provision that creates Health Savings Accounts.

For years we have been concerned about the many people in this country who have no health insurance. Many of the uninsured are small business owners or employees who simply cannot afford health insurance. With the Health Savings Accounts established in this bill, the small business owner can not only save tax free money for health care, but offer tax free health care money to their employees.

Think of it. Now, because of Health Savings Accounts, the owners of small businesses across the country can make contributions—tax free contributions—to their employees.

Money in these accounts can be used for insurance premiums or spent directly on medical care. This means many more people can buy coverage. For the first time, health care will be more accessible to the millions of small businesses in this country.

This is a powerful tool for empowering working Americans who deserve to control important decisions over their own medical care.

Mr. NUSSLE. Mr. Speaker, I rise today to support a long overdue, welcome victory for Iowa's seniors and health care providers.

Medicare's policies have penalized health care providers in Iowa and other rural areas since the 1960s. While Medicare's primary purpose is to provide health care for seniors, its policies affect both our health care system and our economy. The flawed policies have had an impact not only on seniors, but on all Iowans.

As many of my House colleagues know, I have worked long and hard to address the problems affecting health care providers in rural states such as Iowa. In fact, I wrote this year's budget to reserve significant resources for rural health care as part of a $400 billion Medicare Reserve Fund. Later, in the Ways and Means Committee, I successfully amended the Medicare legislation to ensure that sufficient rural health care funds were included in the bill that was reported from committee. And I continued fighting on the House floor to ensure that these funds—the most generous rural package ever considered by the House—remained in the Medicare legislation as it worked its way through the House.

Today, we are considering a conference report that carries this rural health care package to the end of the process. The benefits for Iowa will be multiplied for years to come. This conference report contains an unprecedented $25 billion rural package including benefits of over $400 million for Iowa alone. I am proud to have worked toward this day with the distinguished chairman of the House Ways and Means Committee and with the senior Senator from my home state of Iowa.

With these significant strides to improve Medicare's reimbursement policies on Iowa's behalf, we help our health care providers to pay the bills and to continue recruiting and retaining top-notch professionals. With a more secure health care system in place, we can further job creation and economic growth for our state.

In addition to taking several steps to strengthen the overall program, we are, of course, finally giving seniors what they have sought since Medicare's inception in 1965—a prescription drug benefit that is affordable, accessible and completely voluntary. All seniors will save on their current prescription drug costs.

Another important feature in the bill is the provision to establish Health Savings Accounts (HSAs). These accounts will allow pre-retirees to accumulate tax-free savings over their lifetime and these savings will remain with the individual once they reach Medicare eligibility. Even with reforms such as these, I want to remind my colleagues that Medicare will still face long-term demographic pressures and Congress will likely have to take additional steps to address the program's sustainability.

Finally, as Chairman of the Budget Committee, I am pleased that the Medicare conference report—with a total cost of around $395 billion—is generally consistent with the $400 billion Medicare Reserve Fund that was laid out in this year's budget resolution. In a year of intense demands for limited government resources, this Medicare Reserve Fund was the largest policy initiative in the budget resolution and was arguably its centerpiece. Because the budget resolution struck a responsible balance between seniors' needs on the one hand and affordability on the other, we were able to generally stay within our own guidelines. I commend the conferees for staying within the $400 billion threshold.

Mr. Speaker, I have been spreading the word and twisting arms for a long time on behalf of legislation that would meet Iowa's health care needs. I am gratified that our message has been received and our persistence has paid off.

Mr. CAMP. Mr. Speaker, I rise in support of H.R. 1.

In the last five days, I've heard a lot about what this bill doesn't do. Let me be frank: life is not about what we don't do; it's about what we accomplish.

And, if I had a friend in need who asked me for $100 and all I had was $20, I wouldn't give him nothing. But that's what some here are prepared to do—turn away a friend in need.

For years we have agreed that our seniors needed a prescription drug benefit in Medicare; but unfortunately we have yet to provide them with any relief.

This Medicare bill offers a prescription drug benefit through competing private health insurance plans—marking the first time private sector plans and consumer choice would be the principal vehicle for delivering Medicare benefits. It also includes common sense reforms like preventive care and health savings accounts.

This is the first step in the direction of true reform. It's a step in the right direction and it is time we take it.

Mr. ORTIZ. Mr. Speaker, Congress created Medicare in 1965 to make healthcare affordable and available for all senior citizens. My colleagues and I have fought to maintain this original intent.

Today, the leaders in Congress are pushing dangerous legislation—called Medicare reform—on South Texas seniors that fails to include an adequate prescription drug benefit while privatizing Medicare, killing the program at the end of the decade.

This prescription drug ''coverage'' is not what seniors expect or deserve. When seniors have more than $2,200 in drugs costs, they will hit a gap, where Medicare will no longer cover the costs of their prescriptions until they reach $5,000.

When this happens, these seniors will be forced to pay 100% out of their own pockets while still paying monthly premiums. Meanwhile, their HMOs will select their doctors and their pharmacies.

Over 185 organizations with an interest in seniors' issues are wholly opposed to this bill. While one of the largest senior organizations has lent support to this bill (The American Association of Retired Persons, AARP), it is the only one to do so . . . it is the only one that provides insurance to seniors at a profit of $635 million . . . and the only one poised to take advantage of billions of dollars in the bill to entice private insurers to cover seniors.

The bill effectively ends drug reimportation by allowing the Secretary of Health and Human Services (HHS) to decide what prescriptions could be reimported. The HHS Secretary has already said he would allow none.

If this is not the answer, what is? I stand on my record, voting 8 times for a complete Medicare Rx drug plan . . . voting 6 times and co-sponsoring 6 bills supporting higher reimbursements to doctors and hospitals . . . voting 6 times not to kill Medicare . . . and voting 8 times and co-sponsoring 3 bills to improve rural healthcare.

Nothing in this bill makes prescription drugs cheaper. Other Federal programs, such as the Veteran's Administration, get cheap drugs negotiating directly with the big drug companies. The plan will keep the government from negotiating for lower drug prices for Medicare beneficiaries.

This plan protects the profits of drug manufactures instead of providing real savings to seniors. Rising drug prices are unaddressed in this bill, a victory for the drug industry for preventing any attempts to lower drug prices.

Meanwhile, the value of some seniors' property will be used to determine their level of coverage—including jewelry, cars, and other property of value for which they worked their entire lives.

In South Texas, for the short term anyway, the bill (which would not take effect until 2006) would help only about 30% of low-income seniors. Effectively, that means this bill will not help over two-thirds of our most needly seniors.

When I think about the seniors that bill will affect, I think of the ladies who took care of me as I grew up of Robstown, Texas. Life for them revolves around family and children, paying the bills and finding health care in their senior years.

These are the people affected by the bill, which ends Medicare as we know it, privatizing the entire progrm by the end of the decade. It is thousands of South Texans like these who have raised voices in opposition to this bill. I stand with them.

Medicare has been a trust between the government and those who do the hard work in our society, our senior citizens. Too many seniors depend on Medicare for their healthcare needs, and I will not support a bill that destroys that trust.

Mr. LARSON of Connecticut. Mr. Speaker, I rise today in opposition to H.R. 1, the Medicare Prescription Drug and Modernization Act of 2003. Some may claim that this legislation is the answer to the high prices seniors are paying for their prescription drugs. That is far from true. The reality is that this legislation is a Medicare privatization plan masquerading as a prescription drug relief bill. The big winners in this bill are not the seniors that desperately need relief, but pharmaceutical companies and big business.

Does this conference report strengthen the Medicare program that seniors know and trust? The answer is no. It includes a premium support demonstration project that is the first step towards forcing all seniors to choose private insurers to get the prescription drug benefit they need, or to pay more to stay in the traditional Medicare program. This bill having any effect at all is contingent upon the willingness of HMOs and insurance companies to participate, and the track record does not paint a positive outlook. We in Connecticut remember HMOs pulling out of Medicare Plus Choice plans because they simply could not make a profit.

Does this conference report allow the Government to negotiate the costs of prescription drugs and provide relief to seniors? The answer is no. The bill specifically prohibits the Secretary of Health and Human Services from leveraging the tremendous buying power of the Federal Government to negotiate lower drug prices for 40 million Medicare recipients, a system the VA currently uses.

Does this conference report allow reimportation of drugs from other industrialized nations so that seniors will be able to purchase less expensive drugs? The answer is no. It ignores the reimportation measure that this House passed this summer and places the decision in the hands of health officials who have vocally opposed reimportation.

Does this conference report help low-income seniors who need help the most? The answer is no. First, the proposal actually reduces coverage for the 6.4 million lowest-income and sickest beneficiaries who qualify for Medicaid today. It prohibits Medicaid from helping these beneficiaries with copayments or from paying for prescription drugs not on the formularies of the private insurers administering the new Medicare benefits. It also leaves behind 3.9 million seniors that would have qualified under the Senate bill. One reason for this is the imposition of an invasive assets test. This means that seniors with modest savings will not receive any assistance with the cost of their premiums, the deductible, copayments, or the cost of the medications while they are in the $2,850 coverage gap.

Does this conference report help cancer patients? The answer is no. It falls well short of the drug and practice reimbursements needed to provide millions of cancer patients with the care they need.

Will this conference report prevent employers from dropping health insurance for their retirees? The answer is no. Though incentives were added to encourage employers to maintain their retiree plans, the Congressional Budget Office estimates 2.7 million retirees will lose the existing coverage they rely upon and countless others may have their benefits reduced. Furthermore, it does nothing to protect retired teachers, firefighters, police officers, State and local government employees, and those who worked for nonprofit organizations.

Does this conference report help the hospitals and doctors struggling to meet the needs of their patients? The answer, surprisingly, is yes. It provides an increase in the Medicare Disproportionate Share Hospital cap for rural hospitals and urban hospitals with fewer than 100 beds. It increases payments for indirect medical education that would provide increased funding for the twenty Connecticut hospitals that have medical education programs. Also, it eliminates the 4.2% reduction in payments to physicians in 2004 and replaces it with a 1.5% increase for the next two years. These provisions are positive. But, this was intended to be a prescription drug relief bill and these positives are by far outweighed by the negatives of this legislation.

So, who are the winners in this conference report? The answer is pharmaceutical companies. They will receive the majority of the $400 billion that this legislation will cost. But, even better for them, they will not be forced to lower their prices. The Government will not be allowed to negotiate prices and seniors will not be allowed to purchase imported drugs from other industrialized nations. Apparently, the industry's army of lobbyists and $22 million in campaign contributions were effective.

Who are the losers? The answer is seniors, the ones this bill was meant to assist. They asked for prescription drug relief and we are trying to give them a Medicare privatization bill. That is why I urge my colleagues to join me in voting against this conference report.

Mr. UDALL of New Mexico. Mr. Speaker, I rise today with great disappointment in the conference agreement that has been brought to the floor. I sincerely hoped that the bill that passed the House in July would have been moderated with provisions included in the other chamber's bill.

Unfortunately, instead of considering legislation today that would have modernized the

Medicare program to provide prescription drug cost relief and coverage for seniors throughout this great nation, we have this agreement that is geared toward dismantling one of the most successful government programs ever implemented. Instead of considering legislation to modernize the Medicare formulas to fix the inequities between rural and urban areas, we are considering an agreement that wraps these crucial fixes in with a prescription drug benefit that is designed to achieve the ideologically extreme goal of privatizing Medicare.

Mr. Speaker, I will certainly admit that the provider package included in this agreement is excellent. For years doctors, hospital administrators, and other health care providers have suffered under the unfair Medicare formulas that severely hampered their ability to provide care to Medicare beneficiaries. The labor share revision, the geographic physician payment adjustment, increasing home health services furnished in rural areas, critical access hospital improvements—these are all incredibly important provisions that I strongly support in order to help strengthen the health care system in rural areas. I also support fixing the inequitable disproportionate share formula, which is done to a degree in this agreement. Unfortunately, however, the conference agreement removes language that would have given New Mexico a larger increase of DSH payments to $45 million. The physician fee formula update is another provision that is incredibly important. Without this fix, physicians will have no other choice but to stop seeing Medicare beneficiaries, which will lead to the total breakdown of a system that is already badly strained to its limits.

I recognize the importance of these provisions. I understand the difficulties that those in the health care industry are facing. I understand the difficulties seniors are facing in trying to purchase and pay for their medications. That is why I have cosponsored legislation to fix the disproportionate share provisions, I have cosponsored legislation to fix the Medicare physician payment updates, I have written letters supporting these provisions and urging Chairman Thomas to include these rural fixes in the legislation, I have written a letter to conferees asking them to retain this provisions, and, when this bill passed in July, I voted in favor of the Democratic alternative that not only included stronger rural provisions than those included in the Majority's bill, but also contained a real prescription drug benefit—not a benefit engineered to bring about the demise of the Medicare program.

Mr. Speaker, lets be clear about what our goal was supposed to be. We were supposed to create a new prescription drug benefit in Medicare. That's what we were supposed to be doing with this important legislation.

Unfortunately, we are doing much more than that, and a lot of it is terrible. We were supposed to be reducing the costs of drugs for seniors. Yet this plan prohibits the federal government from using its clout to force down the price of medicine.

We were supposed to help seniors keep their current drug coverage if they are fortunate enough to have it. Yet this plan may force up to three million seniors out of their current employer-based plans.

We were supposed to be strengthening the Medicare program by adding a voluntary benefit for prescription drug coverage. Yet this plan, under the guise of a premium support demonstration, weakens the Medicare program by forcing beneficiaries to pay more for Medicare if they don't give up their doctor and join an HMO.

We were supposed to help low-income seniors who get additional assistance from Medicaid afford their prescriptions. Yet this plan not only forces 6 million low-income seniors to pay more for their medications, but also imposes an unfair assets test that disqualifies seniors if they have modest savings.

We were supposed to be providing a prescription drug benefit that would ease the cost and emotional burden seniors face in dealing with medication purchases. Yet this plan leaves millions of seniors without drug coverage for part of the year due to the $2800 gap in coverage.

Mr. Speaker, I am extremely disappointed with this agreement. I am disappointed because what should have been a straightforward approach took a wrong-turn along the way. I think this is a terrible way to spend $400 million dollars on a supposed prescription drug benefit, and I will be forced to vote against this measure. I urge my colleagues to reject this shameless assault on Medicare.

Mr. STUPAK. Mr. Speaker, I rise today in opposition to this Medicare bill with limited prescription drug coverage.

This plan is bad for America's seniors and especially bad for rural areas like Northern Michigan, which I represent.

Medicare should be a right—this Republican Medicare bill threatens to undercut this right and destroy a program that seniors have trusted for nearly 40 years.

For most seniors, the prescription drug plan does not begin until 2006 while the Democrats' plan would have begun next year.

The Republican plan has a gap in prescription coverage the size of the Upper Peninsula. This gap starts at $2,250 and goes on until you hit $5,100.

We should be giving our seniors a real prescription benefit not one that gives you part-time coverage.

Illnesses and diseases do not take time off—you're not sick part of the time—seniors need full prescription drug coverage now.

Those seniors who now have coverage may lose it—CBO estimates that up to 3 million could lose their existing prescription drug coverage.

I cannot support a bill that will undercut our seniors' right to Medicare.

While Congress provides universal health coverage for Iraq that includes full prescription drug coverage—seniors in America will receive part-time prescription drug coverage but pay 100 percent of the costs.

Vote ''no'' on this ill-conceived bill.

Mr. DAVIS of Illinois. Mr. Speaker, I have heard my colleagues describe the prescription drug plan as ''not perfect'' and a ''step in the right direction.'' However, this legislation is neither. Our seniors will not gain better health coverage or a prescription drug benefit that is affordable. Instead the CBO estimates that approximately 2–3 million seniors, 107,000 alone in my state of Illinois, who currently have drug coverage from their employer, will lost that coverage. This bill lowers Medicare's assistance to the employers making it unaffordable to keep their retirees' coverage. The new cap on general revenue spending will cause reductions in provider reimbursement rates, higher out of pocket cost, or even raise the payroll tax—once again passing the buck along to future generations. Worst of all for our senior consumers, we do not even allow the Secretary of HHS to negotiate lower drug prices for them.

I am disappointed in this House for turning its backs on fulfilling our promise to seniors, but I am extremely disappointed that we are completely abandoning our Nation's most needy—our Nation's poor seniors. We are expecting our States to pay the Federal Government 90 percent of the cost of drugs for our low-income seniors. During a time when States are already faced with large debts and complicated decisions on what to cut next—how do we expect the States to afford 90 percent of the cost of drugs for our poor seniors? An estimated 6.4 million low-income and disabled people will have significantly worse coverage under this new plan. It is probably because this bill actually prohibits Medicaid from helping with copayments or paying for prescription drugs that are not approved by the private insurers. This means that certain, needed medications that are currently covered by Medicaid will no longer be available to seniors. This plan does not even provide assistance for our seniors that are between 150 percent and 160 percent of the federal poverty line that is an annual income of $15,300 to approximately $17,850.

Mr. Speaker, no one is saying that we should give our seniors something for free. But we are saying lets give them something that is fair, reasonable, and makes sense.

Mrs. BONO. Mr. Speaker, I rise in strong support of the Medicare Prescription Drug and Modernization Act of 2003. This has been a very long and cumbersome process; however, I believe that the American citizens will be pleased with what we have accomplished. I would particularly like to laud the accomplishments of the conferees who put in tireless hours crafting this monumental legislation.

More often than any other concern, I hear from the constituents of the 45th District regarding health care. They are legitimately frightened that without reform, they will lose their existing benefits and the standards of care to which they have become accustomed. The time had come to pass substantive legislation that will allow seniors to spend less money on prescription drugs and spend less time navigating through the red tape and paperwork.

This landmark legislation is responsive to the needs of our seniors and will allow access to affordable prescription drugs and improve health care to millions of our most needy senior citizens. This is the most generous package Congress has considered for rural and suburban health care giving seniors will have better access to doctors, hospitals and crucial treatment options, regardless of where they live. Additionally, this bill addresses the needs of the low income.

I am particularly proud that the bill includes the critical funding for relief from the drastic payment reductions in the Medicaid disproportionate share hospital (DSH) program. The provision will go a long way toward protecting California's fragile health care safety. The funding in the conference report will restore several hundred million dollars to safety-net providers in California over the next 10 years.

Safety net hospitals across the state of California, two of which are located in the 45th District in Moreno Valley and Indio, have had

to absorb drastic reductions in Medicaid DSH funding at a time when demand for their services has been increasing. The additional funding will help ensure that services to the most vulnerable populations are available.

This bill represents a breakthrough in the nation's commitment to strengthen and expand health security for its citizens at a time when it is most needed. I rest assured knowing that our nation's future generations will continue to receive the highest level of health care available.

Mrs. BIGGERT. Mr. Speaker, no single piece of legislation is as important to meeting the health care needs of Americans as is the bill we will vote on shortly, the conference report to H.R. 1, the Medicare Modernization and Prescription Drug Act. I rise to express my strong support for this legislation.

Today is truly a momentous day. Finally, Medicare will catch up with the realities of twenty-first century medicine. When the program was first created in 1965, the majority of medical treatment was done in a hospital. This is reflected in Medicare's current generous hospitalization benefit and paltry prescription benefit.

Well, times have changed, to say the least. Today, life-saving medications are helping seniors stay out of the hospital and live longer, happier and more productive lives. But, as we all know, prescription drugs are expensive, and seniors too often are forced to cut back on other necessities to afford the medicine they need. Passage and enactment into law of this conference report will help to ensure that this never happens again.

Here's how it works.

Six months from now, seniors will begin to see the benefits. In April of 2004, any senior who wishes to have one will be issued a voluntary drug discount card that will save them 10 to 25 percent on their prescriptions. For low-income seniors, $600 automatically will be added to their cards to help them afford the drugs they need. The discount card will work like a supermarket discount card, giving users a discount at the time of the purchase.

Another very important benefit kicks in beginning in 2005, when all newly enrolled Medicare beneficiaries will be covered for an initial physical examination. At last, patients and physicians will have an early baseline that can signal if problems exist or what areas might need to be monitored more closely in the future.

All beneficiaries also will be covered for cardiovascular screening blood test, and those at risk will be covered for a diabetes screen. These new benefits can be used to screen Medicare beneficiaries for many illnesses and conditions that, if caught early, can be treated, managed, and can result in less serious health consequences.

And perhaps most importantly, beginning in 2006, for the very first time in the history of Medicare, seniors will have a prescription drug benefit. If they choose to participate, seniors would pay about $35 a month. Once they have met the $250 a year deductible, 75 percent of their drug costs will be covered up to $2,250. When drug costs exceed $3,600 a year, 95 percent of costs will be picked up by Medicare.

No matter where in the country they live, seniors will be able to choose between at least two prescription drug plans.

If seniors are happy with the coverage they now have—and many in my district are—they do not have to switch into a new plan. This new benefit is absolutely, completely, 100 percent voluntary.

But there is much, much more to this bill than a prescription drug benefit option for seniors. In fact, this bill can affect the health and welfare of every American citizen, no matter how young or old. How is this so?

Well, first, this bill will expand access to health care for everyone.

As you know, physicians who see Medicare beneficiaries are reimbursed for the extra cost of treating these patients. These payments are already woefully inadequate and physicians have been forced to stop taking on Medicare beneficiaries because they simply cannot afford to keep seeing them. Under current law, these reimbursements will be cut by an additional 4.5 percent next year.

I am very, very pleased that the conference report addresses this issue by reversing the scheduled cut and increasing the payments by 1.5 percent. This means that more doctors will be able to treat more seniors, and more seniors will have a choice of which doctors they see.

Hospitals also will be better off under this bill. The conference report provides increases in payments to teaching hospitals and increases funding for hospitals that treat a large number of Medicare patients. It also reimburses hospitals for the costs of using the most advanced technology. In short, the conference report ensures that hospitals can continue to care for Medicare beneficiaries.

Finally, this legislation encourages Americans of all ages to save for their own healthcare needs. The Health Savings Accounts—HSAs— will let people save money and accumulate interest—tax-free—in order to take care of health care premiums and other medical expenses.

HSAs are completely portable, so when people change jobs, they can take their accounts with them. Individuals also can make ''catch-up'' contributions to their accounts once they turn 55, and still enjoy the tax benefits.

These accounts will help thousands of individuals who do not have access to health insurance—or who wish to augment their coverage—to better afford it.

Our seniors have worked hard throughout their lives. They should be enjoying their golden years, not worring about how to pay for their life-sustaining medicines. This legislation will go a long way in helping them get back to the business of enjoying life.

Drug discount cards, baseline physical examinations, prescription drug coverage, and disease screenings are just a few of the great new features that will help seniors stay healthy.

Health savings accounts and improved levels of physician and hospital reimbursements will go a long way to improving access to health care for Americans of all ages.

I am honored to support this legislation and I encourage my colleagues to do so as well.

Mr. CAPUANO. Mr. Speaker, I rise today to voice my strong opposition to H.R. 1, the Republican Prescription Drug Bill.

This bill represents the first step in a Republican plan to end Medicare as we know it. Under the guise of providing seniors with the prescription drug coverage they so desperately need, this Congress is attempting to destroy the program that seniors have depended on for over 35 years to provide them with the affordable, reliable health care they need and deserve.

Mr. Speaker, not only does this bill fall far short of what the senior citizens of this country expected of us, but it fails by the most basic of standards: it prohibits the federal government from negotiating for lower-cost drugs; it may lead to 3 million seniors losing the good prescription drug coverage they currently have through former employers; it subsides HMOs at 124 percent of what it pays to traditional fee-for-service Medicare; it creates new Health Savings Accounts, which benefit mostly the wealthy; and it sets up new ''cost-containment'' measures, designed to lay the groundwork for future cuts to beneficiaries and providers. But most alarmingly, this bill contains a massive demonstration program that it the first step toward the privatization of Medicare.

The ''premium support'' demonstration project in this bill could force 7 million seniors to be subject to a social experiment that has never been tested. Under the demonstration program, HMOs could ''cherry-pick'' healthy and wealthy seniors citizens, leaving the poor and sick in the traditional program, undermining the social insurance pool. Premiums for those in the traditional program would be driven up, and they could also vary by region and fluctuate from year to year. This is an unacceptable assault on the Medicare program that will only result in higher profits for the insurance industry.

There is no denying that some people may benefit from this bill. For example, it does provide some prescription drug coverage for those with the lowest incomes. Although instituting the first assets-test for low-income beneficiaries in Medicare's history, it will mean that many of these senior citizens now have access to prescription drugs.

Further, as the Member representing many of the teaching hospitals in the Boston area, I am well aware of the important provisions in this bill that will provide essential funding for the world-class hospitals, dedicated doctors, and other health care professionals who work so hard to provide quality care to all the citizens of my district.

However, the positive elements of this bill do not outweigh my concern for the damage this bill could do to a program that has become an integral part of our society. The steps toward privatization contained in this legislation are unacceptable. I am not willing to gamble with the health of our nation's seniors, placing their well being in the hands of the insurance industry. I do not believe this is a risk worth taking. Medicare has served us well for over 35 years. Its demise would mean an America where senior citizens are left to fend for themselves in the private insurance market without a safety net. While this bill may offer some appealing short-term benefits, the price could be the end of Medicare as we know ti. I cannot and will not be a part of it.

I urge Members to vote ''no'' on H.R. 1.

Mr. SHERMAN. Mr. Speaker, I rise to protest the process that brings H.R. 1, the Medicare reform and prescription drug legislation, before the House today. These procedures could only be described as undemocratic and unfair.

Republican Leaders were in the room for weeks as this bill was drafted, and were able to brief their members on its contents. Democratic Members could not begin to analyze the bill's provisions until yesterday.

We were given almost no time to review the conference report for this momentous legislation. We have waived the rules of the House to allow for this hasty, almost immediate consideration of a bill more than 1,000 pages long, so that not even the members of this body, to say nothing of the public, can fully grasp what is included.

There is no way that we, with a fairly full day of debate in this body, could have read the bill in the short time provided. And it is not enough that we merely read the bill. One must understand its implications. This alone demands that we vote ''no'' now, to give ourselves more time to fully deliberate and debate this legislation.

Mr. Speaker, again, I rise to express my strong opposition to the process by which we are today voting to overhaul one of the most important institutions in our country. American seniors deserve better, and we owe them more of our time; we owe them full deliberation, debate and our full consideration of this legislation.

Mr. ROTHMAN. Mr. Speaker, for seven years, I have been pushing and voting for a voluntary prescription drug benefit under Medicare. Such a plan would give seniors access to the quality, affordable, life-saving medicines they need. Unfortunately, the final Medicare bill—written in secret by the very same Republicans who eight years ago shut down the federal government as part of their strategy to force Medicare to wither on the vine—does exactly the opposite of what it is supposed to do. Instead of providing seniors with a voluntary, guaranteed drug benefit, the bill provides no drug coverage until 2006, and then forces millions of seniors to pay more for drugs if they don't give up their doctor and join an HMO—HMOs that can raise premiums at will and will throw out seniors who get too sick. The bill is nothing less than an outrageous giveaway of taxpayer funds to the health insurance industry.

A $12 billion slush fund in the bill will be doled out to insurance companies that offer privatized Medicare services and employers are given a $70 million windfall to maintain their retiree drug plans. These subsidies create a huge bias in favor of private plans. That's not competition, it's corporate welfare, and it's wrong.

The Congressional Budget Office projects that when the drug benefit begins in 2006, the average senior will spend $3,155 annually on prescription drugs. Under the Republican bill, because it so loaded up with giveaways to the private insurance industry, a senior with an income over $13,500 will pay $2,075 out of the first $3,155 in total drug costs—66 percent or two-thirds of the total—including the $35 monthly premium and the $250 annual deductible. And on top of these costs, 52,000 New Jersey seniors will face additional increases in their Part B premiums.

Also, instead of a voluntary benefit under Medicare, seniors will lose their doctors and be forced out of the system they know and trust. Worse still, 220,000 New Jersey seniors enrolled in PAAD and Senior Gold will have their health jeopardized and their choice of medicines limited by restrictive drug formularies imposed on the State by managed care plans. These seniors will face disruption in their coverage and will likely get less help than they currently receive. And it's a bad bill for doctors, whose reimbursement rates will be set not by the federal government, but by HMOs out to make a profit.

It is an especially bad deal for New Jersey seniors. As a result of the Republican bill, 94,000 New Jersey retirees will lose their drug coverage, 2–3 million nationwide. Over 150,000 Medicaid beneficiaries in New Jersey will pay more for drugs and 186,000 New Jersey seniors will be forced to leave traditional fee-for-service and accept vouchers to enroll in private plans starting in 2008.

The Republicans controlling the House of Representatives today dislike Medicare so much that they are literally willing to subsidize private health insurance companies to compete with Medicare, paying those companies $82 billion to create new private bureaucracies to handle prescription drugs for seniors and to even go so far as to build in a profit for them. We tried this experiment once already, giving private plans subsidies to offer Medicare services in the form of Medicare+Choice. But despite these subsidies, private Medicare+Choice plans felt they could not make enough of a profit, so they cut benefits and dropped hundreds of thousands of policyholders. Not only will this bill ultimately destroy Medicare and force seniors and their doctors into dealing with private HMOs, but the $82 billion could have been invested into the existing Medicare infrastructure, covering all seniors with a voluntary prescription drug program and reducing the premiums and co-pays for our nation's seniors.

Most galling the bill expressly prohibits the federal government from negotiating prices with the drug industry. The government already permits such negotiation in prices by the Department of Veterans Affairs and the Department of Defense—if this is good enough for veterans and those serving on active duty in the armed forces, why not for seniors? This is a $139 billion gift to drug companies in windfall profits. If Republicans were serious about reducing costs, their bill would not block the Secretary of Health and Human Services from using Medicare's enormous purchasing power to bring drug prices down.

AARP, which claims to speak for seniors, but is in fact a big insurance company with over $200 million in commissions on health and life insurance policies and prescription drug plans, has hastily endorsed the bill. Like hundreds of rank and file AARP members in my district who have called my office to disavow the national group's decision, I am outraged that AARP renounced the anti-privatization principles it claimed were central to its support. For this reason, I have resigned my AARP membership.

As many have said, this bill is a Trojan Horse: a radical dismantling of Medicare masquerading as a prescription drug bill. We must not forget that only a handful of Republicans voted for Medicare when Democrats created the program nearly 40 years ago. And at every turn since 1965, the Republican Party has worked to weaken a popular and successful health care system that allows seniors and their personal doctors to manage their own care.

We must not now adopt a privatization scheme that will harm seniors and risk Medicare's future. Instead, Congress ought to add a simple, straightforward and voluntary drug benefit to Medicare, save the $82 billion in subsidies to private insurance companies and private plans, and apply that money to lessen seniors Medicare drug premiums and co-pays. And then we should engage in a real bipartisan discussion about the future of Medicare—out in the open and not in a secret congressional backroom.

Mr. COSTELLO. Mr. Speaker, I rise in strong opposition to H.R. 1, the Medicare Prescription Drug and Modernization Act of 2003 conference report. Since coming to Congress, I have consistently promised over 70,000 seniors in my district that I would not support legislation that would fundamentally change the nature of Medicare and provide a prescription drug benefit that relies solely on insurance companies. This legislation does just that and I cannot in good faith support it.

Medicare has been a success because it provides guaranteed coverage for all elderly and disabled Americans. This legislation would end Medicare as we know it and may particularly harm rural areas that depend on the traditional Medicare program. Beginning in 2010, up to 6.8 million people could be part of a demonstration program that forces the Medicare fee-for-service program for doctors and hospital visits to compete with private insurance plans. People who wanted to remain in traditional Medicare would find their premiums going up as other beneficiaries opted for private insurance coverage. Seniors and the disabled would essentially be forced out of the traditional fee-for-service program and into some form of managed care.

In addition, this approach does not guarantee the same benefits for all seniors. Seniors who live where hospitals and doctors negotiate lucrative contracts with managed care plans would have to pay more; seniors with higher incomes would have to pay more; seniors in rural areas would have fewer choices of doctors and pharmacies; and seniors with low incomes but with assets such as a savings account might get nothing at all. These provisions violate the central promise of Medicare: to provide a consistent, guaranteed benefit that allows everyone, no matter where they live, how much they have, or how sick they are, access to quality medical care.

Further, I support a voluntary prescription drug benefit paid for by Medicare. However, this ill-conceived plan before us today will result in as many as three million retirees losing their employer-sponsored drug coverage which is more comprehensive than this legislation. At present, employer-sponsored retiree health benefits are the greatest source of coverage for retirees, providing drug coverage for one in three Medicare beneficiaries. Yet, this conference agreement creates an incentive for employers to drop retiree coverage they currently provide, rather than encouraging them to maintain it. In addition, it fails to help retirees from state and local government, multiemployer groups, and non-profit organizations. The additional funding, under the premise of shoring up retiree coverage, is meaningless to those who retire from public service, such as teachers, firefighters, and police, or other organizations with no tax liability.

Finally, the conference agreement is flawed because it offers seniors an inadequate prescription drug benefit. I am committed to providing a comprehensive benefit that is affordable and dependable for all beneficiaries with no gaps or gimmicks in its coverage. However, this legislation provides a huge gap in coverage leaving half of seniors without prescription drug coverage for part of every year.

Further, the bill is sorely lacking in any provision that might restrict the skyrocketing costs of the drugs themselves. It does not include meaningful reimportation language, strong language ensuring access to generic drugs, or the ability to negotiate prices as is done currently by the Veterans Administration.

This legislation relies too heavily on the insurance industry to bring drug costs down and does not guarantee seniors access to the medicine prescribed by their doctor or that they can get prescriptions filled at their local pharmacy. Seniors deserve fair drug prices and a real, affordable prescription drug plan.

Mr. Speaker, for these reasons, I oppose the conference report. I ask my colleagues to join me and reject this bill and send it back to the committee with instructions to bring the bill back to the floor with a real prescription drug plan that guarantees seniors affordable and dependable coverage.

Ms. MCCOLLUM. Mr. Speaker, tonight, Republican leaders in Congress are poised to pass an overhaul of Medicare that provides a weak prescription drug benefit, fails to lower drug costs, and starts the process for the privatizing of Medicare—a program that seniors have depended upon and trusted for almost 40 years.

Seniors have been fighting for years for a Medicare prescription drug benefit that is affordable; available to all seniors and disabled Medicare beneficiaries by providing meaningful benefits within the Medicare program.

However, the legislation Republicans have produced does not make prescription drugs affordable, does not offer a guaranteed benefit under Medicare and does not sufficiently protect current retiree plans. Instead, this bill caters to the pharmaceutical industry, bribes the HMOs with $12 billion in subsidies, and allows the AARP to reap $1.56 billion in profits. This bill threatens the future of Medicare and the health of America's seniors.

Under this Republican Medicare bill: $88 billion in tax credits will be given to employers to retain coverage for their retirees, and; Despite this windfall, 2 to 3 million seniors will still lose benefits from their employer-based coverage; and millions of seniors will pay more in Medicare premiums if they refuse to join an HMO.

The prescription drug plan that Republicans have proposed is a sham. Seniors will pay more than 50 percent of their drug costs for coverage up to $2,250. Most troubling, the bill leaves a huge ''coverage gap.'' Seniors will have zero prescription drug coverage for medication costs that run between $2,250 and $5,100—and those beneficiaries will still have to pay the monthly premium! Over half of all Medicare beneficiaries would fall into this ''coverage gap.'' And this bill will scale back coverage for the poorest seniors. Up to 6.4 million low-income Medicare beneficiaries will get less drug coverage than they have now as a result of new low-income thresholds and stringent asset testing. Also, seniors will only be eligible for drug coverage through private insurance companies that will have wide latitude in setting premiums and deductibles. Private insurance companies will also be able to make decisions about which drugs are covered, as well as which pharmacies seniors can use.

Today, there are approximately 648,000 Medicare enrollees in Minnesota. According to the Minnesota Department of Health, about 46 percent have no prescription drug coverage. In Minnesota alone, this bill that may cause at least 39,480 Medicare beneficiaries to lose their coverage from their former employers and 89,800 Minnesotans will pay more for prescription drugs.

And the most outrageous part is that the Republican plan benefits the pharmaceutical industry by explicitly prohibiting the Secretary of Health and Human Services from negotiating lower drug prices on behalf of America's 40 million Medicare beneficiaries. It also blocks the re-importation of drugs from Canada at lower prices. Additionally, the plan will create health savings accounts, which are tax-free savings accounts for medical expenditures. This creates an unprecedented tax loophole that would undermine existing employer coverage and provide $6.7 billion in tax relief for the wealthy.

Earlier this year, I supported a bill that provides for a voluntary prescription drug benefit under Medicare. Medicare would pay 80 percent of drug costs after a $100 deductible and no senior will have to pay more than $2,000 in costs per year. This plan would cover all Medicare beneficiaries, regardless of previous health conditions, and guarantee people's choice of medication, pharmacy, doctor and hospital. The plan that I supported would also give the Secretary of Health and Human Services the authority to use the collective bargaining power of 40 million beneficiaries to secure lower costs for the most popularly prescribed medications to end price gouging by the big drug companies.

Minnesota seniors and persons with disabilities deserve better than the Republican bill that is before us tonight. I will only vote for a prescription drug benefit that is affordable and available to all seniors and disabled Medicare beneficiaries regardless of geographic location or health condition.

Mr. BISHOP of Georgia. Mr. Speaker, although the massive conference agreement over Medicare reform contains some of the provisions the country needs and that I support, the overall legislation is deeply flawed. Congress can do better. By voting against the agreement, I am calling on Congress to correct the flawed provisions that would deny many seniors any prescription drug benefit, increase health care costs for many lower income citizens, push many seniors into managed care, put employer-based prescription drug coverage at greater risk, and create an uncertain privatization process that could change the face of Medicare forever.

By voting down this proposal, we could fix the critical flaws and still have time to enact a sound Medicare reform bill that the country desperately needs before the end of the 2003 session. I am cosponsoring a bill introduced Friday (11/21) that would shore up rural providers and maintain the integrity of Medicare for rural communities, while putting aside the more rancorous issues until later. I urge its consideration.

Among the agreement's provisions that I strongly support are those that would provide realistic reimbursements to providers, including giving rural hospitals parity with urban hospitals. Many community hospitals have shut down, and many are struggling to survive. This puts the health of many of our rural citizens, and the vitality of many rural communities, at risk. Relief for at-risk hospitals is one of the positive things about the agreement, and it should be a part of any health care reform enacted by Congress.

But I cannot overlook the agreement's overwhelming downside.

Dr. Kenneth Thorpe, a noted health policy authority from Emory University, calculates that under this agreement 51,450 Georgians would lose employer retiree health benefits; 161,300 Georgians would pay more for prescriptions; 82,000 fewer Georgians would qualify for low-income benefits than under the Senate version; and 34,000 Georgians would pay more for Part B premiums for doctor and outpatient care.

There are other sections of this lengthy bill, released the same day debate began, that few outside the conference committee have had an opportunity to examine. But much of what we know is disturbing.

There are no measures in this bill to respond to the problem of skyrocketing of drug costs. Not only would the government be prevented from negotiating drug prices, the possibility of reimportation of less expensive medicine from Canada is effectively killed.

The actual prescription drug benefit is skimpy, with an enormous coverage gap and an asset test designed to limit access for thousands of truly needy Americans. Moreover, millions of retirees will see the superior coverage they now receive from their former employers weakened or eliminated. That's nearly 3 million individuals nationally and more than 50,000 in the state of Georgia alone.

One of the biggest concerns is the agreement's push to privatization. As drafted, it appears private insurers would tend to pull in the healthiest beneficiaries while those with medical problems would remain with Medicare, causing Medicare costs to sharply rise. This could create what some are calling a 'death spiral' of escalating costs in traditional Medicare. More and more seniors would be pushed into the less-expensive HMOs and PPOs simply because they could not afford the higher cost of Medicare.

From the enormous premium support ''demonstration projects'' to the weakened Federal fallback for areas without meaningful access to private prescription drug plans, this agreement reveals a poor understanding of the needs of rural providers and residents.

All of these flaws make this agreement unattractive in the short term. But if we look just a bit further down the line, the picture becomes even bleaker. In 2006, when the prescription drug benefit would actually begin, the benefit would be essentially worthless to the average citizen. And, when 45 percent of spending on Medicare comes from general revenues, extreme measures to curtail Medicare spending would be triggered. It's extremely cynical to include such a dramatic cost-containment mechanism while excluding responsible measures to control Medicare spending.

There is much that is wrong in this bill, and much less that is right.

Rarely will we consider any legislation that will have a greater impact on the well being of the American people.

Let's get it right!

Mr. OBERSTAR. Mr. Speaker, Medicare is the most successful health initiative in American history—improving the quality of life for America's senior citizens, extending their longevity, and relieving their anxiety about affording the health care they need.

For the past several years, Democrats in Congress have worked tirelessly for affordable, comprehensive, and guaranteed coverage for prescription drugs under Medicare.

This week, the Republican majority in Congress is poised to pass legislation that will require seniors to pay significant out-of-pocket costs for prescription drugs, will eliminate employer-provided health care coverage for 2.7 million retirees nationwide, and will ultimately undermine the entire Medicare program. Simply put, the Republicans brokered a deal that prioritizes the pharmaceutical and the insurance industries over providing a comprehensive benefit to seniors and the disabled.

I. EFFECTS ON MEDICARE BENEFICIARIES

I am particularly concerned with the inclusion of ''premium support,'' a misguided proposal that will undermine Medicare. Instead of providing a Medicare prescription drug benefit for seniors, congressional Republicans have embarked on a radical and untested social experiment that threatens the future of Medicare. The final Medicare bill clearly takes the first step toward privatizing Medicare by implementing a ''premium support demonstration project'' in six metropolitan areas.

The bill threatens traditional Medicare because it includes provisions designed to stack the deck in favor of the health insurance industry. The legislation allots $17 billion to HMOs to lure them into the market to provide senior citizens with taxpayer-financed health and drug benefits. As the Washington Post recently pointed out, if Medicare ''privatization is such a good idea, why do the private insurance companies need such big subsidies to enter the Medicare market? . . . That's not capitalism or competition. That's corporate welfare.'' Rather than divert $17 billion from Medicare to prop up private sector competition, it would be far better to invest that money in Medicare's future.

Seniors will essentially receive a voucher for services to cover the lowest-cost private insurance plan, if such plans are offered, which is not at all certain. If this plan does not pay for the services they need, seniors will have to cover the difference—which could be a big figure—out of their own meager income. Masquerading as increased efficiency, this concept disproportionately benefits healthier seniors and leaves seniors with more costly health care needs paying an estimated 25 percent more for traditional Medicare. Seniors living in different regions will also pay different prices for the exact same benefit. I believe America's seniors deserve a guaranteed drug plan that is available for all Medicare beneficiaries—regardless of where they live.

II. IMPROVED MEDICARE REIMBURSEMENT FOR RURAL HEALTH CARE PROVIDERS

I have strongly supported efforts to eliminate disparities in Medicare reimbursement for rural areas, and I am very pleased that the conference report contains significant improvements for rural health care providers. Health care is essential in greater Minnesota. The hospitals in many small communities throughout northern Minnesota are the major employer in town, and the health care they offer is critical for economic development and tourism.

It is encouraging news that 31 hospitals in my congressional district would receive $39 million over 10 years under this bill in improvements in Medicare reimbursement, including fourteen Medicaid Disproportionate Share Hospitals (DSH) and 12 Critical Access Hospitals (CAHs). Other notable changes in the policies for CAHs—albeit not attached to a dollar amount—would improve the delivery of mental health services in rural northeastern Minnesota by permitting 10 beds to be used for psychiatric or rehabilitative services. Physicians would see a payment increase of 1.5 percent rather than a 4.5 percent decrease. Teaching hospitals would each receive $183,000 spread out over 10 years in additional payments for Indirect Medicare Education, which would greatly assist the training of medical students at the University of Minnesota, Duluth, as they prepare to serve rural Minnesota.

III. PRESCRIPTION DRUG BENEFIT

Seniors will be eligible for drug coverage only through private insurance companies that will have wide latitude in setting premiums and deductibles. Private insurance companies will also be able to make decisions about which drugs are covered, as well as which pharmacies seniors can use.

The plan is difficult to explain, but let me try: it begins with uncertain private health insurance premiums, estimated to be $35 per month, but not specified in statute; then, seniors must pay a $250 deductible before they receive any assistance, after which they will pay a 25 percent co-insurance for up to $2,250 in drug costs. However, there is a large coverage gap where no assistance is provided between $2,250 and $5,100 in drug spending, the ''hole in the doughnut,'' where seniors will be paying premiums but receiving no assistance at all. Those seniors with $5,100 in drug costs annually will still pay $4,020 under this bill. This plan is as unfair as it is complicated and costly to older Americans living on fixed incomes.

IV. IMPORTATION/COST ISSUE

I firmly believe that in order to ensure the continued affordability of Medicare benefits for seniors, greater efforts must be made to address escalating health care costs, particularly the price of prescription drugs. Yet this bill does precious little to contain the cost of prescription drugs in the future. The legislation once again deceptively appears to permit drug importation from Canada, while including a poison pill that the Secretary of the Department of Health and Human Services must certify to the Congress that its implementation does not present a health risk. During the Clinton Administration, HHS Secretary Donna Shalala refused to make such a certification, as has the current Secretary, Tommy Thompson. When Americans are paying 30 to 300 percent more for prescription drugs than Canadians or people in other industrialized countries, there must be a concerted effort to fix the safety concerns in the legislation rather than jettison the entire effort with this poison pill.

Despite claims that this legislation introduces free market principles and competition, I am deeply troubled that the Republican Medicare plan prevents federal cost-saving efforts that would reduce prescription drug costs for seniors. At a time when many seniors must pinch their pennies to afford the basic necessities, this bill—incredibly—explicitly prohibits the Secretary of the Department of Health and Human Services from negotiating lower drug prices on behalf of America's seniors. Unlike the Department of Veterans Affairs, which does have such authority, the Secretary of HHS would not be allowed to leverage the market power of 40 million Medicare beneficiaries to reduce prices.

In my view, the big winners are the drug and insurance companies, at the expense of our nation's seniors. In addition to providing $17 billion to HMOs and prohibiting the Secretary of the Department of Health and Human Services from negotiating lower prices, the final Medicare bill will eventually undermine community pharmacies. Pharmacy benefit manages (PBMs), charged with administering the prescription drug benefit, will be able to contract out and establish an unequal playing field whereby mail order companies can sell larger quantities for lower co-pays than community pharmacies can. There is no transparency for PBMs—just a conflict of interest; PBMs are not held responsible to report rebates or kick-backs they might receive from the pharmaceutical industry for selling specific drugs—that provision was stripped from the conference report. I am continually dismayed that Republicans go to great lengths to serve special interests rather than the public good.

I have voted many times this year in support of a strong prescription drug program that would strengthen the Medicare program. However, I am not willing to cast a vote to undermine a program that seniors and the disabled have trusted for nearly 40 years, in exchange for an atrocious prescription drug benefit that directs formidable sums of money to special interests. Congress can do better; our seniors certainly deserve better.

Mr. DAVIS of Illinois. Mr. Speaker, it is said that the cruelest lies are often told in silence—in what you don't say. If that's the case, then the silence is deafening as the Medicare prescription drug legislation looms ever closer to final passage.

We promised the American people we would protect and strengthen traditional Medicare. This legislation does the opposite—it begins coercing millions of seniors out the common Medicare insurance pool into private HMOs.

It creates huge new tax shelters for the ultra wealthy with the ironic name of ''Health Savings Accounts.''

Meanwhile the very poorest seniors, those who also qualify for Medicare, will see their benefits slashed.

The bill places draconian new caps on future Medicare services and spiraling new tax burdens on middle income working families.

The bill inaugurates the process of means-testing and asset-testing seniors before providing them benefits—of checking their wallets before checking their health.

It would also add heavy new financial burdens to state budgets already strained to bursting by federal cutbacks.

All this in return for a pathetically inadequate prescription drug benefit and skyrocketing drug company prices and profits as far as the eye can see.

Fool me once, shame on you. Fool me twice, shame on me. Fooling our seniors shame on all of us.

Mr. Speaker, this Medicare prescription drug bill is not what it is advertised to be. It is a cruel hoax and a danger to the health and well-being of America's seniors.

As Representatives of the American people, we have a special moral responsibility to be honest with the people.

This legislation breaks that sacred trust. This bill deceives and dispossesses America's seniors.

I'm with Will Rogers: I'd rather be the man who bought the Brooklyn Bridge than the man who sold it.

Mr. VAN HOLLEN. Mr. Speaker, with regret, I rise in opposition to the Medicare conference report now before us. Rather than giving seniors the simple, comprehensive and affordable prescription drug benefit they deserve, this bill recklessly undermines the Medicare program, threatens many seniors' existing drug coverage and fails to bring down skyrocketing drug costs.

Let's be clear: This is not about whether we ought to add a prescription drug benefit to Medicare. Democrats—including myself—have been calling for a meaningful Medicare prescription drug benefit for years. Now that the Republican party has dropped its historic opposition to modernizing Medicare, there is broad consensus—at least rhetorically—on the importance of this goal.

Additionally, this is not about whether doctors should receive a positive payment update for services rendered under Medicare. I think everyone in this chamber understands we could pass a free-standing positive payment update for physicians today—and by a wide margin. Frankly, I would be first in line—because I don't think you can ask providers to participate in a program without adequate reimbursement. But if we were really interested in giving doctors a fair reimbursement rate, we would end this untenable ritual of dodging the next round of scheduled payment cuts with stop-gap, band-aid measures and finally get around to fixing the obviously flawed Medicare reimbursement formula once and for all. Unfortunately, that's not what we are doing here today.

Instead, after months of secretive negotiations and much highly publicized bickering, the majority is now presenting this House with a prescription drug bill that blatantly violates the first tenet of responsible medicine: Do No Harm.

If this conference report is enacted into law, as many as 7 million seniors will be forced to pay more for Medicare—unless they agree to give up their doctor and join an HMO, according to analysis done by the House Ways and Means and Energy and Commerce Committee minority staff. Additionally, over 2 million retirees who already have private prescription drug coverage stand to lose that coverage, according to the same report.

That is also the conclusion reached by the former Republican Majority Leader of the House Dick Armey, who called on Congress to reject this misguided bill in today's Wall Street Journal, saying in part: ''(T)his bill is going to cost millions of seniors their current prescription drug coverage.''

In my home state of Maryland, an estimated 60,000 Medicare beneficiaries could lose their existing private prescription drug benefits, according to analysis based on CBO data prepared by the Senate Health, Education, Labor and Pension Committee minority staff. Moreover, similar analysis from the Senate HELP Committee minority staff using CRS data projects that 75,000 Maryland Medicaid beneficiaries will pay more than they do now for the prescription drugs they need.

This legislation puts seniors with existing coverage—and the future of the entire Medicare program—at risk. And for what? A prescription drug benefit that—after all the premiums and deductibles and co-pays and coverage caps and out-of-pocket costs are accounted for—provides $1 of assistance for every $4 that seniors with significant drug costs will still have to pay themselves.

There are smarter, more efficient ways to spend $400 billion on a Medicare prescription drug plan. For starters, we should eliminate the $12 billion subsidy being offered the private insurance industry as an inducement to participate in the Medicare market. If PPOs and HMOs are really more efficient than traditional than traditional Medicare in delivering high quality care at a lower cost, they don't need a $12 billion taxpayer handout to do it. Additionally, we should scrap the Administration's ill-conceived and deceptively named ''Health Security Accounts'', which amount to little more than a $6 billion tax break for the wealthy. And finally, we should get serious about making drugs affordable for seniors and for all Americans—through such common sense steps as permitting re-importation from our industrialized trading partners and allowing the federal government to negotiate for lower drug prices on behalf of Medicare's 41 million beneficiaries—something the bill before us today actually forbids the government to do.

The ultimate value of allowing the Center for Medicare and Medicaid Services (CMS) to negotiate for lower prices will obviously turn on the outcome of those particular negotiations. But we know from the experience of the Veterans Administration—which does currently have the ability to negotiate for lower prices—that the savings can run upwards of 60 percent. In the absence of meaningful steps to curb the exorbitant cost of drugs, this bill does more for the pharmaceutical industry than it does for consumers.

I believe seniors deserve a real Medicare prescription drug benefit plan; one that is comprehensive, affordable and easy to understand; one that will strengthen Medicare rather weaken it; and one that will not reduce the benefits of seniors who already have prescription drug coverage.

Mr. Speaker, we should defeat this fatally flawed conference report, come together on a bipartisan basis and give seniors the meaningful prescription drug assistance they are asking for and need.

Mr. CUMMINGS. Mr. Speaker, I rise today to speak against the woefully inadequate Medicare prescription drug conference bill being considered today.

Mr. Speaker, this report is an insult to our seniors. Instead of a bill that helps our seniors, we have a bill that makes an untenable trade-off. A meaningless prescription drug benefit and the dismantling of the Medicare ''healthcare'' program for 40 million seniors and disabled Americans as we know it today. Quality healthcare coverage should come along with a prescription drug benefit, which Democrats have been fighting for over the past six years, not at the expense of it. But that is what this bill does. So today, what we have to consider is a bill that will do more harm than good—one that represents a giant first step in privatizing and the emasculation of Medicare—a program that our seniors and disabled know and love.

Under this disastrous plan:

Gone are retiree benefits. Because it gives employers no incentive to maintain prescription drug coverage for their retirees two or three million retirees will lose their current private drug coverage. In my home state of Maryland this includes 59,640 retirees.

Gone are wrap-around services. Six million low-income beneficiaries will pay more for their prescription drugs. Those who are dually eligible to receive both Medicare and Medicaid—seniors who are so poor that they need what we call wrap-around services to have healthcare coverage—will pay more for their prescription drugs under this plan. To add insult to injury this bill does not allow states to use their federal Medicaid monies to supplement them. This includes 75,800 seniors in Maryland.

Gone is the traditional Medicare Program as we know it. They say fee-for-service stays intact. Well if you as a beneficiary want to be nickeled and dimed to death—and pay almost 80 percent out of pocket for Medicare and prescription drug coverage up to $5,044, then it stays intact. Let me explain, that means that after a senior or disabled person has paid almost $4,000 out-of-pocket in premiums, deductibles and contributions, then the traditional Medicare coverage kicks back in.

Soon to be gone is traditional Medicare. Traditional Medicare is most threatened by what has been termed premium support. Beginning in 2010, about 7 million beneficiaries will be forced into a premium support demonstration that will make them pay more for Medicare if they don't give up their doctors and join an HMO. This also means that there will be tremendous premium variation from region to region even in the same state when this plan is fully rolled-out. While it may be just 7 million seniors in 2010, now make no mistake the goal is to end Medicare as a social compact, where eventually, Medicare will indeed ''wither on the vine'' and private insurance and pharmaceutical companies will rule the day. Unfortunately, passage of this legislation will mean that many of our seniors will wither right along with the Medicare program—which will no longer be seen as a guaranteed benefit—a concept our nation embraces.

Here to stay are vouchers for Medicare beneficiaries—to take to an HMO which will give these folks what they want them to have—there will be little real choice. Seniors want stability—knowing who their doctors will be, who will be able to fill their prescriptions, which drugs will be covered, and in which hospital they can receive services. I have not ever been told by a single senior that they want to be able to choose between profit-driven private insurer providers which may or may not want to have them as clients.

Here to stay is assets testing. What's good about this bill is that those beneficiaries who are 15 percent below the poverty level are able to forego paying the monthly premiums of $35 and the yearly deductible of $275, and to escape the donut hole in coverage from $2,200 to $5,044. But again our compassionate conservative friends give with one hand and take with the other.

In order to qualify as low-income, seniors have to go through the degradation of proving that they are poor enough to receive it—meaning all of their assets, not just incomes are tested. The one saving grace of this bill is poisoned by the lack of compassion. This means that low income seniors will be kicked out of receiving the low-income benefits of the plan depending on their assets—simply because they have been able to squirrel away a few thousand dollars into a savings account. This affects 53,000 seniors in Maryland, many in my district.

I ask, who is going to invade their privacy and check their assets—isn't it sufficient that

they're already living off of meager means 150 percent below the poverty level, should they too have to pay $4,000 to receive both Medicare and prescription drug coverage? What a trade-off. How despicable. I think my colleagues can agree that this is a very troubling proposition and a totally unfair result.

Here to stay is big money to the drug companies and HMOs. In fact, this bill overpays the private insurance plans by $1,920 per beneficiary at the expense of traditional Medicare by creating a $12 billion slush fund for these companies just to take on these beneficiaries. Mr. Speaker, our seniors do not need a handout, but a hand-up—use that $12 billion to give to our current providers and hospitals who already give outstanding care to our seniors, along with a meaningful prescription drug benefit.

Here to stay are HMOs that seniors will feel coerced into joining because they will not be able to pay for the traditional Medicare they enjoy today.

Additionally, with the establishment of the Voluntary Prescription Drug Benefit Program, beneficiaries again lose because of the lack of negotiated prices for the prescription drugs. Why not leverage the power of the 40 million Medicare beneficiaries? Why not mandate containment of drug costs in this bill? Why give seniors and the disabled a prescription discount card they cannot use until 2006 while the drug companies still get to determine the cost? Why enact health savings accounts that only the well-off can afford? Why include a poison-pill that kills any chance of reimportation of affordable medicines? Why include an artificial budget cap on general revenues funding for Medicare that triggers a fast-track legislation procedure that would allow immediate cuts in benefits, cut payments to nursing homes and home health care providers and increase cost-sharing? Why leave our seniors and disabled powerless?

I know the answers. It's because this bill is not a reform bill, but a rewards bill—and the pharmaceutical and the private insurance companies are the winners.

Mr. KIND. Mr. Speaker, I rise in reluctant opposition to the bill before us today. It was my hope that the conference committee would work in a bicameral, bipartisan manner and produce a bill focused on providing prescription drug coverage to seniors and improving Medicare. Instead, House Democrats were shut out of the discussion completely, and special interest groups were given more information than members of Congress. Even more troubling than the process, however, was the legislation that came out of this conference. This bill is a bad deal for American seniors and an even worse deal for our children and grandchildren. Estimated at $400 billion, this bill is not paid for and, without basic cost containment measures, like price negotiation or drug reimportation from Canada, will leave a legacy of debt for our children and grandchildren to inherit. The easiest thing to do in politics is pass a bill and don't pay for it.

Certainly, there are portions of this bill which I support—portions which generously and correctly bring aid and equity to hospitals, especially those in rural areas like western Wisconsin. For far too long, rural hospitals and critical access hospitals have been treated as second-best, and I have long been a champion of bringing equity to these hospitals which do such important work throughout our country. This bill will at last begin to equalize the base inpatient payment rate, increase the cap for Medicare disproportionate share hospitals, and bring the hospital update to full market basket. Providers also benefit a great deal from this bill, and I am pleased that instead of receiving a cut, Medicare providers would receive a 1.5% update for the next two years. Furthermore, the assistance to our providers is paid for with offsets in the budget, so it does not add to the historically large federal deficit. If these provisions were separate from the bill, I could support them in a heartbeat, and I am confident that such a bill would pass overwhelmingly in Congress. In fact, just today my colleagues and I have introduced a bill that is identical to the rural health care package included in the Medicare Conference Report. We could still pass such a bill if the Republican leadership wanted to, but they do not. Instead, they are holding the rural provisions hostage to all ill-advised and costly prescription drug program to be delivered to private insurance companies after we bribe them with billions to do it, even after they have told us they do not want to do this.

As important as it is to sustain our hospitals and our doctors, aspects of the bill which will hurt our seniors, our pharmacists, and our states make it impossible to support this bill. Too many seniors in my district in western Wisconsin have told me stories of skipping meals in order to afford prescription drugs or cutting their pills in half to make their expensive prescriptions last longer. I came to Washington to work towards a real solution to this problem, and I have championed the New Democratic Coalition's plan, which is simple, progressive, and affordable. I would be proud to stand on this floor today and support the Dooley prescription drug plan. I would have been able to compromise and support a bill that was close to the Senate's bipartisan bill. But I am unable to support a bill that will do relatively little to provide seniors with drug coverage, that bribes insurance companies, that threatens to destabilize existing coverage for retirees, that undermines Medicaid, and that has no reasonable measures to contain costs.

Sadly, for all the excitement over a prescription drug benefit, this bill would bring little relief to struggling seniors. The drug benefit does no start until 2006, leaving struggling seniors a few more years before they receive any help in paying for their prescription drugs. Once 2006 rolls around, many seniors will find a drug benefit far less generous than the one they expected. In fact, a senior who spends slightly over $5,000 per year on prescription drugs will have to spend over $4,000 of his or her own money, meaning the consumer still pays 80 percent of drug costs. This is hardly the relief from expensive prescription drugs that seniors have been promised and that they deserve.

Also of concern is the effect this bill will have on seniors who currently have drug coverage. Astoundingly, an estimated 58,170 Medicare beneficiaries in Wisconsin will lost their retiree health benefits because of this bill. And they are not the only seniors who will suffer. Wisconsin's Seniorcare program is a shining example of the great work that can be done to aid our nation's seniors when federal and state governments cooperate. The bill before us would punish Wisconsin's leadership on this issue; Wisconsin would most likely lose the matching funds it receives for Seniorcare and be forced to drastically scale back the program. Wisconsin's Seniorcare participants currently pay a nominal enrollment fee, low drug co-payments, and a modest deductible, with those seniors below 160 percent of the poverty level paying no deductible whatsoever.

The Wisconsin Medicaid program, as well as the 110,200 seniors who are dual eligibles, will see a significant risk in their drug costs as a result of this legislation. The bill purports to do good things for low-income seniors, but in my state, it will have exactly the opposite effect. For the 99 percent of seniors in my state who already have health insurance, the introduction of a new prescription drug plan means a confusing new benefit with higher costs to the state and beneficiaries and less coverage than many Wisconsin seniors already enjoy.

All of this speculation over a prescription drug plan assumes, of course, that drug-only plans will be around to offer this less than substantial coverage. Currently, there are no drug-only insurance plans, and representatives of the industry have maintained they do not want to start such plans. Because of this reluctance, the bill bribes private insurance companies, pouring billions into the industry in an attempt to entice the companies to create drug-only plans. Clearly, $400 billion is just a floor, costs will explode, and the insurance companies will return to Congress in the future to ask for more money or they will drop coverage of our seniors, just as many Medicare plus Choice plans are doing today.

The $400 billion price-tag is only the beginning of spiraling costs to the federal government; we have no idea what costs might be in the future for this benefit. Incredibly, even the original $400 billion is not paid for, and there are no attempts at cost control in this measure. The government, for both Medicaid and the Veterans Administration, negotiates drug prices. The 40 million Americans covered by Medicare constitute an immense and potentially powerful purchasing pool. Great savings could be realized by negotiation, yet this bill specifically prohibits the government from negotiating with drug companies. Another potential for savings is reimportation from Canada; once again, this cost-cutting measure is prohibited, as the Secretary of Health and Human Services would have to approve reimportation, and the agency has already indicated no such approval will be granted.

Finally, Mr. Speaker, I would like to speak of a group that has received little attention in a debate focused on seniors—our children and grandchildren. While I fully support providing seniors with a prescription drug benefit, I do not believe it is right to shift the costs of this benefit to future generations. We must devise a way to pay for these benefits now; we cannot and must not rely on future Congresses and future taxpayers to fix a problem of our creation. The party in power in Washington today wants tax cuts for the wealthy and pays no attention to fiscal responsibility. It is wrong to create a larger deficit than the one we already face. To protect seniors, to protect our children and grandchildren, I am opposing this bill, and I urge my colleagues to reject the flawed proposals contained in this bill. We can and must do better.

Mrs. DAVIS of California. Mr. Speaker, I support providing our seniors with prescription drug benefits under Medicare. It is one of the

most important efforts we have undertaken this session, and, I believe, one of the most attainable. This is why I rise, with regret, to oppose this Medicare Conference Report. The legislation before us fails our seniors and places them at the mercy of private plans and insurance companies.

There are some good items in this legislation. For example, the increased funding for hospitals and hard-working physicians is greatly needed in our communities. Unfortunately, the overall bill does not accomplish what our seniors need.

When I reviewed this legislation, I needed to answer the following questions: ''What are the benefits for our seniors?'' and ''What do the changes mean in the long run?''

In the very limited amount of time I had to review this legislation, I have concluded that, in reality, this Medicare bill will hurt seniors by making health care less reliable and more costly.

We needed a prescription drug bill. We received, instead, legislation that has been called a ''Medicare monstrosity.'' It mandates huge changes to Medicare, but evades the underlying issue of providing seniors with a comprehensive prescription drug benefit.

This legislation ends Medicare's guarantees to seniors. It gives billions for managed care, for tax shelters, and for many other special interests unrelated to prescription drugs. It significantly worsens current levels of coverage for millions of Medicare beneficiaries with increased Part B premiums and threats of disappearing employer benefits.

Are all of these changes worth a weak drug benefit that will disappoint millions of seniors? No.

Mr. Speaker, our seniors deserve better!

At townhall meetings and in thousands of letters, phone calls and emails, seniors have told me that they want a prescription drug benefit that is affordable, comprehensive, and guaranteed, and they would like the coverage provided in the current Medicare system. The bill before us meets none of these standards.

Instead this bill will make our seniors anxious—anxious about substantial cost increases; anxious about having to switch doctors; and anxious about losing he security that Medicare has provided for almost 40 years.

The Conference Report before us is a missed opportunity. I hope Congress does the right thing by going back to the drawing board, and giving seniors a reliable and affordable prescription drug benefit. We can do better or our seniors—and we must!

Join me in defeating this bill and working to pass legislation that truly addresses our seniors' needs.

Mr. RAMSTAD. Mr. Speaker, I rise in strong support of the Medicare Prescription Drug, Improvement and Modernization Act.

This is truly a historic day. After years of hard work, Congress is finally on the verge of delivering on our commitment to America's seniors. The bill before us will honor our promise to create a meaningful and long overdue prescription drug benefit for Medicare beneficiaries.

This legislation means seniors will no longer have to choose between purchasing life-saving drugs or the basic necessities of food and housing.

In addition to this important new prescription drug benefit, the bill modernizes and improves Medicare to give seniors better choices and greater access to state-of-the-art health care.

I am grateful for the many important provisions in this package from the bill I sponsored, the Medicare Innovation Responsiveness Act (H.R. 941), which will increase seniors' access to lifesaving medical technology. These provisions provide long needed reforms that will bring the Medicare program into the 21st Century.

As founded and co-chair of the Medical Technology Caucus, I have witnessed firsthand the remarkable advances that lifesaving and life-enhancing medical technology has made to treat and cure debilitating conditions. The current Medicare system is antiquated because of its failure to incorporate modern day advances in technology.

Currently, seniors face unconscionable delays of up to 5 years before Medicare grants access to new technology. This delay can literally be a matter of life or death for many seniors.

The legislation before us incorporates many of the reforms I proposed that will vastly improve medicare's coverage, coding and payment process. These reforms will remove barriers to FDA-approved, lifesaving technology for millions of seniors. The result will not only improve lives, but in many cases save lives as well.

Thanks to this legislation, we are finally eliminating the barriers that discourage innovation and deny America's seniors the medical technologies they desperately need. Seniors have waited too long for access to the same treatment options that other Americans routinely enjoy.

I am also pleased the bill includes legislation I introduced with Mr. Cardin to break down regulatory barriers facing specialized Medicare+Choice plans that serve the frail elderly.

I also worked diligently to ensure that seniors suffering from serious mental illness will have the necessary access, under the new drug benefit, to the psychotropic medication they desperately need. I am pleased that this legislation addresses this critical need.

Mr. Speaker, this package of reforms will improve the lives of today's seniors and seniors for generations to come. I urge my colleagues to support this landmark legislation and deliver on our promise to preserve, protect and strengthen Medicare.

Mr. CANTOR. Mr. Speaker, tonight is a truly historic night. Tonight we will reform and modernize the Medicare system to reflect the needs of seniors. This legislation will save Medicare for our children while allowing seniors access to affordable prescription drugs starting next year.

One important feature of this legislation that allows seniors to have more control of their health care is the inclusion of new Health Savings Accounts (HSAs). These tax-preferred savings accounts work like IRAs and allow individuals, not the government, to make choices that best suit their needs. HSAs, will put individuals back in the driver's seat when it comes to their own health care.

The success of 529 college-savings plans and Roth IRAs proves that HSAs will work. I am glad that we were able to add this conservative and common sense proposal to the bill.

Tonight for the first time in Medicare's history, we will provide nearly 1-million Virginians with access to affordable prescription drug coverage. I am proud to deliver this much-needed and past-due assistance to my fellow Virginians.

Mr. Speaker, I support the Medicare legislation before us. It is a critical step in the right direction, and I encourage my colleagues on both sides of the aisle to support this bill.

The SPEAKER pro tempore (Mr. HASTINGS of Washington). Without objection, the previous question is ordered on the conference report.

There was no objection.

MOTION TO RECOMMIT OFFERED BY MR. TURNER OF TEXAS

Mr. TURNER of Texas. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the conference report?

Mr. TURNER of Texas. Yes, I am, Mr. Speaker.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. TURNER of Texas moves to recommit the conference report on the bill H.R. 1 to the committee of conference with the following instructions to the managers on the part of the House:

(1) Strike the provisions of section 1860D–11(i) of the Social Security Act, as added by section 101(a) of the conference substitute and relating to noninterference of the Secretary of Health and Human Services with the negotiations between drug manufacturers and pharmacies and PDP sponsors.

(2) Substitute the provisions of title I of the Senate amendment to the bill for title I of the conference substitute recommended by the committee of conference, but provide for medicare as primary payor for prescription drug coverage for low-income individuals (as contemplated by the House bill), and permit State medicaid programs to provide wrap-around coverage (as contemplated by the Senate amendment).

(3) Substitute the provisions of title II of the Senate amendment to the bill for title II of the conference substitute recommended by the committee of conference with the following changes:

(A) Omit the provisions of section 231 of the Senate amendment (relating to establishment of alternative payment system for preferred provider organizations in highly competitive regions).

(B) Omit the provisions of subtitle E (relating to the establishment of a National Bipartisan Commission on Medicare Reform).

(4) Within the scope of conference and to the maximum extent possible, take up and reconsider title VIII of the conference substitute.

(5) Strike section 1123 of the conference substitute (relating to a study and report on trade and pharmaceuticals).

(6) Within the scope of conference and to the maximum extent possible, take up and reconsider the issue of importation of prescription drugs.

(7) Within the scope of conference and to the maximum extent possible, take up and reconsider the issue of special rules for employer-sponsored programs, including qualified retiree prescription drug plans.

Mr. TURNER of Texas (during the reading). Mr. Speaker, I ask unanimous consent that the motion to recommit be considered as read and printed in the RECORD.

POINT OF ORDER

Mr. THOMAS. Mr. Speaker, I make a point of order.

The SPEAKER pro tempore. The gentleman will state his point of order.

Mr. THOMAS. Mr. Speaker, do we have the motion to recommit in written form?

The SPEAKER pro tempore. The Clerk is reading the motion now.

Mr. THOMAS. Mr. Speaker, are we allowed to have the motion?

The SPEAKER pro tempore. The gentleman submitted his motion to the desk.

The Clerk will read.

The Clerk concluded the reading of the motion to recommit.

The SPEAKER pro tempore. The motion to recommit is not debatable.

Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

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

RECORDED VOTE

Mr. TURNER of Texas. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 211, noes 222, not voting 2, as follows:

[Roll No. 668]

AYES—211

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

NOES—222

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

NOT VOTING—2

Ehlers
Gillmor

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

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

□ 0301

Mr. SHADEGG, Mrs. BONO and Mrs. JO ANN DAVIS of Virginia changed their vote from ''aye'' to ''no.''

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

Stated against:

Mr. EHLERS. Mr. Speaker, on rollcall No. 668 I was delayed on the way to the floor to vote, and the vote ended just as I walked in the door. Had I been present, I would have voted ''no.''

The SPEAKER pro tempore (Mr. HASTINGS of Washington). The question is on the conference report.

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

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

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to rule XX, this 15-minute vote on adoption of the conference report will be followed by a 5-minute vote on the motion to suspend the rules on S. 877.

The vote was taken by electronic device, and there were—yeas 220, nays 215, not voting 0, as follows:

[Roll No. 669]

YEAS—220

Aderholt
Alexander
Bachus
Baker
Ballenger
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Bereuter
Biggert
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boucher
Boyd
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burns
Burr
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Carson (OK)
Carter
Castle
Chocola
Coble
Cole
Collins
Cox
Cramer
Crane
Crenshaw
Cubin
Cunningham
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
Diaz-Balart, L.
Diaz-Balart, M.
Dooley (CA)
Doolittle
Dreier
Duncan
Dunn
Ehlers
English
Everett
Ferguson
Fletcher
Foley
Forbes
Fossella
Franks (AZ)
Frelinghuysen
Gallegly
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Goode
Goodlatte
Goss
Granger
Graves
Green (WI)
Greenwood
Hall
Harris
Hart
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hobson
Hoekstra
Houghton
Hulshof
Hunter
Hyde
Isakson
Issa
Istook
Janklow
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, Sam
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
LaHood
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas (OK)
Manzullo
Marshall
Matheson
McCotter
McCrery
McHugh
McInnis
McKeon
Mica
Miller (MI)
Miller, Gary
Murphy
Myrick
Nethercutt
Neugebauer
Ney
Northup
Nunes

Nussle
Osborne
Ose
Otter
Oxley
Pearce
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Portman
Pryce (OH)
Putnam
Quinn
Radanovich
Ramstad
Regula
Rehberg
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Saxton
Schrock
Scott (GA)
Sensenbrenner
Sessions
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Smith (NJ)
Smith (TX)
Souder
Stearns
Stenholm
Sullivan
Sweeney
Tauzin
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Turner (OH)
Upton
Vitter
Walden (OR)
Walsh
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Wu
Young (AK)
Young (FL)

NAYS—215

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

Mr. MILLER of Florida and Mr. CULBERSON changed their vote from ''yea'' to ''nay.''

Messrs. ISTOOK, FRANKS of Arizona, OTTER, MARSHALL, DOOLEY of California, and SCOTT of Georgia changed their vote from ''nay'' to ''yea.''

□ 0553

So the conference report was agreed to.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. HASTINGS of Washington). Without objection, the motion to reconsider is laid on the table.

Mr. FRANK of Massachusetts. Mr. Speaker, I object.

The SPEAKER pro tempore. Objection is heard.

Mr. FRANK of Massachusetts. Mr. Speaker, I move reconsideration. I move reconsideration, thanks to your arm-twisting.

The SPEAKER pro tempore. The gentleman will suspend.

Did the gentleman vote on the prevailing side?

Mr. FRANK of Massachusetts. I was until the game started.

The SPEAKER pro tempore. The motion to reconsider may be entered only by someone who voted on the prevailing side.

PARLIAMENTARY INQUIRY

Mr. FRANK of Massachusetts. Mr. Speaker, parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state his inquiry.

Mr. FRANK of Massachusetts. After all the razzle-dazzle, exactly what was the prevailing side?

The SPEAKER pro tempore. The yeas have it. Without objection, the motion to reconsider is laid on the table.

Mr. HOYER. Mr. Speaker, reserving the right to object, and I am not going to object, I am not going to put people to the purpose of voting; but I will again say the democratic process is that we come to this floor. I will remind you that you said we had 17 minutes to vote. You made it very clear. You sent us a notice, and you said come with 15 minutes; we will give you 2 more minutes.

This vote has now been held open longer than any vote that I can remember. I have been here 23 years. Perhaps some of you have been here longer. The outrage that was discussed when Speaker Wright held the vote open for far less time than this was palpable on your side of the aisle. Democracy is about voting. But just as you cannot say on Tuesday of Election Day, we will keep the polls open for 15 more hours until we get the result we want, you ought not to be able to do it here, Mr. Speaker. We have prevailed on this vote. Arms have been twisted and votes changed. And I will continue to reserve.

The SPEAKER pro tempore. Is there objection to tabling the motion to reconsider?

Mr. FRANK of Massachusetts. Objection.

Mr. THOMAS. Mr. Speaker, I move to reconsider the vote just taken.

MOTION TO TABLE OFFERED BY MR. DELAY

Mr. DELAY. Mr. Speaker, I move to lay the motion on the table.

The SPEAKER pro tempore. The question is on the motion to table the motion to reconsider. That is not debatable.

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

Mr. FRANK of Massachusetts. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 210, nays 193, not voting 32, as follows:

[Roll No. 670]

YEAS—210

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

Thornberry
Tiberi
Toomey
Turner (OH)
Upton
Vitter
Walden (OR)
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (FL)

NAYS—193

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

NOT VOTING—32

Ballenger
Boucher
Clay
Coble
Conyers
Cramer
Davis (TN)
DeMint
Dooley (CA)
Everett
Fletcher
Ford
Gephardt
Gibbons
Gillmor
Hefley
Jones (NC)
Lantos
LaTourette
Meehan
Moran (KS)
Neal (MA)
Norwood
Oxley
Sanchez, Loretta
Smith (TX)
Smith (WA)
Stark
Tiahrt
Walsh
Wamp
Young (AK)

□ 0613

Mr. FRANK of Massachusetts changed his vote from ''nay'' to ''yea.''

So the motion to table was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid upon the table.

CONTROLLING THE ASSAULT OF NON-SOLICITED PORNOGRAPHY AND MARKETING ACT OF 2003

Mr. TAUZIN. Mr. Speaker, I ask unanimous consent that the motion to suspend the rules and pass the Senate bill S. 877, as amended, which is the spam bill that we have bipartisan agreement on, be modified by the amendment that is at the desk, which has been cleared with the other side.

The SPEAKER pro tempore (Mr. HASTINGS of Washington). The Clerk will report the amendment.

The Clerk read as follows:

On page 17, line 8 strike ''misleading'' and insert ''falsified.''

On page 27, line 9 strike ''misleading'' and insert ''falsified.''

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

There was no objection.

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the Senate bill, S. 877, as amended.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Louisiana (Mr. TAUZIN) that the House suspend the rules and pass the Senate bill, S. 877, as amended, on which the yeas and nays are ordered.

Without objection, this will be a 5-minute vote.

There was no objection.

The vote was taken by electronic device, and there were—yeas 392, nays 5, not voting 37, as follows:

[Roll No. 671]

YEAS—392

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Baldwin
Ballance
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Becerra
Bell
Bereuter
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boswell
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
Cardin
Cardoza
Carson (IN)
Carson (OK)
Carter
Case
Castle
Chabot
Chocola
Clyburn
Coble
Cole
Collins
Conyers
Cooper
Costello
Cox
Crane
Crenshaw
Crowley
Cubin
Culberson
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emanuel
Emerson
Engel
English
Eshoo
Etheridge
Evans
Farr
Fattah
Feeney
Ferguson
Filner
Flake
Foley
Forbes
Fossella
Frank (MA)
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
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
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 (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
Larsen (WA)
Larson (CT)
Latham
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
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
Meek (FL)
Meeks (NY)
Menendez
Mica
Michaud
Millender-McDonald
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Mollohan
Moore
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Nadler
Napolitano
Nethercutt
Neugebauer
Ney
Nunes
Nussle
Oberstar
Olver
Ortiz
Osborne
Ose
Otter
Owens
Pallone
Pascrell
Pastor
Payne
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Renzi
Reyes
Reynolds
Rodriguez
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Sanchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Saxton
Schakowsky
Schiff
Schrock
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Snyder
Solis
Souder
Spratt
Stearns
Stenholm
Strickland
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiberi
Tierney
Toomey
Towns
Turner (OH)
Turner (TX)
Udall (CO)
Udall (NM)
Van Hollen
Velazquez
Visclosky
Vitter
Walden (OR)
Waters
Watson
Watt
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (FL)

NAYS—5

Honda
Jackson-Lee (TX)
Kucinich
Lofgren
Paul

NOT VOTING—37

Ballenger
Boucher
Capuano
Clay
Cramer
Davis (TN)

DeLay	Hefley	Smith (TX)
DeMint	Jones (NC)	Smith (WA)
Dooley (CA)	Lantos	Stark
Everett	LaTourette	Stupak
Fletcher	Meehan	Tiahrt
Ford	Moran (KS)	Upton
Frost	Neal (MA)	Walsh
Gephardt	Northup	Wamp
Gibbons	Norwood	Young (AK)
Gilchrest	Obey	
Gillmor	Oxley	

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

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

□ 0623

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

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. TAUZIN. 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. 1.

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

There was no objection.

ADJOURNMENT TO TUESDAY, NOVEMBER 25, 2003

Mr. DELAY. Mr. Speaker, I move that when the House adjourns this legislative day, it adjourn to meet at noon on Tuesday, November 25, 2003.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas (Mr. DELAY).

The motion was agreed to.

APPOINTING DAY FOR THE CONVENING OF THE SECOND SESSION OF THE 108TH CONGRESS

Mr. DELAY. Mr. Speaker, I offer a joint resolution (H.J. Res. 80), and ask unanimous consent for its immediate consideration.

The SPEAKER pro tempore. The Clerk will report the joint resolution.

The Clerk read as follows:

H.J. RES. 80

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DAY FOR CONVENING OF SECOND REGULAR SESSION OF ONE HUNDRED EIGHTH CONGRESS.

The second regular session of the One Hundred Eighth Congress shall begin at noon on Tuesday, January 20, 2004.

SEC. 2. AUTHORITY FOR CALLING SPECIAL SESSION BEFORE CONVENING OF SECOND REGULAR SESSION.

If the Speaker of the House of Representatives (or the designee of the Speaker) and the Majority Leader of the Senate (or the designee of the Majority Leader), acting jointly after consultation with the Minority Leader of the House of Representatives and the Minority Leader of the Senate, determine it is in the public interest for Congress to assemble during the period between the end of the first regular session of the One Hundred Eighth Congress at noon on January 3, 2004, and the convening of the second regular session of the One Hundred Eighth Congress as provided in section 1—

(1) the Speaker and Majority Leader, or their respective designees, shall notify the Members of the House and Senate, respectively, of such determination and of the place and time for Congress to so assemble; and

(2) Congress shall assemble in accordance with that notification.

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

There was no objection.

The joint resolution was ordered to be engrossed and read a third time, was read a third time, and passed, and a motion to reconsider was laid on the table.

PROVIDING FOR ADJOURNMENT SINE DIE AFTER COMPLETION OF BUSINESS OF FIRST SESSION OF 108TH CONGRESS

Mr. DELAY. Mr. Speaker, I offer a privileged concurrent resolution (H. Con. Res. 339), and ask for its immediate consideration.

The SPEAKER pro tempore. The Clerk will report the concurrent resolution.

The Clerk read as follows:

HOUSE CONCURRENT RESOLUTION 339

Resolved by the House of Representatives (the Senate concurring), That when the House adjourns on any legislative day from Friday, November 21, 2003, through Friday, November 28, 2003, on a motion offered pursuant to this concurrent resolution by its Majority Leader or his designee, it stand adjourned until 2 p.m. on Tuesday, December 2, 2003, or until the time of any reassembly pursuant to section 2 of this concurrent resolution, whichever occurs first; that when the House adjourns on any legislative day from Tuesday, December 2, 2003, through the remainder of the first session of the One Hundred Eighth Congress, on a motion offered pursuant to this concurrent resolution by its Majority Leader or his designee, it stand adjourned sine die, or until the time of any reassembly pursuant to section 2 of this concurrent resolution, whichever occurs first; that when the Senate recesses or adjourns at the close of business on any day from Friday, November 21, 2003, through Friday, November 28, 2003, on a motion offered pursuant to this concurrent resolution by its Majority Leader or his designee, it stand recessed or adjourned until noon on Tuesday, December 2, 2003, or at such other time on that day as may be specified by its Majority Leader or his designee in the motion to recess or adjourn, or until the time of any reassembly pursuant to section 2 of this concurrent resolution, whichever occurs first; and that when the Senate adjourns at the close of business on any day from Tuesday, December 2, 2003, through the remainder of the first session of the One Hundred Eighth Congress, on a motion offered pursuant to this concurrent resolution by its Majority Leader or his designee, it stand adjourned sine die, or until the time of any reassembly pursuant to section 2 of this concurrent resolution, whichever occurs first.

Sec. 2. The Speaker of the House and the Majority Leader of the Senate, or their respective designees, acting jointly after consultation with the Minority Leader of the House and the Minority Leader of the Senate, shall notify the Members of the House and the Senate, respectively, to reassemble at such place and time as they may designate whenever, in their opinion, the public interest shall warrant it.

The concurrent resolution was agreed to.

A motion to reconsider is laid upon the table.

NATIONAL TRANSPORTATION SAFETY BOARD REAUTHORIZATION ACT OF 2003

Mr. DELAY. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 579) to reauthorize the National Transportation Safety Board, and for other purposes, and ask for its immediate consideration in the House.

The Clerk read the title of the Senate bill.

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

There was no objection.

The Clerk read the Senate bill, as follows:

S. 579

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 Transportation Safety Board Reauthorization Act of 2003''.

SEC. 2. AUTHORIZATION OF APPROPRIATIONS.

(a) FISCAL YEARS 2003–2006.—Section 1118(a) of title 49, United States Code, is amended—

(1) by striking ''and''; and

(2) by striking ''such sums to'' and inserting the following: ''$73,325,000 for fiscal year 2003, $78,757,000 for fiscal year 2004, $83,011,000 for fiscal year 2005, and $87,539,000 for fiscal year 2006. Such sums shall''.

(b) EMERGENCY FUND.—Section 1118(b) of such title is amended by striking the second sentence and inserting the following: ''In addition, there are authorized to be appropriated such sums as may be necessary to increase the fund to, and maintain the fund at, a level not to exceed $3,000,000.''.

(c) NTSB ACADEMY.—Section 1118 of such title is amended by adding at the end the following:

''(c) ACADEMY.—

''(1) AUTHORIZATION.—There are authorized to be appropriated to the Board for necessary expenses of the National Transportation Safety Board Academy, not otherwise provided for, $3,347,000 for fiscal year 2003, $4,896,000 for fiscal year 2004, $4,995,000 for fiscal year 2005, and $5,200,000 for fiscal year 2006. Such sums shall remain available until expended.

''(2) FEES.—The Board may impose and collect such fees as it determines to be appropriate for services provided by or through the Academy.

''(3) RECEIPTS CREDITED AS OFFSETTING COLLECTIONS.—Notwithstanding section 3302 of title 31, any fee collected under this paragraph—

''(A) shall be credited as offsetting collections to the account that finances the activities and services for which the fee is imposed;

''(B) shall be available for expenditure only to pay the costs of activities and services for which the fee is imposed; and

''(C) shall remain available until expended.

''(4) REFUNDS.—The Board may refund any fee paid by mistake or any amount paid in excess of that required.''.

(c) REPORT ON ACADEMY OPERATIONS.—The National Transportation Safety Board shall transmit an annual report to the Congress on the activities and operations of the National Transportation Safety Board Academy.

SEC. 3. ASSISTANCE TO FAMILIES OF PASSENGERS INVOLVED IN AIRCRAFT ACCIDENTS.

(a) RELINQUISHMENT OF INVESTIGATIVE PRIORITY.—Section 1136 of title 49, United States Code, is amended by adding at the end the following:

''(j) RELINQUISHMENT OF INVESTIGATIVE PRIORITY.—

''(1) GENERAL RULE.—This section (other than subsection (g)) shall not apply to an aircraft accident if the Board has relinquished investigative priority under section 1131(a)(2)(B) and the Federal agency to which the Board relinquished investigative priority is willing and able to provide assistance to the victims and families of the passengers involved in the accident.

''(2) BOARD ASSISTANCE.—If this section does not apply to an aircraft accident because the Board has relinquished investigative priority with respect to the accident, the Board shall assist, to the maximum extent possible, the agency to which the Board has relinquished investigative priority in assisting families with respect to the accident.''.

(b) REVISION OF MOU.—Not later than 1 year after the date of enactment of this Act, the National Transportation Safety Board and the Federal Bureau of Investigation shall revise their 1977 agreement on the investigation of accidents to take into account the amendments made by this section and shall submit a copy of the revised agreement to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.

SEC. 4. RELIEF FROM CONTRACTING REQUIREMENTS FOR INVESTIGATIONS SERVICES.

Section 1113(b) of title 49, United States Code, is amended—

(1) by striking ''Statutes;'' in paragraph (1)(B) and inserting ''Statutes, and, for investigations conducted under section 1131, enter into such agreements or contracts without regard to any other provision of law requiring competition if necessary to expedite the investigation;''; and

(2) by adding at the end the following:

''(3) The Board, as a component of its annual report under section 1117, shall include an enumeration of each contract for $25,000 or more executed under this section during the preceding calendar year.''.

Mr. OBERSTAR. Mr. Speaker, I rise in strong support of S. 579, the National Transportation Safety Board (NTSB) Reauthorization Act of 2003. The bill is substantially the same as the NTSB reauthorization passed by the House on May 15, 2003, by voice vote. Passage of the Senate bill will enable the bill to go to the President.

In the last 5 years, NTSB has investigated 8,124 aviation accidents, 166 highway accidents, 24 marine accidents, 41 pipeline/hazardous materials accidents, and 82 railroad accidents. In addition, the NTSB has issued a total of 881 safety recommendations: 374 aviation; 188 highway; 24 intermodal; 112 marine; 51 pipeline; and 132 railroad.

To maintain its position as the world's preeminent investigative agency, it is imperative that the NTSB has the resources necessary to handle increasingly complex accident investigations. The NTSB has recently broken ground for its new training academy that will teach state of the art investigative techniques for transportation accidents. The NTSB now needs sufficient funding to sustain budget and personnel for both its Headquarters operations as well as the academy. Accordingly, S. 579 authorizes increased funding over the next 4 years: $73 million in fiscal year 2003; $79 million in fiscal year 2004; $83 million in fiscal year 2005, and $87.5 million in fiscal year 2006. The bill also authorizes approximately $5 million per year for the training academy. This funding is critical to ensure that the Agency has the necessary resources to hire additional technical experts as well as to provide better training for its current workforce.

In 2000, Congress authorized the transfer of investigative priority from the NTSB to the Federal Bureau of Investigation (FBI) in the event of an accident caused by an international criminal act. However, there was no mechanism for the transfer of family affairs responsibility. Since the events of September 11th, the NTSB now believes that once the FBI has been transferred investigative responsibility for an aircraft accident, the family affairs responsibilities should transfer as well. S. 579 provides for the transfer of the family affairs responsibility when investigative authority has been relinquished in aviation accidents.

S. 579 also addresses another matter of great import; that is, the DOT's notoriously slow response to NTSB's safety recommendations. The bill requires an annual report from DOT on the regulatory status of safety recommendations on NTSB's ''most wanted list.'' The bill also requires DOT to report biennially on NTSB safety recommendations concerning 15-passenger van safety, railroad grade crossing safety, and medical certifications for a commercial drivers license. These reports will enable the Committee to keep tabs on the progress of these very important recommendations.

Having a well funded, well-trained NTSB workforce is of the utmost importance for the American traveling public. I urge my colleagues to support this critical piece of legislation, and I compliment Chairman YOUNG, Chairman MICA, and Ranking member DEFAZIO for their efforts.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

HOMETOWN HEROES SURVIVORS BENEFITS ACT OF 2003

Mr. DELAY. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 459) to ensure that a public safety officer who suffers a fatal heart attack or stroke while on duty shall be presumed to have died in the line of duty for purposes of public safety officer survivor benefits, and ask for its immediate consideration in the House.

The Clerk read the title of the Senate bill.

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

Mr. ETHERIDGE. Mr. Speaker, reserving the right to object, I will not object, but let me thank the leader and his staff. I want to take this opportunity to thank the gentleman from Wisconsin (Mr. SENSENBRENNER) and his staff; the ranking member, the gentleman from Michigan (Mr. CONYERS), and his staff; the subcommittee chair, the gentleman from North Carolina (Mr. COBLE), and his staff; the ranking member, the gentleman from Virginia (Mr. SCOTT), and his staff; and my staff for all their hard work; the gentleman from Pennsylvania (Mr. WELDON); and the gentleman from Maryland (Mr. HOYER) and others because this bill is an important piece of legislation.

It provides for our first responders and their families a bit of security. There is a gap in the law where currently if they die of a heart attack or stroke doing their duties, their families would not get benefits. This is a bipartisan piece of legislation. Over 283 Members of this body have signed it. Let me thank the leader. I appreciate his help and the help of others in getting this to the floor.

Mr. SENSENBRENNER. Mr. Speaker, current law provides $267,494 to the survivors of public safety officers such as police officers, firefighters and rescue squad officers who die ''as the direct and proximate result of a personal injury sustained in the line of duty''. S. 459, the ''Hometown Heroes Survivor Benefits Act of 2003'', as introduced would provide that if a public safety officer dies as the direct and proximate result of a heart attack or stroke suffered while on duty or within 24 hours after participating in a training exercise or responding to an emergency situation, that officer shall be presumed to have died as the direct and proximate result of a personal injury sustained in the line of duty for purposes of that officer's survivors receiving a $267,494 death benefit.

The intent of the legislation was to cover officers who suffered a heart attack or stroke as a result of nonroutine stressful or strenuous physical activity; however, testimony at the hearing indicated that the legislation as drafted was overboard. Witnesses testified that the legislation as drafted would undermine the purpose of the Public Safety Officer Benefits program, which was intended to provide a benefit to heroes who gave their lives in the line of duty for their communities. As drafted, it would cover officers who did not engage in any physical activity but merely happened to suffer a heart attack at work.

A substitute amendment was introduced to address these concerns. The substitute amendment would create a presumption that an officer who died as a direct and proximate result of a heart attack or stroke died as a direct and proximate result of a personal injury sustained in the line of duty if: (1) that officer participated in a training exercise that involved nonroutine stressful or strenuous physical activity or responded to a situation and such participation or response involved nonroutine stressful or strenuous physical law enforcement, hazardous material response, emergency medical services, prison security, fire suppression, rescue, disaster relief or other emergency response activity; (2) that officer suffered a heart attack or stroke while engaging or within 24 hours of engaging in that

physical activity; and (3) such presumption cannot be overcome by competent medical evidence.

For the purposes of this Act, the phrase ''nonroutine stressful or strenuous physical'' activity will exclude actions of a clerical, administrative or non-manual nature. Included in the category of ''actions of a clerical, administrative or non-manual nature'' are such tasks including, but not limited to, the following: sitting at a desk; typing on a computer; talking on the telephone; reading or writing paperwork or other literature; watching a police or corrections facility's monitors of cells or grounds; teaching a class; cleaning or organizing an emergency response vehicle; signing in or out a prisoner; driving a vehicle on routine patrol; and directing traffic at or participating in a local parade.

Such deaths, while tragic, are not to be considered in the line of duty deaths. The families of officers who died of such causes would therefore not be eligible to receive public safety officers benefits.

For the purposes of this Act, the phrase ''nonroutine stressful or strenuous physical'' actions will include, but are not limited to, the following: involvement in a physical struggle with a suspected or convicted criminal; performing a search and rescue mission; performing or assisting with emergency medical treatment; performing or assisting with fire suppression; involvement in a situation that requires either a high speed response or pursuit on foot or in a vehicle; participation in hazardous material response; responding to a riot that broke out at a public event; and physically engaging in the arrest or apprehension of a suspected criminal.

The situation listed above the types of heart attack and stroke cases that are considered to be in the line of duty. The families of officers who died in such cases are eligible to receive Public Safety Officers Benefits.

Mr. ETHERIDGE. Mr. Speaker, I withdraw my reservation of objection.

□ 0630

The SPEAKER pro tempore (Mr. HASTINGS of Washington). Is there objection to the request of the gentleman from Texas?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 459

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 ''Hometown Heroes Survivors Benefits Act of 2003''.

SEC. 2. FATAL HEART ATTACK OR STROKE ON DUTY PRESUMED TO BE DEATH IN LINE OF DUTY FOR PURPOSES OF PUBLIC SAFETY OFFICER SURVIVOR BENEFITS.

Section 1201 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796) is amended by adding at the end the following:

''(k) For purposes of this section, if a public safety officer dies as the direct and proximate result of a heart attack or stroke suffered while on duty, or not later than 24 hours after participating in a training exercise or responding to an emergency situation, that officer shall be presumed to have died as the direct and proximate result of a personal injury sustained in the line of duty.''.

SEC. 3. APPLICABILITY.

Section 1201(k) of the Omnibus Crime Control and Safe Streets Act of 1968, as added by section 2, shall apply to deaths occurring on or after January 1, 2003.

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. DELAY

Mr. DELAY. Mr. Speaker, I offer an amendment in the nature of a substitute.

The Clerk read as follows:

Amendment in the nature of a substitute offered by Mr. DELAY:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may cited as the ''Hometown Heroes Survivors Benefits Act of 2003''.

SEC. 2. FATAL HEART ATTACK OR STROKE ON DUTY PRESUMED TO BE DEATH IN LINE OF DUTY FOR PURPOSES OF PUBLIC SAFETY OFFICER SURVIVOR BENEFITS.

Section 1201 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796) is amended by adding at the end the following:

''(k) For purposes of this section, if a public safety office dies as the direct and proximate result of a heart attack or stroke, that officer shall be presumed to have died as the direct and proximate result of a personal injury sustained in the line of duty, if—

''(1) that office, while on duty—

''(A) engaged in a situation, and such engagement involved nonroutine stressful or strenuous physical law enforcement, fire suppression, rescue, hazardous material response, emergency medical services, prison security, disaster relief, or other emergency response activity; or

''(B) participated in a training exercise, and such participation involved nonroutine stressful or strenuous physical activity;

''(2) that officer died as a result of a heart attack or stroke suffered—

''(A) while engaging or participating as described under paragraph (1);

''(B) while still on that duty after so engaging or participating; or

''(C) not later than 24 hours after so engaging or participating; and

''(3) such presumption is not overcome by competent medical evidence to the contrary.

''(1) For purposes of subsection (k), 'nonroutine stressful or strenuous physical' excludes actions of a clerical, administrative, or non-manual nature.''.

Mr. DELAY (during the reading). Mr. Speaker, I ask unanimous consent that the amendment in the nature of a substitute be considered as read and printed in the RECORD.

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

There was no objection.

The amendment in the nature of a substitute was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. DELAY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on the Senate bill just passed.

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

There was no objection.

SENATE BILLS REFERRED

A bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. 1561. An act to preserve existing judgeships on the Superior Court of the District of Columbia; to the Committee on Government Reform.

ENROLLED BILLS SIGNED

Mr. Trandahl, Clerk of the House, reported and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 3182. An act to reauthorize the adoption incentive payments program under part E of title IV of the Social Security Act, and for other purposes.

H.J. Res. 79. Joint resolution making further continuing appropriations for the fiscal year 2004, and for other purposes.

SENATE ENROLLED BILLS SIGNED

The SPEAKER announced his signature to enrolled bills of the Senate of the following titles:

S. 117. An act to authorize the Secretary of Agriculture to sell or exchange certain land in the State of Florida, and for other purposes.

S. 286. An act to revise and extend the Birth Defects Prevention Act of 1998.

S. 650. An act to amend the Federal Food, Drug, and Cosmetic Act to authorize the Food and Drug Administration to require certain research into drugs used in pediatric patients.

S. 1685. An act to extend and expand the basic pilot program for employment eligibility verification, and for other purposes.

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

S. 1824. An act to amend the Foreign Assistance Act of 1961 to reauthorize the Overseas Private Investment Corporation, and for other purposes.

ADJOURNMENT

Mr. DELAY. Mr. Speaker, in honor of Scott Palmer's birthday, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 6 o'clock and 32 minutes a.m., Saturday, November 22, 2003), under its previous order, the House adjourned until Tuesday, November 25, 2003, at noon.

EXPENDITURE REPORTS CONCERNING OFFICIAL FOREIGN TRAVEL

Reports concerning the foreign currencies and U.S. dollars utilized for speaker-authorized official travel during the third and fourth quarters of 2003, pursuant to Public Law 95–384 are as follows:

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, DELEGATION TO KUWAIT AND IRAQ, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN OCT. 6 AND OCT. 10, 2003

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Hon. Fred Upton	10/6	10/10	Kuwait-Iraq		1,167.00						1,167.00
Hon. Jim Davis	10/6	10/10	Kuwait-Iraq		1,167.00						1,167.00
Hon. Mike Castle	10/6	10/10	Kuwait-Iraq		1,167.00						1,167.00
Hon. Wayne Gilchrest	10/6	10/10	Kuwait-Iraq		1,167.00						1,167.00
Hon. Amo Houghton	10/6	10/10	Kuwait-Iraq		1,167.00						1,167.00
Hon. Ron Kind	10/6	10/10	Kuwait-Iraq		1,167.00						1,167.00
Hon. Gregory Muujs	10/6	10/10	Kuwait-Iraq		1,167.00						1,167.00
Hon. Greg Walden	10/6	10/10	Kuwait-Iraq		1,167.00						1,167.00
Bill Livingood	10/6	10/10	Kuwait-Iraq		1,167.00						1,167.00
Joan Hillebrands	10/6	10/10	Kuwait-Iraq		1,167.00						1,167.00
John ''JJ'' Pishadlo	10/6	10/10	Kuwait-Iraq		1,167.00						1,167.00
Committee total	10/6	10/10	Kuwait-Iraq		1,167.00						1,167.00

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

——— ———, Nov. 10, 2003

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON APPROPRIATIONS, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JULY AND SEPT. 30, 2003

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Hon. Kay Granger	6/28	7/1	Croatia		1,104.00						1,104.00
	7/01	7/7	Italy		2,848.00						2,848.00
									1,226.41		1,226.41
Commercial airfare							5,709.57				5,709.57
Hon. Bud Cramer	6/28	7/1	Croatia		1,104.00						1,104.00
	7/1	7/7	Italy		2,848.00						2,848.00
									1,226.41		1,226.41
Commercial airfare							[3] 2,864.57				[3] 2,864.57
John T. Blazey II	6/28	7/1	Croatia		1,104.00						1,104.00
	7/1	7/7	Italy		2,848.00						2,848.00
									1,226.41		1,226.41
Commercial airfare							5,709.57				5,709.57
Therese McAuliffe	6/28	7/1	Croatia		1,104.00						1,104.00
	7/1	7/7	Italy		2,848.00						2,848.00
									1,226.41		1,226.41
Commercial airfare							4,489.36				4,489.36
Hon. C.W. Bill Young	7/26	8/1	Italy		1,016.00						1,016.00
Military & misc. commercial							1,110.40				1,110.40
									3,399.82		3,399.82
Hon. Dave Weldon	7/26	8/1	Italy		1,016.00						1,016.00
Military and misc. commercial							1,100.40				1,110.40
									3,399.82		3,399.82
Doug Gregory	7/26	8/1	Italy		1,016.00						1,016.00
Military & misc. commercial							1,110.40				1,110.40
									3,399.82		3,399.82
Jane Porter	7/26	8/1	Italy		1,016.00						1,016.00
Military & misc. commercial							1,110.40				1,110.40
									3,399.82		3,399.82
Hon. David Hobson	8/5	8/11	Russia		2,116.91		[4]				2,116.91
Hon. Mike Simpson	8/5	8/11	Russia		2,116.91		[4]				2,116.91
Hon. Marion Berry	8/5	8/11	Russia		2,116.91		[4]				2,116.91
Hon. Kay Granger	8/5	8/11	Russia		2,116.91		[4]				2,116.91
Hon. Robert Aderholt	8/5	8/11	Russia		2,116.91		[4]				2,116.91
Hon. Ed Pastor	8/5	8/11	Russia		2,116.91		[4]				2,116.91
Bob Schmidt	8/5	8/11	Russia		2,116.91		[4]				2,116.91
Kevin Cook	8/5	8/11	Russia		2,116.91		[4]				2,116.91
Dennis Kern	8/5	8/11	Russia		2,116.91		[4]				2,116.91
Scott Burnison	8/5	8/11	Russia		2,116.91		[4]				2,116.91
Hon. Jerry Lewis	7/26	7/29	Poland		1,215.00						1,215.00
	7/29	8/1	Portugal		468.00						468.00
	8/1	8/5	United Kingdom		1,840.00						1,840.00
							[4]		819.00		819.00
Hon. Alan B. Mollohan	7/26	7/29	Poland		1,215.00						1,215.00
	7/29	8/1	Portugal		468.00						468.00
	8/1	8/5	United Kingdom		1,840.00						1,840.00
							[4]		819.00		819.00
Hon. Rodney Frelinghuysen	7/26	7/29	Poland		1,215.00						1,215.00
	7/29	8/1	Portugal		468.00						468.00
	8/1	8/5	United Kingdom		1,840.00						1,840.00
							[4]		819.00		819.00
Hon. Lucille Roybal-Allard	7/26	7/29	Poland		1,215.00						1,215.00
	7/29	8/1	Portugal		468.00						468.00
	8/1	8/5	United Kingdom		1,840.00						1,840.00
							[4]		819.00		819.00
Hon. John Shank	7/26	7/29	Poland		1,215.00						1,215.00
	7/29	8/1	Portugal		468.00						468.00
	8/1	8/5	United Kingdom		1,840.00						1,840.00
							[4]		717.00		717.00
John T. Blazey II	7/26	7/29	Poland		1,215.00						1,215.00
	7/29	8/1	Portugal		468.00						468.00
	8/1	8/5	United Kingdom		1,840.00						1,840.00
							[4]		717.00		717.00
Scott Gudes	8/2	8/7	Israel (& W Bank/Gaza)		1,450.00						1,450.00
	8/7	8/10	Bosnia and Herzegovina		722.00						722.00
	8/10	8/12	Montenegro		402.00						402.00
	8/12	8/14	Austria		564.00						564.00
	8/14	8/16	Bulgaria		530.00						530.00
Commercial airfare							6,954.10				6,954.10
Hon. James P. Moran	7/26	7/28	Senegal		541.50						541.50
	7/28	7/29	Mali		202.00						202.00
	7/29	7/31	Tunisia		402.00						402.00
	7/31	8/2	Malta		493.00		[4]				493.00
Hon. Charles Taylor	8/2	8/5	United Kingdom		1,380.00						1,380.00

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON APPROPRIATIONS, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JULY AND SEPT. 30, 2003—Continued

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
	8/5	8/8	France		2,123.00						2,123.00
	8/8	8/11	Belgium		782.00						782.00
	8/11	8/15	Russia								
Commercial airfare							3,630.07				3,630.07
Elizabeth Dawson	7/26	7/29	Poland		1,215.00						1,215.00
	7/29	8/1	Portugal		468.00						468.00
	8/1	8/5	United Kingdom		1,840.00						1,840.00
	8/5	8/8	France		2,514.00						2,514.00
	8/8	8/11	Belgium		1,173.00						1,173.00
							(4)		717.00		717.00
Commercial airfare							2,857.00				2,857.00
							312.00				312.00
Chester Lee Turner III	8/1	8/5	United Kingdom		1,840.00						1,840.00
	8/5	8/8	France		2,514.00						2,514.00
	8/8	8/11	Belgium		1,173.00						1,173.00
	8/11		USA								
Commercial airfare							5,995.29				5,995.29
Hon. John Murtha	8/17	8/18	Kuwait		339.00						339.00
	8/18	8/18	Iraq		154.00						154.00
	8/18	8/19	Turkey		231.00		(4)				231.00
David Morrison	8/17	8/18	Kuwait		339.00						339.00
	8/18	8/18	Iraq		154.00						154.00
	8/18	8/19	Turkey		231.00		(4)				231.00
Hon. Jim Kolbe	8/18	8/19	Israel				362.00				362.00
	8/19	8/21	Kuwait				778.00				778.00
	8/21	8/23	Pakistan				526.00				526.00
	8/23	8/24	Turkey				276.00				276.00
Commercial airfare							6,175.62				6,175.62
Mark Murray	8/18	8/20	United Arab Emirates		400.00						400.00
	8/20	8/23	Afghanistan		800.00						800.00
	8/23	8/25	Israel		400.00						400.00
Commercial airfare							6,959.04				6,959.04
Christine R. Kojac	8/26	8/27	Poland		187.80						187.80
	8/27	8/28	Czech Republic		283.00						283.00
	8/28	8/30	Switzerland		654.02						654.02
									59.45		59.45
Commercial airfare							5,864.12				5,864.12
John T. Blazey II	8/24	8/27	Poland		558.00						558.00
	8/27	8/29	Czech Republic		566.00						566.68
Commercial airfare							6,110.68				6,110.68
Mike Ringler	8/5	8/6	Kosovo		202.70						202.70
	8/6	8/8	Germany		676.00						676.00
	8/8	8/9	Bulgaria		265.00						265.00
Commercial airfare							6,432.76				6,432.76
Rob Nabors	8/5	8/6	Kosovo		202.70						202.70
	8/6	8/8	Germany		676.00						676.00
	8/8	8/9	Bulgaria		265.00						265.00
Commercial airfare							6,432.76				6,432.76
Hon. Bud Cramer	8/21	8/23	Russia		714.00						714.00
	8/23	8/26	Czech Republic		849.00						849.00
	8/24	8/28	Malta		506.00		(4)				506.00
James W. Dyer	8/23	8/25	Israel		628.00						628.00
	8/26	8/27	Jordan		376.00						376.00
	8/27	8/29	Egypt		334.00						334.00
	8/29	8/31	England		828.00						828.00
Commercial airfare							7,473.01				7,473.01
Leslie F. Albright	8/23	8/25	Israel		628.00						628.00
	8/26	8/27	Jordan		376.00						376.00
	8/27	8/29	Egypt		334.00						334.00
	8/29	8/31	England		828.00						828.00
Commercial airfare							8,589.30				8,589.30
Rob Nabors	8/23	8/25	Israel		628.00						628.00
							63.45				63.45
Commercial airfare							6,129.80				6,129.80
Scott Lilly	8/23	8/25	Israel		942.00						942.00
	8/26	8/27	Jordan		376.00						376.00
	8/27	8/29	Syria		436.00						436.00
	8/29	8/30	Lebanon		420.00						420.00
Commercial airfare							6,427.85				6,427.85
David Morrison	8/23	8/25	Israel		942.00						942.00
	8/26	8/27	Jordan		376.00						376.00
	8/27	8/29	Syria		436.00						436.00
	8/29	8/30	Lebanon		420.00						420.00
Commercial airfare							7,128.65				7,128.65
Hon. Jim Kolbe	9/10	9/13	Mexico		177.00						177.00
Commercial airfare							1,025.12				1,025.12
Hon. Jim Kolbe	9/26	9/27	Costa Rica		255.00						255.00
	8/27	9/29	Guatemala		434.00		(4)				434.00
Alice Hogans	9/26	9/27	Costa Rica		255.00						255.00
	8/27	9/29	Guatemala		434.00		(4)				434.00
Carolyn Murphy	9/26	9/27	Costa Rica		255.00						255.00
	8/27	9/29	Guatemala		434.00		(4)				434.00
Charles Flickner	9/16	9/17	Azerbaijan		282.00						282.00
	9/17	9/22	Afghanistan		240.00						240.00
	9/22	9/23	United Arab Emirates		209.00						209.00
Commercial airfare							7,199.52				7,199.52
Hon. Jerry Lewis	9/26	9/28	Jordan		476.00						476.00
	9/28	9/29	Spain		259.00		(4)				259.00
Hon. Norm Dicks	9/26	9/28	Jordan		476.00						476.00
	9/28	9/29	Spain		259.00		(4)				259.00
Hon. James Walsh	9/26	9/28	Jordan		476.00						476.00
	9/28	9/29	Spain		259.00		(4)				259.00
Hon. Henry Bonilla	9/26	9/28	Jordan		476.00						476.00
	9/28	9/29	Spain		259.00		(4)				259.00
Hon. Rodney Frelinghuysen	9/26	9/28	Jordan		476.00						476.00
	9/28	9/29	Spain		259.00		(4)				259.00
Hon. George Nethercutt	9/26	9/28	Jordan		476.00						476.00
	9/28	9/29	Spain		259.00		(4)				259.00
Hon. Todd Tiahrt	9/26	9/28	Jordan		476.00						476.00
	9/28	9/29	Spain		259.00		(4)				259.00
Hon. Kay Granger	9/26	9/28	Jordan		476.00						476.00
	9/28	9/29	Spain		259.00		(4)				259.00
Hon. Mark Kirk	9/26	9/28	Jordan		476.00						476.00
	9/28	9/29	Spain		259.00		(4)				259.00
John Scofield	9/26	9/28	Jordan		476.00						476.00

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON APPROPRIATIONS, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JULY AND SEPT. 30, 2003—Continued

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
	9/28	9/29	Spain		259.00		(4)				259.00
Doug Gregory	9/26	9/28	Jordan		476.00						476.00
	9/28	9/29	Spain		259.00		(4)				259.00
Valerie Baldwin	9/26	9/28	Jordan		395.70						395.70
	9/28	9/29	Spain		342.25		(4)				342.25
John Shank	9/26	9/28	Jordan		476.00						476.00
	9/28	9/29	Spain		259.00		(4)				259.00
Steve Nixon	9/26	9/28	Jordan		476.00						476.00
	9/28	9/29	Spain		259.00		(4)				259.00
Committee total						11,6,736.77		126,916.81		23,991.37	267,644.95

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.
[3] Reflects credit for return of unused portion of ticket.
[4] Military air transportation.

———— ————, Oct. 30, 2003.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON EDUCATION AND THE WORKFORCE, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JULY 1 AND OCT. 31, 2003 [4]

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Hon. Michael Castle	10/6	10/12	Iraq			[3]					
Hon. Ron Kind	10/6	10/12	Iraq			[3]					
Committee total											

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.
[3] Military air transportation.
[4] Expenditures for the above travel unavailable by the deadline of Oct. 31, 2003 to file report.

JOHN BOEHNER, Chairman, Nov. 4, 2003.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON ENERGY AND COMMERCE, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JULY 1 AND OCT. 31, 2003

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Hon. Cliff Stearns	9/10	9/13	Mexico		708.00						708.00
Jack Seum	9/10	9/13	Mexico		708.00						708.00
Ramsen Betfarhad	9/10	9/13	Mexico		708.00						708.00
Manisha Singh	9/10	9/15	Mexico		1,239.00		771.65				2,010.65
Hon. Rick Boucher	7/26	7/31	Brazil		1,675.00						1,675.00
	7/31	8/3	Chile		822.00						822.00
	8/3	8/5	Costa Rica		450.00						450.00
Hon. John Shimkus	9/26	9/28	Jordan/Iraq		576.00						576.00
	9/29	9/29	Spain		259.00						259.00
Hon. Darrell Issa	8/27	9/2	Egypt		868.00		6,718.00				7,586.00
Chris Knauer	8/18	8/22	Germany		1,021.00		1,028.54				2,049.54
Hon. Cliff Stearns	6/27	7/2	Italy		1,005.00				1,527.45		2,532.45
Hon. Ed Whitfield	8/4	8/11	Russia		2,116.91						2,116.91
Hon. Michael Bilirakis	7/24	7/30	Italy		1,016.00		1,110.40		3,399.82		5,526.22
Hon. Joe Barton	7/25	7/29	Poland		1,065.00						1,065.00
	7/29	8/1	Portugal		1,042.50						1,042.50
	8/1	8/5	United Kingdom		1,640.00						1,640.00
Committee total					16,919.41		9,628.59		4,927.27		31,475.27

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

BILLY TAUZIN, Chairman, Oct. 31, 2003.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON FINANCIAL SERVICES, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JULY 1 AND AUG. 30, 2003

Name of member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]

HOUSE COMMITTEES
Please Note: If there were no expenditures during the calendar quarter noted above, please check the box at right to so indicate and return. ☒

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

MICHAEL G. OXLEY, Chairman, Oct. 29, 2003.

NOTICE OF PROPOSED RULEMAKING

U.S. CONGRESS,
OFFICE OF COMPLIANCE,
Washington, DC, November 20, 2003.

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

DEAR MR. SPEAKER: A Notice of Proposed Rulemaking (NPR) for amendments to the Procedural Rules of the Office of Compliance was published in the Congressional Record dated September 4, 2003. Subsequent to the publication of this notice, this office announced a hearing for public comment on the proposed amendments in the Congressional Record on October 15, 2003.

The Board of Directors of the Office of Compliance cancels the hearing regarding the proposed amendments to the Procedural Rules of the Office of Compliance which had been scheduled for December 2, 2003, at 10:00 a.m. in room SD–342 of the Dirksen Senate Office Building.

We request that this notice of cancellation be published in the Congressional Record. Any inquiries regarding this notice should be addressed to the Office of Compliance at our address below, or by telephone 202–724–9250, TTY 202–426–1665.

Sincerely,

SUSAN S. ROBFOGEL,
Chair.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

5566. A letter from the Acting Under Secretary, Department of Defense, transmitting the Secretary's certification that the survivability testing of the E/A-18G system otherwise required by section 2366 would be unreasonably expensive and impractical, pursuant to 10 U.S.C. 2366(c)(1); to the Committee on Armed Services.

5567. A letter from the Acting Under Secretary, Department of Defense, transmitting a status report on each research and development program that is approved as a spiral development program, pursuant to Public Law 107—314, section 803(e); to the Committee on Armed Services.

5568. A letter from the Principal Deputy, Department of Defense, transmitting the Annual Report for the Armed Force Retirement Home (AFRH) for Fiscal Year 2002, pursuant to 24 U.S.C. 411(h); to the Committee on Armed Services.

5569. A letter from the Administrator, Energy Information Administration, transmitting the Administration's Short-Term Energy Outlook for October 2003, together with the special article entitled ''Winter Fuels Outlook: 2003-2004,'' pursuant to 15 U.S.C. 790f(a)(2); to the Committee on Energy and Commerce.

5570. A letter from the Deputy Director, Defense Security Cooperation Agency, transmitting notification concerning the Department of the Army's Proposed Letter(s) ofOffer and Acceptance (LOA) to Saudi Arabia for defense articles and services (Transmittal No. 04-03), pursuant to 22 U.S.C. 2776(b); to the Committee on International Relations.

5571. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of major defense equipment and defense articles to Israel (Transmittal No. DDTC 119-03), pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

5572. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of major defense equipment and defense articles to the United Kingdom (Transmittal No. DDTC 092-03), pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

5573. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles or defense services sold commercially under a contract to Israel (Transmittal No. DDTC 115-03), pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

5574. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting a copy of Presidential Determination No. 2004-07 on Waiving Prohibition on United States Military Assistance to Parties to the Rome Statute Establishing the International Criminal Court, pursuant to Public Law 107—206; to the Committee on International Relations.

5575. A letter from the Administrator, Office of the Independent Counsel, transmitting the annual report on Audit and Investigative Activities, pursuant to 28 U.S.C. 595(a)(2); to the Committee on Government Reform.

5576. A letter from the Secretary, Department of the Treasury, transmitting the Department's Performance and Accountability Report for FY 2003, as required by the Reports Consolidation Act of 2000; to the Committee on Government Reform.

5577. A letter from the Director, Office of Management and Budget, transmitting a draft bill ''To make technical corrections in the Act making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2004, and for other purposes''; to the Committee on Resources.

5578. A letter from the Senior Staff Attorney, United States Court of Appeals for the First Circuit, transmitting an opinion of the United States Court of Appeals for the District of Columbia Circuit (No. 02-2362 — United States v. Miguel Rosa-Ortiz (October 28, 2003)); to the Committee on the Judiciary.

5579. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Regulated Navigation Area and Security Zones; Port of Miami, FL [CGD07-03-144] (RIN: 1625-AA00, 1625-AA11) received November 18, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5580. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Security Zone: Pacific Ocean, San Diego, California [COTP San Diego 03-033] (RIN: 1625-AA00) received November 18, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5581. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Drawbridge Operating Regulation; St. Croix River, Hudson, Wisconsin [CGD08-03-043] (RIN: 1625-AA09) received November 10, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5582. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Special Local Regulations; World Championship Super Boat Race, Deerfield Beach, FL [CGD07-03-099] (RIN: 1625-AA08) received November 10, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5583. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Regulated Navigation Area; Reporting Requirements for Barges Loaded with Certain Dangerous Cargoes, Inland Rivers, Eighth Coast Guard District; Correction [CGD08-03-029] (RIN: 1625-AA11) received November 10, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5584. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Notification of Arrival in U.S. Ports; Correction [USCG-2002-11865] (RIN: 1625-AA41) received November 10, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5585. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Modification of Class D Airspce; and Modification of Class E Airspace; Topeka, Philip Billard Municipal Airport, KS [Docket No. FAA-2003-16407; Airspace Docket No. 03-ACE-75] received November 20, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5586. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Modification of Class D Airspace; and Modification of Class E Airspace; St. Joseph, MO [Docket No. FAA-2003-16026; Airspace Docket No. 03-ACE-70] received November 20, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5587. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Establishment of Class E Airspace; Viroqua, WI [Docket No. FAA-2003-16058; Airspace Docket No. 03-AGL-06] received November 20, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5588. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Amendment of Class E Airspace, Dunkirk, NY [Airspace Docket No. 02-AEA-08] received November 14, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5589. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Amendment to Class E Airspace; Charlottesville, VA [Docket No. FAA-2003-15789; Airspace Docket No. 03-AEA-09] received November 20, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5590. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Revision of Jet Route [Docket No. FAA 2001-10527; Airspace Docket No. ASD 02-AGL-16] (RIN: 2120-AA66) received November 17, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5591. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Amendment of Class E5 Airspace; Augusta, GA [Airspace Docket No. 02-ASO-19] received November 17, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5592. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Amendment of Class E Airspace; Jacksonville, NC [Docket No. FAA-2003-15846; Airspace Docket No. 03-ASO-12] received November 20, 2003, pursuant to 5 U.S.C.

801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5593. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Standard Instrument Approach Procedures; Miscellaneous Amendments [Docket No. 30341; Amdt. No. 3033] received November 17, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5594. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Amendment of Class E Airspace; Maxton, NC [Docket No. FAA-2003-15847; Airspace Docket No. 03-ASO-13] received November 20, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5595. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Amendment of Class E Airspace; Raleigh, NC [Docket No. FAA-2003-15845; Airspace Docket No. 03-ASO-11] received November 20, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5596. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Modification of Class E Airspace; Corning, IA. [Docket No. FAA-2003-15727; Airspace Docket No. 03-ACE-69] received November 20, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5597. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Establishment of Class D Airspace; Ramona, CA [Docket No. FAA-2003-15887; Airspace Docket No. 03-AWP-11] received November 20, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5598. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directive; Bombardier Model CL-600-1A11 (CL-600), CL-600-2A12 (CL-601), and CL-600-2B16 (CL-601-3A, CL-601-3R, and CL-604) Series Airplanes [Docket No. 2002-NM-157-AD; Amendment 39-13360; AD 2003-22-12] (RIN: 2120-AA64) received November 20, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5599. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Modification of Class E Airspace; Chariton, IA. [Docket No. FAA-2003-15725; Airspace Docket No. 03-ACE-67] received November 20, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5600. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Standard Instrument Approach Procedures; Miscellaneous Amendments [Docket No. 30393; Amdt. No. 3080] received November 20, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5601. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Cessna Model 750 Citation X Series Airplanes [Docket No. 99-NM-229-AD; Amendment 39-13347; AD 98-16-17 R1] (RIN: 2120-AA64) received November 20, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5602. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; McDonnell Douglas Model MD-11 and -11F Airplanes [Docket No. 2004-NM-52-AD; Amendment 39-13345; AD 2003-21-10] (RIN: 2120-AA64) received November 20, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5603. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Rolls-Royce plc RB211-524 Series Turbofan Engines [Docket No. 2003-NE-33-AD; Amendment 39-13351; AD 2003-22-04] (RIN: 2120-AA64) received November 20, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5604. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; McDonell Douglas Model DC-10-10, -10F, -15, -30, -30F (KC-10A and KDC-10), -40, and-40F Airplanes; and Model MD-10-10F and -30F Airplanes [Docket No. 2002-NM-164-AD; Amendment 39-13308; AD 2003-19-05] (RIN: 2120-AA64) received November 20, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5605. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives Aerostar Aircraft Corporation Models PA-60-601, PA-60-601P, PA-60-602P, and PA-60-700P Airplanes [Docket No. 2003-CE-44-AD; Amendment 39-13348; AD 2003-22-01] (RIN: 2120-AA64) received November 20, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5606. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Rolls-Royce plc RB211-524 Series Turbofan Engines [Docket No. 2003-NE-36-AD; Amendment 39-13346; AD 2003-21-11] (RIN: 2120-AA64) received November 20, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5607. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; The Cessna Aircraft Company Model 525 Airplanes [Docket No. 2003-CE-46-AD; Amendment 39-13342; AD 2003-21-07] (RIN: 2120-AA64) received November 20, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5608. 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. 2002-NM-88-AD; Amendment 39-13189; AD 2003-12-04] (RIN: 2120-AA64) received November 20, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5609. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; McDonnel Douglas Model MB-11 and-11F Airplanes [Docket No. 2001-NM-52-AD; Amendment 39-13345; AD 2003-21-10] (RIN: 2120-AA64) received November 20, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5610. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Eurocopter France Model AS355E, F, F1, F2, and N Helicopters [Docket No. 2003-SW-10-AD; Amendment 39-13344; AD 2003-21-09] (RIN: 2120-AA64) received November 20, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5611. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Eurocopter France Model AS332C, AS332L, AS332L1, and AS332L2 Helicopters [Docket No. 2002-SW-58-AD; Amendment 39-13343; AD 2003-21-08] (RIN: 2120-AA64) received November 20, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5612. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Boeing Model 757-200 Series Airplanes [Docket No. 2001-NM-192-AD; Amendment 39-12967; AD 2002-24-02] (RIN: 2120-AA64) received November 20, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5613. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Boeing Model 747 Series Airplanes Powered by General Electric (GE) CF6-80C2 Series Engines [Docket No. 2001-NM-17-AD; Amendment 39-12968; AD 2002-24-03] (RIN: 2120-AA64) received November 20, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5614. 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 November 20, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5615. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Rolls-Royce Deutschland Ltd. & Co KG, Model Tay 620-15 and 650-15 Turbofan Engines [Docket No. 2002-NE-37-AD; Amendment 39-12971; AD 2002-24-06] (RIN: 2120-AA64) received November 20, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5616. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; CFM International CFM56-5B and -7B Series Turbofan Engines [Docket No. 2001-NE-37-AD; Amendment 39-12857; AD 2002-16-18] (RIN: 2120-AA64) received November 20, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5617. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Boeing Model 727 Airplanes [Docket No. 2002-NM-271-AD; Amendment 39-12970; AD 2002-24-05] (RIN: 2120-AA64) received November 20, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5618. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Revision of Class E Airspace, Holyoke, CO [Airspace Docket No. 00-ANM-32] received November 20, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5619. A letter from the United States Trade Representative, Executive Office of the President, transmitting a report on the intent to initiate negotiations for a free trade agreement between the United States and the Republic of Panama, pursuant to Section 2104 (a)1 of the Trade Act of 2002; to the Committee on Ways and Means.

5620. A letter from the United States Trade Representative, Executive Office of the President, transmitting a report on the intent to initiate negotiations for a free trade agreement between the United States and Colombia, Peru, Ecuador, and Bolivia, the four Andean Trade Preference Act beneficiary countries, pursuant to Section 2104 (a)1 of the Trade Act of 2002; to the Committee on Ways and Means.

5621. A letter from the Secretary, Department of Agriculture, transmitting a draft of proposed legislation, ''To amend the Poultry Products Inspection Act, the Federal Meat Inspection Act, and the Egg Products Inspection Act to require establishments and official plants to pay the costs of Federal Inspection for additional shifts, and for other purposes''; jointly to the Committees on Agriculture and Government Reform.

5622. A letter from the Chair, Office of Compliance, transmitting a Notice for publication in the Congressional Record cancelling the hearing regarding the proposed amendments to the Procedural Rules of the Office of Compliance originally published in the Congressional Record on October 15, 2003; jointly to the Committees on House Administration and Education and the Workforce.

5623. A letter from the Secretary, Department of Veterans Affairs, transmitting a draft bill, ''To amend Title 38, United States Code, to improve veterans' benefits programs, and for other purposes''; jointly to the Committees on Veterans' Affairs and Education and the Workforce.

5624. A letter from the Chairman and Vice Chairman, U.S.-China Commission, transmitting the record of the Commission's hearing on September 25, 2003, on ''China's Industrial, Investment and Exchange Rate Policies: Impact on the U.S.''; jointly to the Committees on Ways and Means and International Relations.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. POMBO: Committee on Resources. H.R. 1629. A bill to clarify that the Upper Missouri River Breaks National Monument does not include within its boundaries any privately owned property, and for other purposes (Rept. 108–392). Referred to the Committee of the Whole House on the State of the Union.

Mr. THOMAS: Committee on Ways and Means. H.R. 2896. A bill to amend the Internal Revenue Code of 1986 to remove impediments in such Code and make our manufacturing, service, and high-technology businesses and workers more competitive and productive both at home and abroad; with an amendment (Rept. 108–393). Referred to the Committee of the Whole House on the State of the Union.

Ms. PRYCE of Ohio: Committee on Rules. House Resolution 463. Resolution waiving points of order against the conference report to accompany the bill (H.R. 1) to amend title XVIII of the Social Security Act to provide for a voluntary program for prescription drug coverage under the Medicare Program, to amend the Internal Revenue Code of 1986 to allow a deduction to individuals for amounts contributed to health savings security accounts and health savings accounts, to provide for the disposition of unused health benefits in cafeteria plans and flexible spending arrangements, and for other purposes (Rept. 108–394). Referred to the House Calendar.

Mr. TOM DAVIS of Virginia: Committee on Government Reform. Efforts to Rightsize the U.S. Presence Abroad Lack Urgency and Momentum (Rept. 108–395). Referred to the Committee of the Whole House on the State of the Union.

Mr. OXLEY: Committee of Conference. Conference report on H.R. 2622. A bill 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 (Rept. 108–396). Ordered to be printed.

Mr. POMBO: Committee on Resources. H.R. 2696. A bill to establish Institutes to demonstrate and promote the use of adaptive ecosystem management to reduce the risk of wildfires, and restore the health of fire-adapted forest and woodland ecosystems of the interior West; with an amendment (Rept. 108–397 Pt. 1).

Mr. LINCOLN DIAZ-BALART of Florida: Committee on Rules. House Resolution 464. Resolution providing for consideration of a joint resolution appointing the day for the convening of the second session of the One Hundred Eighth Congress. (Rept. 108–398). Referred to the House Calendar.

Mr. LINDER: Committee on Rules. House Resolution 465. Resolution waiving a requirement of clause 6(a) of rule XIII with respect to consideration of certain resolutions reported from the Committee on Rules. (Rept. 108–399). Referred to the House Calendar.

Mr. POMBO: Committee on Resources. H.R. 958. A bill to authorize certain hydrographic services programs, to name a cove in Alaska in honor of the late Able Bodied Seaman Eric Steiner Koss, and for other purposes; with an amendment (Rept. 108–400). Referred to the Committee of the Whole House on the State of the Union.

DISCHARGE OF COMMITTEE

Pursuant to clause 2 of rule XII the Committee on Agriculture discharged from further consideration. H.R. 2696 referred to the Committee of the Whole House on the State of the Union and ordered to be printed.

TIME LIMITATION OF REFERRED BILL

Pursuant to clause 2 of rule XII the following action was taken by the Speaker:

H.R. 2696. Referral to the Committee on Agriculture extended for a period ending not later than November 21, 2003.

PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. RANGEL (for himself, Mr. CARDIN, and Mr. MCDERMOTT):

H.R. 3568. A bill to provide extended unemployment benefits to displaced workers, and to make other improvements in the unemployment insurance system; to the Committee on Ways and Means.

By Mr. CONYERS (for himself and Mr. BERMAN):

H.R. 3569. A bill to reauthorize and amend the National Film Preservation Act of 1996; to the Committee on the Judiciary, and in addition to the Committee on House Administration, 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. KILDEE:

H.R. 3570. A bill to prohibit the closure or realignment of inpatient services at the Aleda E. Lutz Department of Veterans Affairs Medical Center in Saginaw, Michigan, as proposed under the Capital Asset Realignment for Enhanced Services initiative; to the Committee on Veterans' Affairs.

By Mr. LARSEN of Washington:

H.R. 3571. A bill to modify the boundary of the San Juan Island National Historical Park; to the Committee on Resources.

By Mr. MCDERMOTT (for himself, Mr. ROYCE, Mr. RANGEL, Mr. JEFFERSON, Mr. NEAL of Massachusetts, and Mr. PAYNE):

H.R. 3572. A bill to amend the African Growth and Opportunity Act to expand certain trade benefits to eligible sub-Saharan African countries, and for other purposes; to the Committee on Ways and Means, and in addition to the Committees on International Relations, Financial Services, and Agriculture, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. LEACH (for himself, Mr. FALEOMAVAEGA, Mr. SMITH of New Jersey, and Mr. ROYCE):

H.R. 3573. A bill to promote human rights, democracy, and development in North Korea, to promote overall security on the Korean Peninsula and establish a more peaceful world environment, and for other purposes; to the Committee on International Relations, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. BAKER (for himself, Ms. ESHOO, Mr. DREIER, Mr. KENNEDY of Minnesota, Mr. HONDA, Mrs. TAUSCHER, Ms. LOFGREN, and Mr. CANTOR):

H.R. 3574. A bill to require the mandatory expensing of stock options granted to executive officers, and for other purposes; to the Committee on Financial Services.

By Ms. JACKSON-LEE of Texas (for herself, Mr. LEWIS of Georgia, Mrs. CHRISTENSEN, Mr. CLAY, Mr. GRIJALVA, Mr. CUMMINGS, Mr. PAYNE, Ms. KILPATRICK, Mr. BALLANCE, Mr. OWENS, Mr. RUSH, Mr. DAVIS of Illinois, Mr. CONYERS, and Ms. WATSON):

H.R. 3575. A bill to amend title 18, United States Code, to provide an alternate release date for certain nonviolent offenders, and for other purposes; to the Committee on the Judiciary.

By Mr. NUSSLE:

H.R. 3576. A bill to amend the Harmonized Tariff Schedule of the United States to provide a new subheading for certain log forwarders used as motor vehicles for the transport of goods for duty-free treatment consistent with other agricultural use log handling equipment; to the Committee on Ways and Means.

By Mr. EHLERS:

H.R. 3577. A bill to authorize appropriations to the Department of Transportation for surface transportation research and development, and for other purposes; to the Committee on Science.

By Mr. HONDA (for himself, Mrs. TAUSCHER, Mr. CASE, Mr. ACEVEDO-VILA, Ms. LOFGREN, Mrs. JONES of Ohio, Mr. GEORGE MILLER of California, Mr. MEEKS of New York, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. LEWIS of Georgia, Mr. BLUMENAUER, and Mr. ABERCROMBIE):

H.R. 3578. A bill to amend title 49, United States Code, to ensure the continuation of fixed guideway system projects, and for other purposes; to the Committee on Transportation and Infrastructure.

By Mr. ROYCE (for himself, Mr. KANJORSKI, Mr. LATOURETTE, and Mrs. MALONEY):

H.R. 3579. A bill to ease credit union regulatory burdens, advance credit union efforts to promote economic growth, and modernize credit union capital standards; to the Committee on Financial Services.

By Mr. ANDREWS:

H.R. 3580. A bill to amend the Internal Revenue Code of 1986 to provide for the income tax treatment of legal fees awarded or received in connection with nonphysical personal injury cases; to the Committee on Ways and Means.

By Mr. BAKER:

H.R. 3581. A bill to amend title 28 of the United States Code with respect to venue in certain preference proceedings under title 11 of the United States Code commenced by the trustee against small businesses; to the Committee on the Judiciary.

By Ms. BALDWIN (for herself, Mr. SCOTT of Virginia, Ms. CARSON of Indiana, Mr. VAN HOLLEN, Mr. HOEFFEL, Mr. MCGOVERN, Mr. FROST, Ms. NORTON, Mr. MCDERMOTT, Mr. SERRANO, Ms. SCHAKOWSKY, Mr. PAYNE, Ms. LEE, Mr. MEEKS of New York, Mrs. JONES of Ohio, Ms. MCCOLLUM, Mrs. MCCARTHY of New York, Ms. WOOLSEY, Mr. KUCINICH, Ms. MAJETTE, Mr. HINOJOSA, and Mr. GRIJALVA):

H.R. 3582. A bill to amend the Elementary and Secondary Education Act of 1965 to prohibit federally subsidized discrimination in supplemental educational services, and for other purposes; to the Committee on Education and the Workforce.

By Mr. BARTLETT of Maryland (for himself, Mr. WYNN, Mr. GILCHREST, Mr. CARDIN, Mr. HOYER, Mr. VAN HOLLEN, Mrs. JO ANN DAVIS of Virginia, Ms. NORTON, Mr. GOODE, Mr. RUPPERSBERGER, and Mr. CUMMINGS):

H.R. 3583. A bill to direct the Secretary of Homeland Security to establish an independent panel to assess the homeland security needs of the National Capital Region; to the Committee on Homeland Security (Select).

By Ms. BERKLEY:

H.R. 3584. A bill to amend title XVIII of the Social Security Act to increase the amount of payment for physicians' services under the Medicare Program and to provide regulatory relief and contracting flexibility under the Medicare Program; to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. BURGESS (for himself, Mr. BARTON of Texas, and Mr. SESSIONS):

H.R. 3585. A bill to require the Secretary of Transportation to develop and implement an environmental review process for safety emergency highway projects; to the Committee on Transportation and Infrastructure, and in addition to the Committee on Resources, 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. CANTOR (for himself, Mr. WILSON of South Carolina, Mr. ROGERS of Michigan, Mr. SESSIONS, Ms. PRYCE of Ohio, Ms. DUNN, Mr. WICKER, Mr. HOEKSTRA, Mr. EHLERS, Mr. CAMP, and Mr. POMEROY):

H.R. 3586. A bill to amend the Internal Revenue Code of 1986 to protect the health benefits of retired miners and to restore stability and equity to the financing of the United Mine Workers of America Combined Benefit Fund by providing additional sources of revenue to the Fund, and for other purposes; to the Committee on Ways and Means.

By Mr. CASE (for himself and Ms. BORDALLO):

H.R. 3587. A bill to amend the Immigration and Nationality Act to give priority in the issuance of immigrant visas to the sons and daughters of Filipino World War II veterans who are or were naturalized citizens of the United States, and for other purposes; to the Committee on the Judiciary.

By Mrs. CHRISTENSEN (for herself, Mr. LEWIS of Georgia, Mr. CUMMINGS, Ms. JACKSON-LEE of Texas, Mr. WATT, Ms. WATSON, Ms. LEE, Mr. HASTINGS of Florida, Mr. THOMPSON of Mississippi, Ms. MAJETTE, Ms. KILPATRICK, Mr. CLYBURN, Mr. MEEK of Florida, Ms. WATERS, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. WYNN, Ms. CORRINE BROWN of Florida, Mr. JEFFERSON, Mr. PAYNE, Ms. CARSON of Indiana, and Mr. SCOTT of Virginia):

H.R. 3588. A bill to direct the Secretary of Health and Human Services to establish health empowerment zone programs in communities that disproportionately experience disparities in health status and health care, and for other purposes; to the Committee on Energy and Commerce.

By Mrs. CHRISTENSEN:

H.R. 3589. A bill to create the Office of Chief Financial Officer of the Government of the Virgin Islands; to the Committee on Resources.

By Mr. CRAMER:

H.R. 3590. A bill to amend the Internal Revenue Code of 1986 to allow employers a credit against income tax to encourage them to have their employees provide volunteer services that aid science, mathematics, and engineering education in grades K-12; to the Committee on Ways and Means.

By Mrs. CUBIN (for herself, Mr. JOHN, Mr. PICKERING, Mr. SIMPSON, Mr. ROGERS of Michigan, and Mr. MCGOVERN):

H.R. 3591. A bill to amend the Public Health Service Act with respect to health professions programs regarding the practice of pharmacy; to the Committee on Energy and Commerce.

By Mr. DAVIS of Florida:

H.R. 3592. A bill to amend the Elementary and Secondary Education Act of 1965 to condition receipt of funds under part A of title V of such Act by a State on the State requiring successful completion of courses in American history and American government as a prerequisite to high school graduation, and for other purposes; to the Committee on Education and the Workforce.

By Mr. DAVIS of Illinois (for himself and Mr. OSBORNE):

H.R. 3593. A bill to amend the Higher Education Act of 1965 to provide funds for campus mental and behavioral health service centers; to the Committee on Education and the Workforce.

By Ms. DEGETTE:

H.R. 3594. A bill to amend the Public Health Service Act with respect to the protection of human subjects in research; to the Committee on Energy and Commerce.

By Ms. DELAURO (for herself, Mrs. JONES of Ohio, Mr. SANDERS, Mr. DELAHUNT, Ms. ROYBAL-ALLARD, and Ms. LEE):

H.R. 3595. A bill to amend the Child Care and Development Block Grant Act of 1990 to authorize financial assistance to permit infants to be cared for at home by parents; to the Committee on Education and the Workforce.

By Mr. DEMINT (for himself and Ms. SLAUGHTER):

H.R. 3596. A bill to amend the Internal Revenue Code of 1986 to repeal the medicine and drugs limitation on the deduction for medical care; to the Committee on Ways and Means.

By Mr. DOOLITTLE:

H.R. 3597. A bill to authorize the Secretary of the Interior, through the Bureau of Reclamation, to conduct a feasibility study on the Alder Creek water storage and conservation project in El Dorado County, California, and for other purposes; to the Committee on Resources.

By Mr. EHLERS (for himself and Mr. UDALL of Colorado):

H.R. 3598. A bill to establish an interagency committee to coordinate Federal manufacturing research and development efforts in manufacturing, strengthen existing programs to assist manufacturing innovation and education, and expand outreach programs for small and medium-sized manufacturers, and for other purposes; to the Committee on Science.

By Mr. EMANUEL (for himself, Mr. FOLEY, Mr. STUPAK, Mr. CAMP, and Mr. LANTOS):

H.R. 3599. A bill to prevent corporate auditors from providing tax shelter services to their audit clients; to the Committee on Financial Services.

By Mr. ENGEL:

H.R. 3600. A bill to amend the Public Health Service Act to require health insurance issuers to credit toward an annual deductible in case of subsequent issuance of similar health insurance policy by the same issuer to the same person; to the Committee on Energy and Commerce.

By Mr. ENGLISH (for himself and Mr. CARDIN):

H.R. 3601. A bill to amend the Internal Revenue Code of 1986 to protect the health benefits of steel industry retirees by expanding the availability of the refundable tax credit to the health insurance costs paid by former employers; to the Committee on Ways and Means.

By Mr. FOSSELLA (for himself and Mrs. KELLY):

H.R. 3602. A bill to establish a grant program to provide comprehensive eye examinations to children, and for other purposes; to the Committee on Energy and Commerce.

By Mr. GERLACH (for himself, Mr. MCGOVERN, Ms. BERKLEY, Ms. ROS-LEHTINEN, and Mr. GALLEGLY):

H.R. 3603. A bill to provide for the adjudication of claims of nationals of the United States against the Government of Iraq arising during the period beginning on May 16, 1987, and ending on May 1, 2003; to the Committee on International Relations.

By Mr. GOODLATTE (for himself, Mr. STENHOLM, Mr. LUCAS of Oklahoma, Mr. GUTKNECHT, Mr. BLUNT, Mr. GALLEGLY, Mr. OSBORNE, Mr. BURNS, Mr. CHOCOLA, Mr. NEUGEBAUER, Mr. NETHERCUTT, Mr. SMITH of Michigan, Mr. KINGSTON, Mr. BARTLETT of Maryland, Mr. BROWN of South Carolina, Mr. UPTON, Mr. CAMP, Mr. YOUNG of Alaska, Mr. COLLINS, Mr. BAKER, Mrs. JO ANN DAVIS of Virginia, Mr. DUNCAN, Mr. FORBES, Mr. GARRETT of New Jersey, Mr. HERGER, Mr. HOEKSTRA, Mr. JANKLOW, Mr. JONES of North Carolina, Mr. KELLER, Mrs. MILLER of Michigan, Mr. OXLEY, Mr. SOUDER, Mr. TIBERI, and Mr. WICKER):

H.R. 3604. A bill to simplify the process for admitting temporary alien agricultural workers under section 101(a)(15)(H)(ii)(a) of the Immigration and Nationality Act, to increase access to such workers, and for other

purposes; to the Committee on the Judiciary, and in addition to the Committee on Agriculture, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. HAYWORTH:

H.R. 3605. A bill to amend the Internal Revenue Code of 1986 and the Employee Retirement Income Security Act of 1974 to clarify that federally recognized Indian tribal governments are to be regulated under the same government employer rules and procedures that apply to Federal, State, and other local government employers with regard to the establishment and maintenance of employee benefit plans; to the Committee on Ways and Means, and in addition to the Committee on Education and the Workforce, 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. HEFLEY:

H.R. 3606. A bill to amend the Internal Revenue Code of 1986 to eliminate the marriage penalty in the contribution rules for Roth IRAs; to the Committee on Ways and Means.

By Ms. HOOLEY of Oregon (for herself, Mr. FROST, Mr. WU, Mrs. MCCARTHY of New York, Mr. DEFAZIO, Mr. EVANS, Mr. GRIJALVA, Ms. KAPTUR, Ms. WOOLSEY, and Ms. DEGETTE):

H.R. 3607. A bill to amend the Internal Revenue Code of 1986 to provide a refundable tax credit to small businesses for the costs of qualified health insurance; to the Committee on Ways and Means.

By Ms. HOOLEY of Oregon (for herself, Mr. FROST, Mr. WU, Mrs. MCCARTHY of New York, Mr. DEFAZIO, Mr. EVANS, Ms. CARSON of Indiana, Mr. PAUL, Ms. MCCOLLUM, and Ms. DEGETTE):

H.R. 3608. A bill to amend the Internal Revenue Code of 1986 to provide a credit to employers for hiring new employees; to the Committee on Ways and Means.

By Mr. HOSTETTLER (for himself, Mr. PITTS, Mr. BARTLETT of Maryland, Mr. DOOLITTLE, Mr. TANCREDO, Mr. SMITH of Texas, and Mr. SOUDER):

H.R. 3609. A bill to amend the Revised Statutes of the United States to eliminate the chilling effect on the constitutionally protected expression of religion by State and local officials that results from the threat that potential litigants may seek damages and attorney's fees; to the Committee on the Judiciary.

By Mr. HOUGHTON (for himself, Mrs. JOHNSON of Connecticut, Mr. RANGEL, and Mr. NEAL of Massachusetts):

H.R. 3610. A bill to amend the Internal Revenue Code of 1986 to replace the recapture bond provisions of the low income housing tax credit program; to the Committee on Ways and Means.

By Ms. EDDIE BERNICE JOHNSON of Texas:

H.R. 3611. A bill to amend title 23, United States Code, to allocate transportation funds to metropolitan areas and increase planning funds to relieve metropolitan congestion, and for other purposes; to the Committee on Transportation and Infrastructure.

By Ms. EDDIE BERNICE JOHNSON of Texas (for herself, Mr. FROST, Mr. BELL, and Mr. OWENS):

H.R. 3612. A bill to amend title 38, United States Code, to improve the outreach activities of the Department of Veterans Affairs, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. SAM JOHNSON of Texas (for himself, Mr. BOEHNER, and Mr. HOUGHTON):

H.R. 3613. A bill to amend the Internal Revenue Code of 1986 to provide for the disclosure of return information for student financial assistance purposes; to the Committee on Ways and Means.

By Mr. KING of New York:

H.R. 3614. A bill to ensure that the national instant criminal background check system provides the Federal Bureau of Investigation with information on approved firearms transfers to persons named in the Violent Gang and Terrorist Organization File; to the Committee on the Judiciary.

By Mr. LARSON of Connecticut:

H.R. 3615. A bill to authorize the Secretary of Defense to reimburse members of the Armed Forces for the cost of protective body armor purchased by or on behalf of the member; to the Committee on Armed Services.

By Mr. LARSON of Connecticut:

H.R. 3616. A bill to establish the Commission on Preemptive Foreign Policy and Military Planning; to the Committee on International Relations, and 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.

By Mr. MEEHAN (for himself and Mr. SHAYS):

H.R. 3617. A bill to amend the Internal Revenue Code of 1986 to reform the system of public financing for presidential elections, and for other purposes; to the Committee on House Administration, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. MENENDEZ (for himself, Mr. PAYNE, Mr. HINOJOSA, Mr. OWENS, Mr. CLYBURN, and Mr. FATTAH):

H.R. 3618. A bill to ensure that all college students and their families have the tools and resources to adequately save for, finance, and repay their postsecondary and post-baccalaureate expenses; to the Committee on Education and the Workforce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. GEORGE MILLER of California (for himself, Mr. GEPHARDT, Mr. BISHOP of New York, Mr. KILDEE, Mr. KUCINICH, Mr. OWENS, Mr. GRIJALVA, Mr. DAVIS of Illinois, Ms. WOOLSEY, Mr. PAYNE, Ms. MCCOLLUM, Mr. TIERNEY, Mrs. MCCARTHY of New York, Mr. ANDREWS, Mr. RYAN of Ohio, Mr. VAN HOLLEN, Mr. HOLT, Mr. WU, Mr. HINOJOSA, Mr. KIND, Ms. PELOSI, Mr. HOYER, Mr. MATSUI, Ms. KILPATRICK, Mr. HOLDEN, Ms. CARSON of Indiana, Ms. SCHAKOWSKY, Mr. SABO, Mr. MICHAUD, Mr. DELAHUNT, Mr. PALLONE, Mr. ABERCROMBIE, Mr. PETERSON of Minnesota, Ms. SOLIS, Ms. SLAUGHTER, Mr. BACA, Mr. DOYLE, Mrs. MALONEY, Mr. SHERMAN, Mr. SERRANO, Mr. GUTIERREZ, Mr. HOEFFEL, Mr. MCNULTY, Ms. LINDA T. SANCHEZ of California, Mr. HINCHEY, Mr. BAIRD, Mr. RUSH, Mr. KING of New York, Mr. LYNCH, Ms. MILLENDER-MCDONALD, Mr. LANTOS, Mr. ALLEN, Mr. RODRIGUEZ, Ms. DELAURO, Mr. NADLER, Mr. BROWN of Ohio, Mr. UDALL of New Mexico, Mr. WEXLER, Mr. LEVIN, Mr. WEINER, Mr. CONYERS, Mr. JACKSON of Illinois, Mr. MCGOVERN, Mr. STARK, Mr. EVANS, Mr. SANDERS, Mr. RAHALL, Mr. DEUTSCH, Ms. LEE, Ms. CORRINE BROWN of Florida, Mr. CARDOZA, Mr. MEEHAN, Mr. SIMMONS, Mr. HASTINGS of Florida, Mr. LANGEVIN, Mr. WAXMAN, Mrs. CHRISTENSEN, Mr. PASCRELL, Mrs. JONES of Ohio, Mr. SMITH of New Jersey, Mr. HONDA, and Mr. PASTOR):

H.R. 3619. A bill to amend the National Labor Relations Act to establish an efficient system to enable employees to form, join, or assist labor organizations, to provide for mandatory injunctions for unfair labor practices during organizing efforts, and for other purposes; to the Committee on Education and the Workforce.

By Mr. NEAL of Massachusetts:

H.R. 3620. A bill to provide duty-free treatment for certain tuna; to the Committee on Ways and Means.

By Mr. NETHERCUTT:

H.R. 3621. A bill to extend the grace period for personal watercraft use in Lake Roosevelt National Recreation Area; to the Committee on Resources.

By Ms. NORTON (for herself, Mr. HOYER, Mr. WYNN, Mr. MORAN of Virginia, and Mr. VAN HOLLEN):

H.R. 3622. A bill to amend the Federal Water Pollution Control Act and the Water Resources Development Act of 1992 to provide for the restoration, protection, and enhancement of the environmental integrity and social and economic benefits of the Anacostia Watershed in the State of Maryland and the District of Columbia; to the Committee on Transportation and Infrastructure.

By Mr. OBERSTAR:

H.R. 3623. A bill to amend the Employee Retirement Income Security Act of 1974 to increase the maximum levels of guaranteed single-employer plan benefits, and for other purposes; to the Committee on Education and the Workforce.

By Mr. OBERSTAR:

H.R. 3624. A bill to provide that, for purposes of making determinations for certain trade remedies and trade adjustment assistance, imported semi-finished steel slabs and taconite pellets produced in the United States shall be considered to be articles like or directly competitive with each other; to the Committee on Ways and Means.

By Mr. PORTMAN (for himself, Mr. HOUGHTON, and Mr. POMEROY):

H.R. 3625. A bill to amend the Internal Revenue Code of 1986 to consolidate the Inspectors General relating to the Department of the Treasury, and for other purposes; to the Committee on Ways and Means, and in addition to the Committee on Government Reform, 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. RODRIGUEZ (for himself, Mr. GONZALEZ, and Mr. DOGGETT):

H.R. 3626. A bill to amend the National Trails System Act to designate El Camino Real de los Tejas as a National Historic Trail; to the Committee on Resources.

By Mr. SAXTON:

H.R. 3627. A bill to establish in the Executive Office of the President the Office of Oceans and Coastal Policy; to the Committee on Resources, and in addition to the Committee on Science, 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 Ms. SCHAKOWSKY:

H.R. 3628. A bill to amend the Federal Food, Drug, and Cosmetic Act to facilitate the procurement of safe food by hospitals, nursing homes, schools, and child care facilities; to the Committee on Energy and Commerce.

By Ms. SCHAKOWSKY (for herself, Ms. SOLIS, Ms. CARSON of Indiana, Mr.

NADLER, Ms. NORTON, Mrs. JONES of Ohio, Ms. DELAURO, and Mr. HINCHEY):

H.R. 3629. A bill to amend the Federal Insecticide, Fungicide, and Rodenticide Act and the Solid Waste Disposal Act to establish prohibitions and requirements relating to arsenic-treated wood, and for other purposes; to the Committee on Energy and Commerce, and in addition to the Committee on Agriculture, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. SHAYS (for himself, Mr. INSLEE, Mr. PRICE of North Carolina, and Mr. GREEN of Wisconsin):

H.R. 3630. A bill to make available on the Internet, for purposes of access and retrieval by the public, certain information available through the Congressional Research Service web site; to the Committee on House Administration.

By Mr. SHERMAN:

H.R. 3631. A bill to prohibit the collection, by interactive video-related service providers, of personally identifiable information regarding the viewing choices of subscribers to such services; to the Committee on Energy and Commerce.

By Mr. SMITH of Texas (for himself, Mr. KELLER, Mr. WEXLER, Mr. GOODLATTE, Mr. GALLEGLY, and Mr. CARTER):

H.R. 3632. A bill to prevent and punish counterfeiting of copyrighted copies and phonorecords, and for other purposes; to the Committee on the Judiciary.

By Mr. SOUDER (for himself, Mr. HASTERT, Mr. DELAY, Mr. BLUNT, Mr. CANTOR, Mr. COX, Mr. DREIER, Mrs. MYRICK, Mr. DEMINT, Mr. KING of New York, Ms. DUNN, Mr. BURTON of Indiana, Mr. CRANE, Mr. WILSON of South Carolina, Mrs. JO ANN DAVIS of Virginia, Mr. CARTER, Mr. GOODE, Mr. LINDER, Mr. ROHRABACHER, Mr. GALLEGLY, Mr. DOOLITTLE, Mr. POMBO, Mr. HUNTER, Mr. FRANKS of Arizona, Mr. AKIN, Mr. FEENEY, Mr. BUYER, Mr. TIAHRT, Mr. BRADY of Texas, Mr. CHOCOLA, Mr. CULBERSON, Mr. BURGESS, Mr. CUNNINGHAM, Mr. PENCE, Mr. JONES of North Carolina, Mr. WELLER, Mr. GIBBONS, Mr. LINCOLN DIAZ-BALART of Florida, Mr. KING of Iowa, Mr. DUNCAN, Mr. PITTS, Mr. HERGER, Mr. THORNBERRY, Mr. HOSTETTLER, Mr. TOOMEY, Mr. GARRETT of New Jersey, Mr. KINGSTON, Mr. NORWOOD, Mr. TERRY, Mr. BISHOP of Utah, Mr. MCKEON, Mr. OSE, Mr. MANZULLO, Mr. OSBORNE, Mr. BOOZMAN, Mr. SHADEGG, Mr. WAMP, Mr. REHBERG, Mr. RADANOVICH, Mr. PEARCE, Mr. WELDON of Florida, Mr. LAHOOD, Mr. MARIO DIAZ-BALART of Florida, Ms. GINNY BROWN-WAITE of Florida, Mr. BALLENGER, Mr. THOMAS, Mr. HOEKSTRA, Mr. FORBES, Mr. TAUZIN, Mr. PAUL, Mr. ISSA, Mr. RAMSTAD, Mrs. MUSGRAVE, Mr. SESSIONS, Mr. OTTER, Mr. CRENSHAW, Mr. WALDEN of Oregon, and Mr. SHIMKUS):

H.R. 3633. A bill to provide for dime coins to bear the likeness of President Ronald Reagan, the Freedom President, in honor of his work in restoring American greatness and bringing freedom to captive nations around the world; to the Committee on Financial Services.

By Mr. SOUDER (for himself, Mr. CUMMINGS, Mr. TOM DAVIS of Virginia, Mr. SCOTT of Virginia, Mr. BALLENGER, Mr. TERRY, Mr. ACEVEDO-VILA, Mr. SESSIONS, Mr. PORTMAN, and Mr. BOOZMAN):

H.R. 3634. A bill to amend the Controlled Substances Act to lift the patient limitation on prescribing drug addiction treatments by medical practitioners in group practices, and for other purposes; to the Committee on Energy and Commerce, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. STARK (for himself, Mr. MCDERMOTT, Mr. KENNEDY of Rhode Island, Mr. FROST, Mrs. CHRISTENSEN, Mr. JEFFERSON, and Mr. MCNULTY):

H.R. 3635. A bill to amend the Social Security Act to provide for coverage under the Medicare Program of chronic kidney disease patients who are not end-stage renal disease patients; to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. STEARNS:

H.R. 3636. A bill to amend the Public Health Service Act to prohibit health discrimination against individuals and their family members on the basis of genetic information, and for other purposes; to the Committee on Energy and Commerce.

By Mrs. TAUSCHER (for herself, Mr. SKELTON, Mr. COOPER, and Mr. GEORGE MILLER of California):

H.R. 3637. A bill to amend title 10, United States Code, to provide a temporary increase in the minimum end strength level for active duty personnel for the Army, and for other purposes; to the Committee on Armed Services.

By Mr. THOMPSON of California:

H.R. 3638. A bill to adjust the boundary of Redwood National Park in the State of California, and for other purposes; to the Committee on Resources.

By Mr. TIAHRT:

H.R. 3639. A bill to extend the Temporary Extended Unemployment Compensation Act of 2002, and for other purposes; to the Committee on Ways and Means.

By Mr. TIERNEY (for himself, Mr. MEEKS of New York, Mr. GEORGE MILLER of California, Mr. ACEVEDO-VILA, Mr. OLVER, Ms. MILLENDER-MCDONALD, Mr. DELAHUNT, Mr. MCGOVERN, Mr. OWENS, Mr. FRANK of Massachusetts, and Ms. WOOLSEY):

H.R. 3640. A bill to require the Commissioner of Labor Statistics to develop a methodology for measuring the cost of living in each State, and to require the Comptroller General to determine how certain Federal benefits would be increased if the determination of those benefits were based on that methodology; to the Committee on Education and the Workforce, and in addition to the Committees on Ways and Means, Financial Services, and Agriculture, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. TIERNEY (for himself, Mr. GRIJALVA, Mr. HOEFFEL, Mr. KIND, Mr. CASE, Mr. GEORGE MILLER of California, Ms. BALDWIN, Mr. MCDERMOTT, Ms. WOOLSEY, Mr. BLUMENAUER, Ms. KAPTUR, Ms. SCHAKOWSKY, Mr. HINCHEY, Mr. FARR, Mr. NADLER, Mr. OLVER, Mr. FRANK of Massachusetts, Mr. MCGOVERN, Mr. SANDERS, Mr. CONYERS, Ms. DELAURO, Mr. LANTOS, Mr. DELAHUNT, Ms. ESHOO, Mr. WAXMAN, Mr. STARK, Mr. VAN HOLLEN, Ms. LEE, Mr. JACKSON of Illinois, and Mr. MCNULTY):

H.R. 3641. A bill to reform the financing of Federal elections, and for other purposes; to the Committee on House Administration, and in addition to the Committees on Energy and Commerce, and Government Reform, 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 Ms. WATERS:

H.R. 3642. A bill to require the Secretary of State to prepare an annual report on progress made to eradicate poppy cultivation and prevent illicit drug trafficking in Afghanistan; to the Committee on International Relations.

By Mr. WEINER (for himself, Mr. CROWLEY, Mr. ISRAEL, Mr. NADLER, Ms. BERKLEY, Mr. FOLEY, Mrs. MCCARTHY of New York, Mrs. MALONEY, Mr. HILL, Mr. MCNULTY, Mr. FRANK of Massachusetts, Mr. WAXMAN, Mr. SANDLIN, Mr. STRICKLAND, Mrs. TAUSCHER, Mr. EMANUEL, Mr. BISHOP of Georgia, Mr. MATSUI, Mr. CARDOZA, Mr. RUSH, Mr. DEUTSCH, Mr. MARKEY, Mr. GARRETT of New Jersey, Mr. ANDREWS, and Mr. FERGUSON):

H.R. 3643. A bill to halt Saudi support for institutions that fund, train, incite, encourage, or in any other way aid and abet terrorism, and to secure full Saudi cooperation in the investigation of terrorist incidents; to the Committee on International Relations.

By Mr. WELDON of Pennsylvania (for himself and Mr. ANDREWS):

H.R. 3644. A bill to establish a technology, equipment, and information transfer program within the Department of Homeland Security; to the Committee on Science, and in addition to the Committees on the Judiciary, Energy and Commerce, Transportation and Infrastructure, and Homeland Security (Select), for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. YOUNG of Alaska:

H.R. 3645. A bill To amend the Magnuson-Stevens Fishery Conservation and Management Act to clarify the definition of ''essential fish habitat'', and for other purposes; to the Committee on Resources.

By Mr. YOUNG of Florida:

H.J. Res. 79. A joint resolution making further continuing appropriations for the fiscal year 2004, and for other purposes; to the Committee on Appropriations. considered and passed.

By Mr. DELAY:

H.J. Res. 80. A joint resolution appointing the day for the convening of the second session of the One Hundred Eighth Congress; considered and passed.

By Mr. OWENS:

H.J. Res. 81. A joint resolution proposing an amendment to the Constitution of the United States limiting the number of consecutive terms that a Senator or Representative may serve and providing for 4-year terms for Representatives; to the Committee on the Judiciary.

By Mr. LANTOS (for himself and Mr. COX):

H. Con. Res. 336. Concurrent resolution expressing the sense of Congress that the continued participation of the Russian Federation in the Group of 8 nations should be conditioned on the Russian Government voluntarily accepting and adhering to the norms and standards of democracy; to the Committee on International Relations.

By Mrs. KELLY:

H. Con. Res. 337. Concurrent resolution expressing the sense of the Congress that raising awareness and working to prevent suicide in the United States are worthy goals,

and supporting the goals and ideals of National Survivors of Suicide Day, observed annually on the Saturday before Thanksgiving; to the Committee on Energy and Commerce.

By Ms. CARSON of Indiana:

H. Con. Res. 338. Concurrent resolution commemorating the 15th anniversary of Rebuilding Together, commending Rebuilding Together for its service, and encouraging Americans to volunteer with Rebuilding Together and similar community organizations; to the Committee on Financial Services.

By Mr. DELAY:

H. Con. Res. 339. A concurrent resolution providing for the sine die adjournment of the first session of the One Hundred Eighth Congress; considered and agreed to.

By Mr. ANDREWS:

H. Con. Res. 340. Concurrent resolution expressing the sense of Congress that the people of Taiwan should be able to conduct referenda votes free from intimidation or threat of force; to the Committee on International Relations.

By Ms. HOOLEY of Oregon (for herself, Mr. WALDEN of Oregon, Mr. BLUMENAUER, Mr. WU, and Mr. DEFAZIO):

H. Con. Res. 341. Concurrent resolution recognizing the 20th anniversary of the restoration of Federal recognition of the Confederated Tribes of the Grand Ronde Community of Oregon; to the Committee on Resources.

By Mrs. MALONEY (for herself, Mrs. BIGGERT, and Ms. HOOLEY of Oregon):

H. Con. Res. 342. Concurrent resolution commending Iraqi women for their participation in Iraqi government and civil society, encouraging the inclusion of Iraqi women in the political and economic life of Iraq, and advocating the protection of Iraqi women's human rights in the Iraqi Constitution; to the Committee on International Relations.

By Mr. MCGOVERN (for himself, Mr. SWEENEY, Mr. CAPUANO, Mr. MCDERMOTT, Ms. SLAUGHTER, Mr. SANDERS, Mr. GRIJALVA, Mr. KUCINICH, Mr. EVANS, Mr. ISRAEL, Ms. KAPTUR, Mr. ETHERIDGE, Mr. HINCHEY, Mr. BLUMENAUER, Mr. OBERSTAR, Mr. FORD, Mr. LANTOS, Mr. ABERCROMBIE, Mr. MOORE, Mr. REYES, Mrs. JONES of Ohio, Mr. MICHAUD, Mr. CONYERS, Mr. STRICKLAND, Mr. LIPINSKI, Mr. MCNULTY, Mr. LEWIS of Georgia, Mr. BERRY, Mr. BRADY of Pennsylvania, Mr. SKELTON, Mrs. MALONEY, Mr. BISHOP of New York, Mr. HOEFFEL, Mr. TOWNS, Mr. MEEKS of New York, Ms. BORDALLO, Ms. DELAURO, Mr. LEVIN, Mr. PAYNE, Mr. HASTINGS of Florida, Mr. OBEY, Ms. KILPATRICK, Mr. MARKEY, Mr. PASCRELL, Mr. KENNEDY of Rhode Island, Mr. ENGEL, Mr. KILDEE, Mr. VISCLOSKY, Mr. DICKS, Mr. STARK, Ms. LEE, Ms. LINDA T. SANCHEZ of California, and Ms. CARSON of Indiana):

H. Con. Res. 343. Concurrent resolution affirming the support of Congress for preserving President Franklin D. Roosevelt's profile on the dime because of his innumerable contributions to and lasting impact on the Nation; to the Committee on Financial Services.

By Mr. MEEKS of New York (for himself and Mr. CONYERS):

H. Con. Res. 344. Concurrent resolution expressing the sense of the Congress that American prisoners of war (POWs) during the 1991 Gulf War and their immediate family members should be adequately compensated, without delay, for their suffering and injury, as decided by the United States District Court for the District of Columbia; to the Committee on International Relations.

By Mr. ISSA (for himself, Mr. FILNER, Mr. LEWIS of California, Mr. BALLENGER, Mrs. BONO, Mr. EMANUEL, Mr. HOUGHTON, Mr. TERRY, Mr. SMITH of Michigan, Mr. MORAN of Virginia, Mr. PITTS, Mr. BARTLETT of Maryland, Mr. GILLMOR, Mr. CUNNINGHAM, Mr. YOUNG of Alaska, Mr. REYES, Mr. CONYERS, Mr. RAHALL, and Mr. BLUMENAUER):

H. Res. 462. A resolution supporting the vision of Israelis and Palestinians who are working together to conceive pragmatic, serious plans for achieving peace, and for other purposes; to the Committee on International Relations.

By Ms. SOLIS (for herself, Mr. REYES, Mr. RAMSTAD, Ms. SLAUGHTER, Mrs. CAPITO, and Mr. RODRIGUEZ):

H. Res. 466. A resolution conveying the sympathy of the House of Representatives to the families of the young women murdered in the State of Chihuahua, Mexico, and encouraging increased United States involvement in bringing an end to these crimes; to the Committee on International Relations.

By Mr. GONZALEZ (for himself, Mr. SMITH of Texas, Mr. RODRIGUEZ, Mr. LAMPSON, and Mr. BELL):

H. Res. 467. A resolution commending the astounding work of the Southwest Research Institute in discovering the cause of the Columbia space shuttle disaster; to the Committee on Science.

By Mr. GRAVES:

H. Res. 468. A resolution expressing disapproval of the consideration by Justices of the Supreme Court of the United States of foreign laws and public opinion in their decisions, urging the end of this practice immediately to avoid setting a dangerous precedent, and urging all Justices to base their opinions solely on the merits under the Constitution of the United States; to the Committee on the Judiciary.

By Mr. JONES of North Carolina:

H. Res. 469. A resolution to authorize and direct the Committee on Appropriations to create a new Subcommittee on Veterans' Affairs; to the Committee on Rules.

By Ms. ROS-LEHTINEN:

H. Res. 470. A resolution expressing gratitude to Israeli law enforcement officers for the counterterrorism training and consultation they have provided to law enforcement officers in the United States, acknowledging the common challenges that terrorism presents to law enforcement in the United States and Israel, and for other purposes; to the Committee on International Relations, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. RUSH:

H. Res. 471. A resolution congratulating the people of Haiti on the bicentennial of their independence; to the Committee on International Relations.

By Ms. SLAUGHTER:

H. Res. 472. A resolution providing for the consideration of the bill H.R. 3495; to the Committee on Rules.

MEMORIALS

Under clause 3 of rule XII, memorials were presented and referred as follows:

227. The SPEAKER presented a memorial of the Legislature of the State of Florida, relative to House Memorial No. 209 memorializing the Congress of the United States to provide the funds necessary for the Defense Prisoner of War/Missing Personnel Office of the Department of Defense and other Department of Defense agencies that play critical roles in achieving the fullest possible accounting of POW/MIA's to continue their work unimpeded from budgetary constraints or reductions; to the Committee on Armed Services.

228. Also, a memorial of the Legislature of the State of Michigan, relative to Senate Concurrent Resolution No. 11 memorializing the Congress of the United States and the Environmental Protection Agency to repeal 40 C.F.R. 122.3(a); to the Committee on Transportation and Infrastructure.

229. Also, a memorial of the Legislature of the State of Michigan, relative to Senate Concurrent Resolution No. 13 memorializing the Congress of the United States fund the Great Lakes Legacy Act at its authorized level of $54 million in Fiscal Year 2004; to the Committee on Transportation and Infrastructure.

PRIVATE BILLS AND RESOLUTIONS

Under clause 3 of rule XII, private bills and resolutions of the following titles were introduced and severally referred, as follows:

By Ms. CARSON of Indiana:

H.R. 3646. A bill for the relief of Adela and Darryl Bailor; to the Committee on the Judiciary.

By Mr. DAVIS of Illinois:

H.R. 3647. A bill for the relief of Roger Paul Robert Kozik; to the Committee on the Judiciary.

By Mr. DAVIS of Illinois:

H.R. 3648. A bill for the relief of Alzoubi Muhammed; to the Committee on the Judiciary.

By Mr. DAVIS of Illinois:

H.R. 3649. A bill for the relief of Stoyan Simeonov Stoyanov; to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 211: Mr. EVANS, Mrs. MALONEY, Ms. VELAZQUEZ, Mr. SERRANO, Mr. CLAY, Mr. BALLANCE, Ms. CORRINE BROWN of Florida, Mr. SCOTT of Virginia, Mr. HASTINGS of Florida, Mr. RUSH, and Mr. NADLER.

H.R. 303: Mr. JACKSON of Illinois.

H.R. 433: Mr. GERLACH.

H.R. 434: Mr. FERGUSON and Mr. RYAN of Wisconsin.

H.R. 476: Mr. LOBIONDO.

H.R. 486: Mr. LEWIS of Kentucky.

H.R. 489: Mr. GARRETT of New Jersey.

H.R. 527: Mr. SCHIFF and Mr. VAN HOLLEN.

H.R. 548: Mr. DELAHUNT.

H.R. 571: Mr. HENSARLING.

H.R. 713: Ms. MCCOLLUM and Mr. BAIRD.

H.R. 728: Mr. HENSARLING, Mr. TIBERI, and Mr. BURGESS.

H.R. 742: Mr. DELAHUNT.

H.R. 745: Mrs. JONES of Ohio.

H.R. 785: Mr. SNYDER and Mr. JACKSON of Illinois.

H.R. 813: Mr. DELAHUNT.

H.R. 814: Mr. BISHOP of New York.

H.R. 819: Mr. DOGGETT.

H.R. 832: Mr. NEAL of Massachusetts.

H.R. 839: Mr. EDWARDS.

H.R. 857: Mr. EMANUEL, Mr. MATSUI, Mr. PAYNE, Ms. CORRINE BROWN of Florida, Ms. KILPATRICK, Mr. OBERSTAR, Ms. WATERS, Mr. LEWIS of Kentucky, Mr. FERGUSON, Mr. BECERRA, Mr. MEEHAN, Ms. MCCOLLUM, and Mr. GREEN of Texas.

H.R. 876: Ms. CORRINE BROWN of Florida, Mr. KILDEE, Mr. SABO, Mr. THOMPSON of Mississippi, Mr. NADLER, and Mr. RYAN of Ohio.

H.R. 918: Mr. RYAN of Wisconsin, Mr. ROSS, Mr. COSTELLO, Mr. WALSH, Mr. ROGERS of Kentucky, Mr. SMITH of New Jersey, Mr. CAMP, Mrs. JONES of Ohio, Mr. BOSWELL, Mr. BARTON of Texas, and Mr. GILLMOR.

H.R. 926: Mr. GOODE.

H.R. 933: Mr. GUTIERREZ.

H.R. 962: Mr. FROST and Mr. THOMPSON of Mississippi.

H.R. 990: Mr. CANTOR.

H.R. 1029: Mr. TOWNS.

H.R. 1034: Mr. SERRANO, Mr. GONZALEZ, Mr. BERMAN, Mr. NADLER, Mr. MARKEY, and Ms. LINDA T. SANCHEZ of California..

H.R. 1061: Mr. HEFLEY.

H.R. 1068: Mr. WELLER and Mr. JACKSON of Illinois.

H.R. 1083: Mr. WALDEN of Oregon and Mr. BISHOP of Georgia.

H.R. 1117: Mrs. BONO.

H.R. 1125: Mr. MANZULLO.

H.R. 1154: Mr. EVERETT.

H.R. 1157: Ms. LORETTA SANCHEZ of California.

H.R. 1227: Mrs. BLACKBURN, Mr. KLINE, and Mr. GARRETT of New Jersey.

H.R. 1258: Mr. ABERCROMBIE.

H.R. 1267: Mr. MEEKS of New York and Mr. NEAL of Massachusetts.

H.R. 1279: Mr. JACKSON of Illinois.

H.R. 1310: Mr. PETERSON of Pennsylvania.

H.R. 1325: Mr. FROST.

H.R. 1336: Mr. JACKSON of Illinois, Mr. DEAL of Georgia, and Mr. JOHNSON of Illinois.

H.R. 1348: Mr. GONZALEZ.

H.R. 1372: Mr. NEUGEBAUER, Mrs. BLACKBURN, and Mr. CRANE.

H.R. 1385: Mr. PASCRELL.

H.R. 1406: Mr. CUNNINGHAM.

H.R. 1414: Mr. DELAHUNT.

H.R. 1472: Mr. LANGEVIN.

H.R. 1477: Mr. JACKSON of Illinois.

H.R. 1501: Mr. BLUMENAUER, Mrs. CAPPS, Mr. CARSON of Oklahoma, Mr. KILDEE, and Mr. MARKEY.

H.R. 1508: Mr. HONDA.

H.R. 1513: Mr. JOHNSON of Illinois.

H.R. 1532: Mr. BISHOP of New York, Mr. SWEENEY, Mr. MATSUI, Ms. MILLENDER-MCDONALD, Mr. MEEKS of New York, Mr. EMANUEL, Mr. NADLER, Ms. CORRINE BROWN of Florida, Ms. WATERS, Mr. OBERSTAR, Mrs. NAPOLITANO, and Mr. FERGUSON.

H.R. 1534: Mr. CROWLEY.

H.R. 1546: Mr. GARRETT of New Jersey.

H.R. 1563: Mr. VAN HOLLEN.

H.R. 1582: Mr. LEVIN.

H.R. 1592: Mr. LARSEN of Washington.

H.R. 1600: Mr. SCHIFF.

H.R. 1657: Mr. BISHOP of New York.

H.R. 1662: Mr. WILSON of South Carolina.

H.R. 1688: Mr. DINGELL and Mr. JACKSON of Illinois.

H.R. 1694: Mr. HOEFFEL.

H.R. 1708: Mrs. CAPPS.

H.R. 1719: Mr. ANDREWS.

H.R. 1736: Mr. LAHOOD.

H.R. 1742: Ms. GRANGER.

H.R. 1749: Mr. RYUN of Kansas, Mr. PRICE of North Carolina, Mr. ISRAEL, and Mr. DEAL of Georgia.

H.R. 1752: Mr. FATTAH.

H.R. 1782: Mr. FROST and Mr. GONZALEZ.

H.R. 1793: Mr. NEUGEBAUER and Mr. OSBORNE.

H.R. 1796: Ms. LORETTA SANCHEZ of California.

H.R. 1800: Mr. PASCRELL.

H.R. 1861: Ms. DELAURO and Mr. THOMPSON of Mississippi.

H.R. 1873: Mr. BASS.

H.R. 1886: Mr. BERMAN and Mr. FILNER.

H.R. 1890: Mr. BRADY of Texas.

H.R. 1895: Mr. VAN HOLLEN.

H.R. 1905: Mr. BISHOP of New York.

H.R. 1919: Mr. DELAHUNT.

H.R. 1924: Ms. MILLENDER-MCDONALD and Mr. GUTIERREZ.

H.R. 1939: Mr. LEWIS of Georgia.

H.R. 1997: Mr. SHUSTER and Mr. HALL.

H.R. 2032: Mr. OLVER.

H.R. 2034: Mr. BURGESS.

H.R. 2039: Mr. TAUZIN.

H.R. 2052: Mr. BALLANCE, Mr. BISHOP of Georgia, Mr. EDWARDS, Mr. DICKS, Mr. TAYLOR of North Carolina, Mr. CRAMER, Mr. DOYLE, Mr. CLYBURN, Mr. BOSWELL, and Mrs. LOWEY.

H.R. 2062: Mr. TIERNEY.

H.R. 2072: Ms. GRANGER.

H.R. 2139: Mr. EVERETT.

H.R. 2157: Mr. ABERCROMBIE and Mr. ISSA.

H.R. 2166: Mr. HYDE.

H.R. 2173: Mr. JOHN, Mr. STUPAK, Mr. ACEVEDO-VILA, MR. BRADY of Pennsylvania, and Mr. TURNER of Texas.

H.R. 2217: Mr. DELAHUNT, Mr. NEAL of Massachusetts, and Mr. VAN HOLLEN.

H.R. 2239: Mr. SCHIFF, Mr. MICHAUD, Ms. MCCOLLUM, Mr. UDALL of Colorado, Mr. TIERNEY, and Ms. SLAUGHTER.

H.R. 2366: Ms. WATSON, Mr. STUPAK, and Mr. BISHOP of New York.

H.R. 2435: Mr. GUTIERREZ.

H.R. 2437: Ms. CARSON of Indiana.

H.R. 2449: Mr. MILLER of Florida, Mr. PUTNAM, and Mr. LEACH.

H.R. 2504: Mr. CARDIN.

H.R. 2509: Mr. RODRIGUEZ and Mr. BRADY of Texas.

H.R. 2511: Mr. DELAHUNT.

H.R. 2527: Ms. SOLIS.

H.R. 2539: Mr. OWENS.

H.R. 2540: Ms. CORRINE BROWN of Florida, Ms. HART, and Mr. SIMPSON.

H.R. 2560: Mr. ISRAEL and Ms. LOFGREN.

H.R. 2585: Ms. CARSON of Indiana and Mr. LANGEVIN.

H.R. 2625: Mr. DINGELL.

H.R. 2626: Mr. NEAL of Massachusetts.

H.R. 2665: Mr. BISHOP of New York.

H.R. 2671: Mr. GOODLATTE.

H.R. 2699: Mr. RUSH.

H.R. 2719: Mr. CASE.

H.R. 2733: Mr. SESSIONS.

H.R. 2743: Mr. OTTER.

H.R. 2809: Mr. WEXLER.

H.R. 2810: Mr. WEXLER.

H.R. 2823: Mr. BILIRAKIS and Mr. DELAHUNT.

H.R. 2830: Mr. WALSH.

H.R. 2853: Mr. GUTIERREZ.

H.R. 2880: Mr. OWENS.

H.R. 2906: Mr. JENKINS.

H.R. 2910: Mr. SESSIONS.

H.R. 2913: Ms. MCCOLLUM.

H.R. 2916: Ms. LOFGREN and Ms. BERKLEY.

H.R. 2929: Mr. GORDON, Mr. DEUTSCH, Ms. MCCARTHY of Missouri, Mr. GILLMOR, and Mr. HALL.

H.R. 2933: Mr. ISAKSON.

H.R. 2948: Ms. LEE and Mr. GONZALEZ.

H.R. 2959: Mr. ACKERMAN.

H.R. 2961: Mr. WAMP.

H.R. 2968: Mr. DREIER.

H.R. 2980: Ms. ROYBAL-ALLARD, Ms. SLAUGHTER, and Mr. KUCINICH.

H.R. 2983: Mr. FROST, Mr. FILNER, Mr. RANGEL, and Mr. KILDEE.

H.R. 2986: Mr. LANGEVIN, Ms. CARSON of Indiana, and Mr. WALSH.

H.R. 2990: Mrs. JONES of Ohio.

H.R. 3051: Ms. CARSON of Indiana, Mr. ORTIZ, Mr. BISHOP of New York, and Ms. SLAUGHTER.

H.R. 3057: Mrs. CAPPS and Mr. SCHIFF.

H.R. 3063: Mr. LANTOS and Ms. SCHAKOWSKY.

H.R. 3064: Mr. JOHNSON of Illinois.

H.R. 3066: Mr. RYAN of Wisconsin, Mr. HOUGHTON, Mrs. Musgrave, and Mr. OSBORNE.

H.R. 3099: Ms. DELAURO, Mr. MEEKS of New York, Mr. ALLEN, Mr. OWENS, and Ms. LINDA T. SANCHEZ of California.

H.R. 3104: Ms. KILPATRICK, Mr. KIRK, Mr. BISHOP of New York, and Mr. ORTIZ.

H.R. 3112: Mr. PASTOR.

H.R. 3133: Mr. CARDOZA.

H.R. 3142: Mr. SMITH of New Jersey, Mr. LATOURETTE, Mr. MATSUI, Mr. BERRY, and Mr. GUTIERREZ.

H.R. 3148: Mr. LEWIS of Georgia, Mr. MCNULTY, and Mr. SOUDER.

H.R. 3178: Mr. KIND, Ms. MCCOLLUM, Mr. ALLEN, Mr. UDALL of New Mexico, Mr. MORAN of Virginia, Mr. EHLERS, Mr. SNYDER, Mr. VAN HOLLEN, and Mr. ANDREWS.

H.R. 3190: Mr. BARTON of Texas, Mr. OSBORNE, Mr. KELLER, and Mr. HOEKSTRA.

H.R. 3192: Mr. MICHAUD.

H.R. 3193: Mr. CALVERT, Mr. ENGLISH, Mr. NUNES, Mr. BURNS, Mr. STUPAK, and Mr. TANCREDO.

H.R. 3203: Mr. HINOJOSA and Mr. EMANUEL.

H.R. 3204: Mr. BEREUTER, Mr. TOM DAVIS OF Virginia, Mr. HOBSON, Mr. OSE, Ms. PRYCE of Ohio, Mr. REGULA, Mr. REYNOLDS, Mr. ROGERS of Kentucky, Mr. TAYLOR of North Carolina, Mr. TERRY, Mr. TIBERI, Mr. WALSH, Mr. WELDON of Pennsylvania, and Mr. WHITFIELD.

H.R. 3220: Mr. MEEKS of New York.

H.R. 3242: Mr. MICHAUD and Mr. HERGER.

H.R. 3244: Ms. MCCARTHY of Missouri, Ms. LINDA T. SANCHEZ of California, and Mr. BISHOP of New York.

H.R. 3251: Ms. LINDA T. SANCHEZ of California

H.R. 3259: Mr. PLATTS and Mrs. WILSON of New Mexico.

H.R. 3263: Ms. BERKLEY, Mrs. JO ANN DAVIS of Virginia, and Mr. FALEOMAVAEGA.

H.R. 3275: Mr. LANTOS.

H.R. 3277: Mr. ABERCROMBIE, Mr. ACKERMAN, Ms. BERKLEY, Mr. BALLANCE, Mr. BECERRA, Ms. CORRINE BROWN of Florida, Mr. CLAY, Mr. CLYBURN, Mr. EDWARDS, Ms. ESHOO, Mr. FARR, Mr. GONZALEZ, Mr. GRIJALVA, Mr. HASTINGS of Florida, Mr. HOEFFEL, Mr. HOLT, Mr. HONDA, Ms. LOFGREN, Mrs. LOWEY, Mr. MILLER of North Carolina, Ms. PELOSI, Ms. LORETTA SANCHEZ of California, Mr. THOMPSON of Mississippi, Mr. VAN HOLLEN, Mrs. MILLER of Michigan, Mr. ISAKSON, Mr. KINGSTON, Mr. MCHUGH, Mr. CAPUANO, Mr. BISHOP of Georgia, Mr. BOSWELL, Mr. BOUCHER, Mr. BOYD, Mr. CONYERS, Mr. CUMMINGS, Mr. DAVIS of Illinois, Mr. DELAHUNT, Mr. DEUTSCH, Mr. ETHERIDGE, Mr. KLECZKA, Mr. LANGEVIN, Mr. MARKEY, Mr. MEEK of Florida, Mr. TAYLOR of Mississippi, Mr. UDALL of Colorado, Ms. VELAZQUEZ, Mr. MANZULLO, Mr. BISHOP of New York, Mr. DOGGETT, Mr. HINOJOSA, Ms. HOOLEY of Oregon, Mr. KENNEDY of Rhode Island, Mrs. MALONEY, Mr. PAYNE, Mr. RANGEL, Ms. LINDA T. SANCHEZ of California, Mr. SERRANO, Ms. SLAUGHTER, Mr. TURNER of Texas, Mr. WAXMAN, Ms. WOOLSEY, Mr. BLUMENAUER, Mr. HOYER, Mr. COOPER, Mr. EMANUEL, Mr. OBEY, Mr. STENHOLM, Mr. ROTHMAN, Mr. OWENS, and Mrs. TAUSCHER.

H.R. 3286: Mr. SNYDER.

H.R. 3299: Mr. CASE, and Mr. HOEFFEL.

H.R. 3304: Ms. LINDA T. SANCHEZ of California.

H.R. 3309: Mr. SERRANO, Mr. MARIO DIAZ-BALART of Florida, Mr. MCDERMOTT and Mr. FRANK of Massachusetts.

H.R. 3310: Mr. HINOJOSA.

H.R. 3325: Mr. MARKEY.

H.R. 3327: Mrs. CAPPS, Ms. WATERS, Mr. WAXMAN, Mr. FRANK of Massachusetts, and Mr. MARKEY.

H.R. 3329: Mr. PETERSON of Pennsylvania.

H.R. 3338: Mr. TIBERI, Mr. STUPAK, and Mr. WAXMAN.

H.R. 3340: Mr. WELLER, Mrs. BIGGERT, Mr. LAHOOD, Mr. GUTIERREZ, and Mr. MANZULLO.

H.R. 3341: Ms. WATSON.

H.R. 3344: Mrs. NAPOLITANO, Mr. STUPAK, and Ms. LINDA T. SANCHEZ of California.

H.R. 3350: Mr. LANGEVIN and Ms. BERKLEY.

H.R. 3352: Mr. NETHERCUTT.

H.R. 3355: Mr. RUSH, Mr. MCNULTY, Mr. ABERCROMBIE, and Ms. LINDA T. SANCHEZ of California.

H.R. 3361: Mr. MCGOVERN, Mr. BECERRA, Mr. PAYNE, Mr. GONZALEZ, and Mr. HINOJOSA.

H.R. 3362: Ms. BERKLEY.

H.R. 3363: Mrs. NAPOLITANO and Mr. MICHAUD.

H.R. 3378: Mr. PALLONE and Mr. ABERCROMBIE.

H.R. 3380: Mr. VAN HOLLEN.

H.R. 3398: Ms. HARMAN.

H.R. 3403: Mr. NETHERCUTT and Mr. SIMPSON.

H.R. 3410: Mr. SPRATT and Mr. ENGLISH.

H.R. 3424: Mr. KUCINICH.

H.R. 3425: Ms. BERKLEY and Mr. MCGOVERN.

H.R. 3437: Mr. SIMMONS and Mr. GREEN of Texas.

H.R. 3438: Mr. BAIRD, Mr. PRICE of North Carolina, Mr. TIERNEY, and Mr. VAN HOLLEN.

H.R. 3440: Mr. RANGEL, Mr. DELAHUNT, Mr. STUPAK, and Mr. NEAL of Massachusetts.

H.R. 3444: Mr. JACKSON of Illinois.

H.R. 3446: Mr. INSLEE, Mr. RAHALL, Mr. FRANK of Massachusetts, Mr. GRIJALVA, and Mr. FROST.

H.R. 3447: Mr. SERRANO, Mr. BECERRA, Ms. VELAZQUEZ, Mr. BACA, Mr. CARDOZA, and Ms. LINDA T. SANCHEZ of California.

H.R. 3451: Mr. GUTIERREZ and Mr. CLAY.

H.R. 3453: Mr. ISAKSON, Mr. LEWIS of Kentucky, Mr. PETRI, and Mr. WICKER.

H.R. 3474: Mr. ALEXANDER, Mr. CRAMER, Mr. KENNEDY of Rhode Island, Mr. CUMMINGS, Mr. SCOTT of Georgia, Mr. THOMPSON of Mississippi, Mr. FROST, Ms. CARSON of Indiana, Mr. GEORGE MILLER of California, Mr. MATSUI, Ms. WOOLSEY, Mr. HOLDEN, Mr. JONES of North Carolina, Mrs. MCCARTHY of New York, Ms. HART, Mr. MCGOVERN, Mr. KINGSTON, Mr. TAYLOR of North Carolina, Mr. EVANS, Mr. ACEVEDO-VILA, Mr. PAUL, Mr. HINCHEY, Mr. FATTAH, Mr. CARDOZA, Mr. GRIJALVA, Mr. BISHOP of Georgia, Mrs. CHRISTENSEN, Mr. LANTOS, Mr. PALLONE, Mr. KING of Iowa, Mr. UDALL of Colorado, Mrs. JONES of Ohio, Mr. BOYD, Mr. RANGEL, Mr. DOOLEY of California, Mr. LIPINSKI, Mr. PETERSON of Minnesota, Mr. KLINE, Mr. ISRAEL, Mr. GUTIERREZ, Mr. STRICKLAND, Mr. BASS, Mr. BRADY of Pennsylvania, Ms. LEE, Mr. BROWN of Ohio, Ms. MILLENDER-MCDONALD, Mr. SANDERS, Ms. SOLIS, Mr. DELAHUNT, Ms. WATSON, Ms. CORRINE BROWN of Florida, Mr. RYAN of Ohio, Ms. DELAURO, Mr. DEFAZIO, Mr. LATOURETTE, Mr. LYNCH, Mr. BISHOP of New York, Ms. BERKLEY, Mr. RODRIGUEZ, and Mr. FILNER.

H.R. 3500: Mr. DAVIS of Tennessee, Mr. MILLER of North Carolina, Mr. BALLANCE, and Mr. BISHOP of Georgia.

H.R. 3509: Mr. WELDON of Florida.

H.R. 3519: Mrs. JONES of Ohio, Mr. MATSUI, Mr. STARK, and Mr. MCGOVERN.

H.R. 3522: Mr. GARRETT of New Jersey and Mr. BILIRAKIS.

H.R. 3527: Mr. BURR.

H.R. 3539: Mr. ABERCROMBIE and Mr. MCNULTY.

H.R. 3544: Mr. ABERCROMBIE.

H.R. 3549: Mr. SCHIFF, Mr. HASTINGS of Florida, Mr. BOYD, Mr. WEINER, Mr. DAVIS of Alabama, Ms. LEE, Mr. GORDON, Mr. STUPAK, Mr. THOMPSON of Mississippi, Ms. MCCOLLUM, Mr. PASCRELL, Mr. FILNER, Mr. SCOTT of Virginia, Mr. CARSON of Oklahoma, Mr. MILLER of North Carolina, Mr. BAIRD, Mrs. MALONEY, Mrs. MCCARTHY of New York, Mr. FATTAH, Mr. GONZALEZ, Mr. RANGEL, Mr. STENHOLM, Mr. EDWARDS, Mr. JOHN, Mr. RODRIQUEZ, Ms. CORRINE BROWN of Florida, Mr. KILDEE, Ms. HOOLEY of Oregon, Mr. OBEY, Mr. PRICE of North Carolina, Mr. SCOTT of Georgia, Ms. MAJETTE, Mr. CARDOZA, Mr. MOORE, Mrs. CHRISTENSEN, Mr. BLUMENAUER, Mr. BALLANCE, Mr. FORD, Mr. SKELTON, Mr. POMEROY, Mr. CASE, Mr. TOWNS, Mrs. TAUSCHER, Mr. FALEOMEVAEGA, Mr. OBERSTAR, Ms. SCHAKOWSKY, Mr. INSLEE, Mr. COOPER, Mr. DAVIS of Florida, Mr. MARSHALL, Mr. MATHESON, Mr. TURNER of Texas, Mr. BACA, Mrs. TIERNEY, Mr. OLVER, Mr. SPRATT, Mr. EMANUEL, Mr. HOEFFEL, Ms. MILLENDER-MCDONALD, Ms. CARSON of Indiana, Ms. MCCARTHY of Missouri, Mr. LUCAS of Kentucky, Mr. EVANS, Mr. BOSWELL, Mr. DAVIS of Tennessee, Ms. LINDA T. SANCHEZ of California, Mrs. CAPPS, Ms. LORETTA SANCHEZ of California, Ms. SLAUGHTER, Ms. WOOLSEY, Mr. BERRY, Mr. HINCHEY, Mr. CAPUANO, Mr. MICHAUD, Mr. ROSS, Mr. THOMPSON of California, Mr. ABERCROMBIE, Mr. RAHALL, Mr. DICKS, Mr. KANJORSKI, Mr. STARK, Mr. DEFAZIO, Mr. GRIJALVA, Mr. GEPHARDT, Mr. LARSEN of Washington, Mr. ALEXANDER, Mr. KIND, Ms. DELAURO, Mr. HINOJOSA, Mr. HOLT, Mr. FARR, Mr. BISHOP of Georgia, Ms. BERKLEY, Mr. REYES, Mr. ORTIZ, Mr. ISRAEL, Ms. BALDWIN, Mr. STRICKLAND, Mr. BISHOP of New York, Mr. HOLDEN, Mr. ALLEN, Mr. UDALL of New Mexico, Mr. SNYDER, Mr. CLAY, Mr. JEFFERSON, and Mr. LIPINSKI.

H.R. 3550: Mr. BERRY, Mrs. JONES of Ohio, Mr. LAHOOD, Mr. EVANS, and Mr. GUTIERREZ.

H.R. 3554: Mr. BLUMENAUER, Mr. BAIRD, Mr. HOUGHTON, and Mr. DICKS.

H.R. 3556: Mr. BISHOP of New York.

H.J. Res. 28: Mr. FORD, Ms. WATSON, Mr. MEEK of Florida, Mr. CLAY, Mr. HASTINGS of Florida, Mr. FILNER, and Mr. HINCHEY.

H.J. Res. 29: Mr. FORD, Mr. MEEK of Florida, Mr. HASTINGS of Florida, and Mr. FILNER.

H.J. Res. 30: Ms. WATSON, Mr. MEEK of Florida, Mr. CLAY, Mr. HASTINGS of Florida, Mr. FILNER, and Mr. HINCHEY.

H.J. Res. 31: Mr. MEEK of Florida, Mr. CLAY, and Mr. CUMMINGS.

H.J. Res. 32: Mr. MEEK of Florida, Mr. CLAY, and Mr. CUMMINGS.

H.J. Res. 33: Mr. MEEK of Florida, Mr. CLAY, and Mr. CUMMINGS.

H.J. Res. 34: Mr. MEEK of Florida, Mr. CLAY, and Mr. CUMMINGS.

H.J. Res. 35: Mr. MEEK of Florida, Mr. CLAY, and Mr. CUMMINGS.

H.J. Res. 42: Mr. EVERETT.

H.J. Res. 56: Mr. SMITH of Texas, Ms. GINNY BROWN-WAITE of Florida, Mr. CANNON, and Mr. HULSHOF.

H.J. Res. 62: Mr. BISHOP of New York and Mrs. MCCARTHY of New York.

H. Con. Res. 15: Mr. FOLEY, Mr. MCCOTTER, and Mr. VITTER.

H. Con. Res. 30: Mr. GEPHARDT.

H. Con. Res. 37: Mr. SOUDER, Mr. GREEN of Texas, and Mr. VAN HOLLEN.

H. Con. Res. 37: Ms. SOLIS.

H. Con. Res. 234: Mr. LANGEVIN.

H. Con. Res. 242: Mr. GOODE.

H. Con. Res. 275: Ms. BERKLEY.

H. Con. Res. 304: Mr. ROHRABACHER, Mr. BOSWELL, Mr. OLVER, Mr. BROWN of Ohio, Mr. ISRAEL, Mr. WELDON of Pennsylvania, Mr. SCHIFF, Mr. JOHNSON of Illinois, Mr. GARRETT of New Jersey, Mr. FRANK of Massachusetts, and Mr. LANTOS.

H. Con. Res. 311: Mr. WAXMAN and Mr. RANGEL.

H. Con. Res. 317: Mr. FROST.

H. Con. Res. 324: Mr. FOLEY.

H. Con. Res. 326: Mr. LINCOLN DIAZ-BALART of Florida, Mr. LANTOS, Mr. SMITH of New Jersey, and Mr. CROWLEY.

H. Con. Res. 327: Ms. LEE, Mr. MCDERMOTT, Ms. BALDWIN, Mr. TANCREDO, and Mr. BROWN of Ohio.

H. Con. Res. 331: Mr. FLAKE.

H. Con. Res. 332: Mr. COLE, Mr. ANDREWS, and Mr. RUPPERSBERGER.

H. Res. 60: Mr. TANNER.

H. Res. 157: Ms. MCCOLLUM, Mr. WAXMAN, and Mr. SOUDER.

H. Res. 268: Mr. JACKSON of Illinois.

H. Res. 302: Ms. JACKSON-LEE of Texas and Mr. KENNEDY of Rhode Island.

H. Res. 320: Ms. SOLIS.

H. Res. 371: Mr. KNOLLENBERG and Mr. TANCREDO.

H. Res. 382: Mr. TOWNS, Mr. BERRY, Mr. MCGOVERN, and Mr. GRIJALVA.

H. Res. 389: Ms. LOFGREN.

H. Res. 402: Mr. DELAHUNT.

H. Res. 419: Mr. VAN HOLLEN.

H. Res. 440: Mr. DOGGETT.

H. Res. 445: Mr. PALLONE, Mr. DAVIS of Alabama, Mr. OBERSTAR, and Mr. BROWN of Ohio.

H. Res. 446: Mr. KINGSTON and Mr. GARRETT of New Jersey.

H. Res. 453: Mr. STEARNS, Mr. FRANK of Massachusetts, Mr. GARRETT of New Jersey, Mr. SOUDER, Mr. KING of New York, Mr. MCGOVERN, and Mr. STRICKLAND.

H. Res. 455; Ms. DUNN, Mr. GILCHREST, Mr. OSBORNE, Mr. WILSON of South Carolina, Mr. TIAHRT, Mr. BOOZMAN, Mr. MCCOTTER, Ms. GRANGER, Mrs. KELLY, Mr. BALLENGER, Mr. SAM JOHNSON of Texas, Mr. SHADEGG, and Mrs. MILLER of Michigan.

H. Res. 460: Mr. BOEHNER, Mr. CAMP, Mr. REGULA, Mr. CHABOT, Mr. HOEKSTRA, and Mr. STUPAK.

H. Res. 461: Mrs. NAPOLITANO, Mr. SANDERS, Mrs. MALONEY, Mr. FILNER, Mr. ABERCROMBIE, and Mr. FROST.

PETITIONS, ETC.

Under clause 3 of rule XII,

45. The SPEAKER presented a petition of the Legislature of Rockland County, NY, relative to Resolution No. 500 of 2003 petitioning the United States Senate to pass the Kennedy-Dodd Head Start Bill (S. 1483) or, in the alternative, pass the Alexander Head Start Bill (S. 1474); which was referred to the Committee on Education and the Workforce.

DISCHARGE PETITIONS—ADDITIONS OR DELETIONS

The following Members added their names to the following discharge petitions:

Petition 2, by Mr. JIM MARSHALL on House Resolution 251: David Vitter.

AMENDMENTS

Under clause 8 of rule XVIII, proposed amendments were submitted as follows:

H.R. 3482

OFFERED BY MR. PETERSON OF MINNESOTA

AMENDMENT NO. 1: Page 4, after line 24, insert the following:

(d) LIMITATION.—The Secretary may not award a grant to a State under this section if the laws of the State treat residents and non-residents differently with respect to the period in which an individual may engage in hunting or taking of migratory birds which are water fowl.

Page 5, line 1, strike ''(d)'' and insert ''(e)''.

Page 5, line 4, strike ''(e)'' and insert ''(f)''.

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

Vol. 149 WASHINGTON, FRIDAY, NOVEMBER 21, 2003 *No. 170*

Senate

The Senate met at 9:30 a.m. and was called to order by the PRESIDENT pro tempore [Mr. STEVENS].

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

Creator of all life, Who satisfies the longings of our souls, thank You for Your faithfulness, which is as enduring as the Heavens. Your peace radiates in our hearts on wings of faith, hope, and love.

Bless our Senators. Strengthen them for today's challenges. Energize them so that they are more than a match for these momentous times. May they soar on eagle's wings. May they run and not be weary. May they walk and not faint. When they are lost, provide them with direction. Show them duties left undone. Remind them of promises yet to keep, and reveal to them tasks unattended.

Enrich us all with Your loving presence. We pray this in Your hallowed Name. Amen.

PLEDGE OF ALLEGIANCE

The PRESIDENT pro tempore led the Pledge of Allegiance, as follows:

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

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The majority leader is recognized.

SCHEDULE

Mr. FRIST. Mr. President, this morning the Senate will resume consideration of the Energy conference report. There will be 60 minutes of debate prior to the vote on the motion to invoke cloture. Therefore, the first vote of today's session is expected to occur shortly after 10:30.

At this point, I ask unanimous consent that the live quorum that is required under rule XXII be waived.

The PRESIDENT pro tempore. Is there objection?

Without objection, it is so ordered.

NOTICE

If the 108th Congress, 1st Session, adjourns sine die on or before November 22, 2003, a final issue of the Congressional Record for the 108th Congress, 1st Session, will be published on Monday, December 15, 2003, in order to permit Members to revise and extend their remarks.

All material for insertion must be signed by the Member and delivered to the respective offices of the Official Reporters of Debates (Room HT–60 or S–410A of the Capitol), Monday through Friday, between the hours of 10:00 a.m. and 3:00 p.m. through Friday, December 12, 2003. The final issue will be dated Monday, December 15, 2003, and will be delivered on Tuesday, December 16, 2003.

None of the material printed in the final issue of the Congressional Record may contain subject matter, or relate to any event that occurred after the sine die date.

Senators' statements should also be submitted electronically, either on a disk to accompany the signed statement, or by e-mail to the Official Reporters of Debates at "Record@Sec.Senate.gov".

Members of the House of Representatives' statements may also be submitted electronically by e-mail, to accompany the signed statement, and formatted according to the instructions for the Extensions of Remarks template at http://clerkhouse.house.gov/forms. The Official Reporters will transmit to GPO the template formatted electronic file only after receipt of, and authentication with, the hard copy, and signed manuscript. Deliver statements to the Official Reporters in Room HT–60 of the Capitol.

Members of Congress desiring to purchase reprints of material submitted for inclusion in the Congressional Record may do so by contacting the Office of Congressional Publishing Services, at the Government Printing Office, on 512–0224, between the hours of 8:00 a.m. and 4:00 p.m. daily.

By order of the Joint Committee on Printing.

ROBERT W. NEY, *Chairman.*

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

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Mr. FRIST. Mr. President, I urge my colleagues this morning to vote for cloture. I will say more just before the vote. But I do encourage Members to weigh very carefully the vote that will be taken in about an hour.

This bill is a balanced approach to ensuring this country's energy security through this national energy policy.

If cloture is invoked, we will work with Members to establish a time certain for the vote on passage of this conference report.

In addition, throughout the afternoon we will attempt to clear any additional conference reports that may arise from the House.

I will update everyone on the schedule later today as we watch the progress on the remaining legislative items.

MODIFICATION OF AMENDMENT NO. 2208

Mr. FRIST. Mr. President, I ask unanimous consent that notwithstanding passage of H.J. Res. 78, the previously agreed to amendment No. 2208 be modified with changes that are at the desk.

Mr. REID. Mr. President, we have no objection.

The PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment (No. 2208), as modified, is as follows:

On page 2, line 7, strike ''23'' and insert ''24''

On page 2, line 1, strike ''23'' and insert ''24''

RECOGNITION OF THE ACTING MINORITY LEADER

The PRESIDENT pro tempore. The Senator from Nevada is recognized.

Mr. REID. Mr. President, while the majority leader is on the Senate floor, before we begin the final hour of debate on this important issue, I think the last 2 days have been some of the finest hours of the Senate this year. The debate has been constructive on both sides. I think it has been issue-oriented. I have been very impressed with the manner in which the debate has proceeded. The two managers of the bill are, of course, both experienced, and I am confident that the debate for the next hour will be just as constructive.

We have our time lined up. Everyone is here to make their speeches.

I look forward to a vigorous debate and a vote in about an hour.

RESERVATION OF LEADER TIME

The PRESIDENT pro tempore. Under the previous order, leadership time is reserved.

ENERGY POLICY ACT OF 2003—CONFERENCE REPORT

The PRESIDENT pro tempore. Under the previous order, the Senate will resume consideration of the conference report to accompany H.R. 6, which the clerk will report.

The legislative clerk read as follows:

Conference report to accompany H.R. 6, an act to enhance energy conservation and research and development, to provide for security and diversity and the energy for the American people, and for other purposes.

The PRESIDENT pro tempore. Under the previous order, there will now be 60 minutes equally divided between the chairman and ranking member of the Energy Committee, and the final 10 minutes will be divided with the first 5 minutes under the control of Senator BINGAMAN and the final 5 minutes under the control of the Senator from New Mexico, Mr. DOMENICI.

Who yields time?

The Senator from Idaho.

Mr. CRAIG. Mr. President, we are in the final hour of debate on probably one of the most important policy issues to come before this Senate in a good number of years. The Senator from Nevada has talked about the quality of the debate and the detail of the debate. Certainly, that is true.

I yield to the chairman of the committee, Senator DOMENICI.

The PRESIDENT pro tempore. Will the Senator yield to the Senator from New Mexico?

Mr. CRAIG. I am happy to yield to the chairman of the Energy and Natural Resources Committee.

Mr. DOMENICI. Mr. President, I want to make sure that we understand the timing. I asked Senator CRAIG if he would come to the Senate floor so I could give him some time. I wonder if 5 minutes would be enough.

I yield 5 minutes to the Senator.

The PRESIDENT pro tempore. The Senator from Idaho is recognized for 5 minutes.

Mr. DOMENICI. I thank the Chair.

Mr. CRAIG. Mr. President, what we are attempting to do for the American people is allow them, their country, and the energy sector of our economy to get back into the business of producing energy. We may well be faced with some of the highest natural gas prices that any consumer will have paid in the United States this winter. If we have a cold winter, it will be time for those who are paying exorbitant energy bills to ask a fundamental question: Why? Why is the public policy of this country driving up our energy bills? Why is not there a public policy that begins to put this country back into the business of producing energy?

Our historic wealth, in large part, has been based on an abundance of high-quality, low-cost energy in all kinds of forms.

The Energy Policy Act of 2003 continues that most important economic legacy for this country—to assure that we continue our traditional energy sources but with new technologies and cleaner approaches; that we invest money in new technologies so that the next generation of Americans can have the same abundance of energy that I have had and that my father had before me.

It would be an absolute tragedy if in the fine ticking of all of the issues within this very large bill someone collectively decides to vote against it because, if they do, they ought to go home and try to explain why in February or March of this year their constituents are continuing to pay ever increasingly higher rates, or why there was a blackout in the Northeast this year, or why the brownouts in California a few years ago, and why gas prices at the pump are at an average historic high.

There are sound answers to all of those questions. But, more importantly, the Energy Policy Act of 2003 begins to address resolution of those questions, bringing those prices down overall and creating a greater abundance.

We have also stepped out in a variety of new areas, including new nuclear technologies, new fuels approaches, and new hydrogen technology which our President was very daring to talk about—a new surface transportation fuel future, hydrogen. We have set about the technology and the planning and the design for all of those types of new approaches.

I say to the Senator from Alaska, his State is one of the largest energy producers of all of our States.

This bill clearly gives companies the ability to come in and invest and bring literally trillions of cubic feet of gas to the lower 48 that will offer help in bringing down those high prices.

We created the incentives. We have allowed them to invest in the marketplace and to get a good return on their investment.

This is a truly comprehensive bill. There is no question that we have spent literally the last 5 years in attempting to design an Energy bill that will fill all of the needs of this country, and to restructure and refine the existing energy sector of our country especially in the electrical area.

This has a new electrical title much different from the one before. Compromises were made. I stood in the Senate a year ago and offered an amendment to take the electrical title out because of its controversy and its impact on the Pacific Northwest. Today we have changed that. Today we have said all areas of the country can grow and develop and we will work to build an interconnectivity between those regions of the country that will, hopefully, disallow the kind of problems we had in the Northeast this summer and certainly begin to address the inability of California to produce its energy needs.

All of those issues are bound up in this bill. Yet some of our colleagues have picked a very small piece of this bill, less than one-half of 1 percent of the total impact of this bill, and have said that is the problem, that is the destructive character of the bill. That is why some Members oppose it.

This is a very good piece of work. It brings our country back into energy production. I urge my colleagues to vote for cloture and allow the Senate to move toward final passage for this critical piece of public policy.

The PRESIDENT pro tempore. The Senator from New Mexico.

Mr. BINGAMAN. Mr. President, I yield 4 minutes to the Senator from Vermont.

The PRESIDENT pro tempore. The Senator from Vermont is recognized for 4 minutes.

Mr. JEFFORDS. Mr. President, America needs an energy policy, but not this one. This bill fails to provide a realistic, sustainable energy plan for America's future. Observers have called this Energy bill ''three parts corporate welfare and one part cynical politics.'' They call it a complete waste of energy and say it fails to address the fuel and power needs of the average American. They are absolutely right.

The bill includes environmental rollbacks. It threatens public health. It weakens consumer protections against electricity market manipulation. It gives out billions of dollars in subsidies to fossil fuel and nuclear industries. The rollback of three of our most fundamental environmental laws—the Clean Air Act, the Drinking Water Act, and the Clean Water Act—is terrible environmental policy.

This bill allows more smog pollution. This bill exempts all oil and gas construction activities from the Clean Water Act. The Senate's renewable portfolio standard requiring utilities to generate 10 percent of their power from renewable sources by 2020 was struck from the bill.

What we needed was a bill to decrease our energy dependence on foreign oil, but this bill will not conserve a drop of oil. We need to protect our consumers, our public lands, and our public health. Instead, this bill weakens protections. We need to give a boost to the renewable energy sector, but instead the bill is a kickback to the fossil fuel industry.

We now need to do the right thing and oppose cloture. We need to spend more time developing the right energy policy for America.

I reserve the remainder of my time.

The PRESIDENT pro tempore. Who yields time?

Mr. DOMENICI. I yield 3 minutes to the Senator from Wyoming.

The PRESIDENT pro tempore. The Senator is recognized for 3 minutes.

Mr. THOMAS. Mr. President, I am excited about the opportunity we have today to finally, after a number of years, come forward with a broad, encompassing policy for energy.

We ought to give a little thought to where we will be in the future as individuals, as families, think about the energy we use, the energy we need, where it will come from. Our demands go up, yet we do not really have a policy.

Nothing is more important to the economy than having accessible energy and jobs. This bill creates a great number of jobs. It is a policy on conservation. It includes the types of equipment we use. It includes renewables, with a good many dollars spent for renewables. We talk of alternative fuels. We talk of hydrogen. We talk about domestic production.

It does not roll back the economy despite what is being said on the floor. It does conserve. We have conservation methods included. What is most important in terms of the environment is a good deal of research for coal development so we can have energy from our largest fossil fuel, coal, and do it in a way that is clean for the air. We will hear that it amounts to politics regarding MTBE, which is a very small aspect of this.

We need to have an energy policy for our country. We must have an energy policy. Now is our opportunity to have an energy policy. Certainly we ought to at least be able to vote to have an up-or-down vote on this issue.

The PRESIDENT pro tempore. Who yields time?

Mr. BINGAMAN. Mr. President, I suggest the absence of a quorum and the time be charged equally.

Ms. LANDRIEU. Reserving the right to object, I would like to speak on the bill.

The PRESIDENT pro tempore. Does the Senator withhold his suggestion of a quorum?

Mr. BINGAMAN. I withhold my request.

Ms. LANDRIEU. I will speak for the bill.

Mr. CRAIG. I yield 5 minutes to the Senator from Louisiana.

The PRESIDENT pro tempore. The Senator from Louisiana is recognized for 5 minutes.

Ms. LANDRIEU. Mr. President, as a member of the energy committee who has worked very hard with both the distinguished Senators from New Mexico, Mr. BINGAMAN and Mr. DOMENICI, as well as the former chair from Alaska, Senator MURKOWSKI, trying to fashion a bill that balances the great interests of every region of this country, I am proud to come to the Senate and urge my colleagues to vote for this Energy bill.

There are provisions that should be in this bill that are not. There are many aspects of this bill that I would have written differently myself. However, the fact is, as any member on the Energy and Natural Resources Committee can state, we have had hours and hours, maybe hundreds of hours, of hearings on how we create a more reliable electricity structure in this Nation, how we try to use our great natural resources in a better fashion to help create the energy this country needs to be more independent and more economically competitive.

I come from the State of Louisiana, which is a net exporter of energy. We do a lot of energy production in Louisiana, not just in oil and gas but cogeneration. We have municipal as well as private companies, public companies, municipal generators of electricity. We drill for a lot of oil and gas. We are not a mining State in that sense, like the West, but we mine our resources and we do a much better job than we did 10 years ago and a heck of a lot better job than 20 or 30 years ago. Why? Because the United States has some of the toughest, most stringent environmental laws in the world when we take our coal out of the ground or when we drill off our shore. The Shell Oil company told me last year if they put all the oil they spilled off the coast of Louisiana in a container, it would not fill up the bottom fourth of a barrel.

There are people in the Senate who think we cannot mine our resources in a way that protects our environment. Do we have a perfect system? No. Is it one of the best in the world? Absolutely. So this Senator and this Democrat is for using our natural resources in a way that helps meet the energy demands of this Nation.

This country consumes more energy per capita than any nation in the world. As far as I am concerned, we have an obligation to produce it. Some Members think we can consume, consume, consume and not produce anything. One of the most extraordinary aspects about this bill is streamlining of regulations, trying to untie people's lands so we can appropriately extract natural resources, clean our coal, have good technology off our shores, and use that money to invest in our environment.

People say the Senator from Louisiana is on the floor because Louisiana gets money out of this bill. The State gets some help. We deserve some help because for 50 years we have sent over $140 billion of this Nation's treasury off the shores of Louisiana. That is not pocket change.

We have saved the redwood forests, and we have funded the whole land and water conservation funding for the Nation. Now we have an opportunity to take a portion of that money and save the wetlands of America. It is not Louisiana's wetlands. This is the largest delta in the continental United States, and it is in crisis. It is washing away. The chairman from New Mexico came to see it. He does not need to read a book or anything about it; he has seen it.

So, yes, we have some resources, a tiny percentage of the money that comes out of the great natural resources of the Gulf of Mexico, not to give this Senator any special project, because I sure do not have any special sweet deal. The deal I have cut for my State, which the Senator knows, is to save these wetlands, where migratory birds for the whole Nation go, and fisheries off the coast of the Gulf of Mexico, from the east coast to the west coast.

So there are lots of good things in this bill. I know we have problems with MTBE. I know we have problems. I am

very disappointed in the hydrogen section that would have helped us move to hydrogen cars. I am very disappointed. The ranking member fought very hard for renewable portfolio standards, and I am disappointed that his language was stripped out.

But I can tell you, the chairman from New Mexico has fought like a tiger to get a balanced bill. The fact is, we are not divided Democrat against Republican; we are divided regionally.

Mr. President, I ask unanimous consent for 1 more minute.

The PRESIDENT pro tempore. Is there objection?

Without objection, it is so ordered.

Ms. LANDRIEU. Mr. President, I know people have come down here and complained about standard market design. I realize the Senators from the Northeast are concerned about the language that has been put in this bill. But I will tell you, the reason the language has been put in the bill like this is that there are Southerners who are generating a lot of electricity. Why? Because we are drilling, and we are producing, and we are building plants in the South. And I will be darned if our ratepayers have to pick up the tab to ship that electricity to the Northeast. They need to be doing a better job of building plants and laying down pipelines.

I have more pipelines in Louisiana per capita than any State in the Union. If you took an x-ray of the country, you would be shocked. Like a little skeleton, you could see the pipelines under Louisiana. We cannot build any more. And do not believe we are taking the gas from those pipelines. We are sending it all over the country. We are happy to. But we cannot pay for all of it. We have to share the costs in an appropriate way.

So I say to my Democratic colleagues, when they say there is nothing in the bill for Democrats, may I please remind them there is no drilling—30 more seconds—there is no drilling in this bill in ANWR.

Mr. MCCAIN. Regular order, Mr. President.

The PRESIDENT pro tempore. Does the Senator yield 30 seconds?

Mr. DOMENICI. Yes. I say to the Senator, we are not using your time.

Ms. LANDRIEU. I thank the Senator from New Mexico.

There is no drilling, in this bill, in ANWR, which I know the President fought very hard for and this Senator thought might be reasonable, but the majority wasn't there.

The PRESIDENT pro tempore. The Senator's time has expired.

Ms. LANDRIEU. Thank you. I urge Democrats and Republicans to support cloture on this bill.

The PRESIDENT pro tempore. The Senator's time has expired.

The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I yield myself 30 seconds.

The PRESIDENT pro tempore. The Senator is recognized.

Mr. DOMENICI. Mr. President, I say to the distinguished Senator from Louisiana, I am very pleased I got to know you in the past year and a half. I do not think we would have had a chance to meet each other but for the energy crisis. I visited your State. And everything you have said today, and on the floor time after time, about what is going to happen in your State because of what is happening to the water line is true. We can kill this bill and kill that. You know how long you have been waiting for it.

Ms. LANDRIEU. Fifty years.

Mr. DOMENICI. And you are going to wait 60 more because there is nobody going to pass another bill like this with these kinds of things in it for a long time. Why do I know that? Because I have been through it. And every time we just about get there, somebody has some objection, and we have a big hole, it all falls in, and nothing gets done.

The PRESIDENT pro tempore. The Senator's time has expired.

Mr. DOMENICI. I say to the Senator, thank you for your effort. I appreciate it.

The PRESIDENT pro tempore. Who yields time?

The Senator from New Mexico.

Mr. BINGAMAN. Mr. President, I yield the Senator from Arizona 6 minutes.

The PRESIDENT pro tempore. The Senator from Arizona.

Mr. MCCAIN. Mr. President, I had an opportunity earlier this week to speak about this bill, but I think so much is objectionable in this legislation that I am compelled to expend a little more energy on it.

I have listened to my colleagues' statements, and I have yet to hear any plausible, substantiated argument in support of ethanol. Even my colleagues from corn-producing States who have indicated they support this bill have not been able to identify one benefit ethanol provides the American taxpayers, who pay dearly for it—including the taxpayers in those corn-producing States.

Ethanol is a product that would not exist if Congress did not create an artificial market for it. No one would be willing to buy it. Yet thanks to agricultural subsidies and ethanol producer subsidies, it is now a very big business—tens of billions of dollars that have enriched a handful of corporate interests, primarily one big corporation, Archer Daniels Midland.

Ethanol does nothing to reduce fuel consumption, nothing to increase our energy independence, nothing to improve air quality. Let me repeat: Ethanol does nothing to reduce fuel consumption, nothing to increase our energy independence, nothing to improve air quality.

As far as reducing fuel consumption is concerned, it requires 70 percent more energy to produce a gallon of ethanol than it provides when combusted. There is actually a net energy loss from the use of ethanol. There is nothing about ethanol that will increase our energy independence. More energy is used in the production of ethanol, and it has reduced the amount of gasoline consumed in the United States by 1 percent.

Ethanol does not improve air quality. In fact, doubling the amount of ethanol, as required by this bill, will most certainly degrade air quality. A National Academy of Sciences report in 2000 found that oxygenates, meaning ethanol and MTBE, can lead to higher nitrous oxide emissions, which contribute to higher ozone levels in some areas.

That means in large cities, such as Phoenix, AZ, air quality degradation could be increased under this legislation. The residents of my State already suffer due to the impact of a lingering brown cloud. I dread the effects of this bill—doubling our national use of ethanol—on my town and communities across this Nation.

The American public has to pay a lot of money not only in taxes but at the pump for all these negative impacts on the national economy, the country's energy supply, the environment, and public health. The total cost of ethanol to the consumer is about $3 per gallon, and the highway trust fund is deprived of over $1 billion per year to the ethanol producers.

Plain and simple, the ethanol program is highway robbery perpetrated on the American public by Congress. I maintain you cannot claim to be a fiscal conservative and support the profligate spending and corporate welfare in this bill.

Mr. President, I will talk just for a minute about another problem I had with this bill, the way it was developed. A secretive, exclusive process has led to a 1,200-page monstrosity that is chock full of special interest giveaways and exemptions from environmental and other laws that, frankly, cannot withstand the light of scrutiny.

I mentioned one such provision earlier. It is a glaring example of corporate favors. Section 637 carves out a very special deal for a consortium of energy companies, predominantly foreign owned, called Louisiana Energy Services, which would allow it to construct a uranium enrichment plant in a small town in New Mexico at taxpayers' expense—to the tune of $500 million to $1 billion. This is not your ordinary pork project; it is in a class almost by itself.

Louisiana Energy Services has had some serious difficulties getting a license from the Nuclear Regulatory Commission, and for good reason. One major British partner of this group was fired by the Department of Energy from a $7 billion cleanup contract due to safety and financial failures. Even more disturbing, the major French partner, Urenco, has been associated with leaks of uranium enrichment technology to Iran, Iraq, North Korea, and Pakistan. One high-level U.S. nuclear security administrator stated:

[T]o have this company operate in the U.S. after it was the source of sensitive technology reaching foreign powers does raise serious concerns.

There is significant reason to believe the NRC would not issue a license to this group of companies. And communities in other States did not want the LES facility in their backyard.

This bill gives LES a helping hand in New Mexico. The criteria for NRC licensing and the time period for review have been modified to make it easier and quicker for LES to get a license. Opportunities for challenges on environmental or other grounds would be severely restricted. And if you are wondering how sweet it could possibly get for this company, the uranium waste from the plant would be reclassified as low-level radioactive waste and the cost of disposal would be borne by the Department of Energy—the taxpayers of America.

Furthermore, there isn't any disposal method or site currently available. This provision, which was inserted in conference at the eleventh hour, is the epitome of corporate welfare. Allowing foreign companies with questionable reputations to circumvent long-standing environmental and nuclear regulations is simply wrong.

Let me quote from a few of the many editorials opposing this bill. I have never seen anything quite like this level of agreement in newspapers representing all regions of the country. In fact, I have yet to see a single editorial in favor of this, although I am sure there is one.

The Philadelphia Inquirer:

. . . what most Americans were looking for was an energy bill that protected their interests. . . . Instead they got this unbalanced, shameful mess.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. BINGAMAN. I yield the Senator an additional 30 seconds.

Mr. MCCAIN. From the Chicago Tribune:

Neither the contents nor the process for cobbling it together suggest this is the type of energy legislation this country needs.

The Denver Post:

. . . the most pernicious pork got added in conference committee. Congress should start over next year.

Mr. President, let's put this up against the backdrop of a $500 billion deficit we are facing this year, with 12 percent growth of the Government. Don't call yourself a fiscal conservative and vote for this bill.

The PRESIDING OFFICER (Mr. CHAFEE). Who yields time?

Mr. CRAIG. How much time remains on each side?

The PRESIDING OFFICER. Fourteen minutes to the Senator from Idaho, and 20½ minutes for the junior Senator from New Mexico.

Mr. CRAIG. Do you want to go to another speaker?

Mr. BINGAMAN. I yield 4 minutes to the Senator from Washington, Ms. CANTWELL.

Ms. CANTWELL. Mr. President, I know we have had a healthy debate on this issue and in a few minutes we will probably have one of the closest votes this body has seen in a while. But I want to make one point clear this morning. This vote is about whose side you are on: Whether you are on the side of ratepayers and consumers in making sure we have a national energy policy that works or whether you are going to give in to the special interests who are at this very moment trying to put last-minute deals on the table, ripening other bills with projects that will convince Members to switch over at the last minute instead of standing up for the public.

When the Vice President started this effort, he said, ''We are going to have a national energy policy,'' quoting from his report that a lot of people took pride in, thinking that somehow this administration was going to play a leadership role in an energy policy for the 21st century.

In that report, the Vice President said:

It envisions a comprehensive long-term strategy that uses leading edge technology to produce an integrated energy, environmental, and economic policy to achieve a 21st century quality of life, enhanced by renewable energy and a clean environment. We must modernize conservation, modernize our infrastructure, increase energy supply, including renewables, accelerate the protection and improvement of our environment, and increase greater energy security.

That is what the Vice President's goal and objectives were. Unfortunately, this bill cannot defy gravity. It is so weighted down with special interest pork subsidies and things that Americans are going to be shocked to see that this bill needs to fail.

We have all heard about the subsidies in the wrong place, $23 billion in incentives, mostly going to the fossil fuel industry. We have heard about the exemptions for Texas. Here it is that we are trying to come up with an electricity title that somehow makes everybody else more responsible and accountable with electricity, but we are going to exempt Texas.

Also, the overturning of various environmental laws—why is it that every other business in America, whether a high-tech firm or a farmer, has to comply with environmental laws, but somehow we are going to let new construction of oil, gas, and coal out of the mandates of the Clean Air Act, the Clean Water Act, the Safe Drinking Water Act, and some of our rules on public lands?

As I said yesterday, one of the biggest tragedies of this bill is the missed opportunity for jobs. We could have gotten language in this bill that would have provided for a natural gas pipeline out of Alaska that would have benefited many in this country as far as job creation is concerned. It would have benefited many of us in the Northwest in getting off our overreliance on hydro energy.

We missed an opportunity in planning for the hydrogen economy; 750,000 jobs could have been created in the next 10 years by having a vision. Not just one line in a State of the Union speech about a hydrogen car, but instead a plan with specifics and incentives so the United States could be a world leader in the hydrogen fuel economy. That is not what is in this bill.

I woke up this morning to read in the Seattle Post-Intelligencer online an article that was entitled ''The Energy Bill, It Would Be A Hoot, If It Wasn't So Sad.''

In that article it says :

Vice President Dick Cheney, whose secretive energy task force crafted much of the energy bill in consultation with industry executives, is coming to our Washington next month for a GOP fundraiser.

I would advise the Vice President not to come and talk about his energy policy in the Northwest.

Curiously, the Senate yesterday debated the energy bill and its subsidies in a virtual media blackout.

The PRESIDING OFFICER. The Senator has used 4 minutes.

Ms. CANTWELL. I ask for an additional 30 seconds.

Mr. BINGAMAN. We yield the Senator an additional 30 seconds.

Ms. CANTWELL. This bill hasn't gotten the attention it deserves. But one thing is clear: Members are going to be held accountable for whose side they are on. The energy policy of this administration has fleeced Northwest ratepayers from essential dollars and now this bill promulgates that policy further by giving in to special interests. This bill should fail.

The PRESIDING OFFICER. The minority leader.

Mr. DASCHLE. Mr. President, I will use my leader time so as not to take away from the time allotted to those who still wish to speak.

America needs a comprehensive national energy plan that increases our energy independence, that creates jobs, that lowers energy prices for consumers, and that is environmentally and fiscally responsible.

We have been trying in the Senate for 3 years to pass such a plan.

Regrettably, this is not that plan.

This plan will move America forward in some ways. But it falls far short of a comprehensive approach to America's energy needs. In fact, it does not even attempt to address some of our most pressing problems. And it is extremely generous to a variety of special interests.

I am greatly disappointed by the number of opportunities we are missing here.

This bill fails to significantly reduce America's growing dependence on foreign oil.

Today, our Nation imports 60 percent of our oil, much of it from some of the most volatile and dangerous areas on Earth. Over the next 10 years, the United States is expected to consumer roughly 1.5 trillion gallons of gasoline.

The Republicans in the House and Senate who wrote this conference report actually rejected measures that

would have reduced our dependence on foreign oil.

They rejected efforts to mandate oil savings.

The authors of this conference report also rejected a common-sense plan to address America's projected natural gas shortage.

They killed tax incentives needed for construction of a pipeline to bring natural gas from Alaska to the lower 48 States.

The provision, which was contained in the Senate passed bill, was dropped in conference. And, when Senator BINGAMAN offered a motion in conference to restore it—in the one meeting of Conferees to discuss substantive issues—that motion was defeated on a straight party line vote, with the seven Republican Senate conferees voting against it.

The Alaska Natural Gas Pipeline would have been the largest construction project ever in this country. It would have brought down 35 trillion cubic feet of known natural gas reserves on the North Slope of Alaska. Right now, we are paying to pump that gas back into the ground because there is no way to get it to the American consumers who need it.

The pipeline would also have created 400,000 good jobs and used an estimated 5 million tons of U.S. steel. It would have reduced our dependence on foreign oil by bringing Alaska gas directly to the Midwest.

This conference report also fails to address the problems that led to the catastrophic energy crisis California experienced, and the blackout that left nearly one-third of the country without electricity this past summer.

In addition, this bill actually repeals existing consumer protections—and does nothing to prevent a repeat of the Enron schemes that cost consumers hundreds of millions of dollars. In fact, this bill could make such schemes more likely by tying the hands of regulators.

This bill fails to include a renewable portfolio standard that would diversify America's sources of electricity. The Senate-passed energy bill includes a requirement that 10 percent of America's electricity come from renewable sources, such as wind and solar. This would increase our energy security and create new jobs and opportunities in America's rural communities.

The people who wrote this bill ignored 53 Senators who said this provision should be in the final bill.

Last year, and again this year, the Senate passed energy bills that reflected the growing scientific and bipartisan consensus that the threat of global climate change is real and, unless we act, will have devastating consequences for our children and grandchildren.

This bill simply ignores that fact.

Many important provisions that the Senate passed with strong bipartisan support are nowhere to be found in this bill.

But there are many provisions that are in this conference report that were not even debated in either the House or the Senate. They were simply added in a back room.

One of the most egregious is the retroactive liability protections for MTBE manufacturers.

Forty-three states have problems with contaminated groundwater as a result of MTBE.

The National Conference of Mayors estimates clean-up costs at $29 billion. This bill dumps those costs on local taxpayers, by granting immunity from liability to the polluters.

In fact, this bill provides retroactive liability protection to MTBE producers dating back to September 5 of this year.

It is no coincidence that this is one day before the State of New Hampshire filed its lawsuit against companies responsible for the contamination of groundwater by MTBE.

The authors of this conference report know that provisions like this could not survive open debate. That is why they chose to write this bill in secret.

This process began in secrecy—with Vice President CHENEY's energy task force. And it ended in secrecy.

Democrats in Congress were shut out. The American people were shut out. That is not the way to debate a matter that is so critical to our Nation's security.

Even with these obstacles, we were able to make some important improvements over the bill we were originally given.

Against great odds, we succeeded in protecting the Arctic National Wildlife Refuge from oil drilling.

We increased efficiency standards for appliances and machinery, and increased investments in research and development of new energy-saving technologies.

This bill also makes an historic commitment to expanding the use of renewable energy sources by nearly tripling the use of ethanol.

This is important to the people of South Dakota and many other farm States. And it is important to our national energy security.

A year and a half ago, President Bush came to South Dakota. We visited an ethanol plant in Wentworth. The President said: ''[ethanol is] important for the agricultural sector of our economy, it's an important part of making sure we become less reliant on foreign sources of energy.''

I agree. I've been fighting for ethanol and other renewable fuels for over 20 years.

Nearly tripling America's use of ethanol will create 214,000 new jobs and produce $5.3 billion in new investments in America.

It will significantly reduce greenhouse gas emissions. And it will save $4 billion in imported oil each year.

Ethanol comes from American farmers and producers, passes through American refiners, and fuels American energy needs. No soldier will have to fight overseas to protect them. And no international cartel can turn off the spigot on us.

I understand and respect my colleagues who oppose this bill. There is much in this conference report that is objectionable.

Despite secrecy, the partisanship and the shortcomings in this bill, I will vote to invoke cloture—reluctantly—because America needs to improve its energy situation, and I think this proposal takes a few small steps forward.

However, the people who wrote this bill must understand that a vote for this bill is not a vote of support for their radical energy agenda that some of it includes.

We can—indeed must—revisit the shortcomings in this bill. We must reexamine the MTBE liability waiver, the effects of this legislation on environmental laws and consumer protections.

I intend to press these issues in the next session of this Congress and for as long as it takes to get it right.

So I will vote for this bill. But I tell my colleagues—especially those who were involved in its drafting—that this bill could have been much better, and the American people deserve better from us in the future.

I yield the floor.

The PRESIDING OFFICER. The Senator from Idaho is recognized.

Mr. CRAIG. Mr. President, I commend to my colleagues the 9th Report on Carcinogens 2000, as it relates to MTBE. This report is a product of the U.S. Department of Health and Human Services, Public Health Service, which says that it is not carcinogenic. It is a true ground water pollutant, but there is no indication of a carcinogenic effect.

Mr. DOMENICI. How much time remains on each side?

The PRESIDING OFFICER. There are 14 minutes for the Senator from New Mexico, and 15½ minutes for the other side.

Mr. BINGAMAN. Mr. President, I yield 4 minutes to the Senator from New York, Mr. SCHUMER.

Mr. SCHUMER. Mr. President, I rise in strong opposition to this legislation, and I have fervent hopes that we will not invoke cloture.

Mr. President, this bill is bad for what is in it and bad for what is not in it. I don't know which is worse. It is bad for what is in it because there are so many provisions that don't make much sense that are done to help one State or another but don't really add up to a national policy.

It is particularly bad for what is in it because the MTBE provision is one of the worst provisions that has come down the legislative pike in decades. To tell homeowners who have lost their homes that they cannot take a shower, cannot drink the water and, through no fault of their own, they are out of luck, that their life savings which they invested in their little homes is gone—

even though the MTBE producers knew the stuff was bad and didn't inform anybody—is an outrage.

Some say the Government authorized MTBE. Then let the Government help the homeowners if you don't want to have the oil companies, the MTBE producers, be sued. But don't leave tens of thousands today, and hundreds of thousands within a few years, of homeowners high and dry. I am not a big fan of lawsuits all the time, as my colleagues know. But if there were ever a case where lawsuits were justified, it is in this case. To cut them off, and to cut them off retroactively, is dastardly.

In addition, there is no energy policy in this bill. We have had the triple storm: we have had 9/11; we have had Enron, we have had the blackout. And we do virtually nothing to deal with the aftermath of all three of those.

There is no conservation in the bill. There is no real dealing with the Enron excesses. When it comes to the blackout, we take a baby step that utilities okayed but not what we have to do. Great nations have failed when faced with a crisis and they refused to grapple with it. That is what is happening here.

This bill, whether it passes or fails, will be deeply regretted 5 years from now for what it does and what it does not do.

Mr. President, when pork is used to grease a policy along, well, that is not good. But when pork is used as a substitute for policy, that can be disastrous. I argue that in this case that is what has happened. I had wished that we had a real energy policy in this bill.

My colleagues are all people of good faith. Both Senators from New Mexico, the Senator from Iowa, and the Senator from Montana have all tried their best. Unfortunately, at a time when America demands a thoughtful and far-reaching energy policy, this proposal, instead, delivers little bags of goodies to some individuals, not others, and says that is a substitute for policy.

I hope the bill is defeated.

The PRESIDING OFFICER. The Senator's time has expired.

The Senator from Iowa.

Mr. GRASSLEY. Mr. President, I yield myself 4 minutes out of the time allotted to Senator DOMENICI.

Unlike my colleague and supporter of ethanol, Senator DASCHLE—and he is a big supporter of ethanol—I am not reluctant to vote for cloture because if we don't get cloture on this bill, we will never have the opportunity to get renewable fuels and the environmental impact of those renewable fuels and what it does for American agriculture. This is the best thing for renewable fuels and ethanol that we have had before this Congress in 25 years.

This is an opportunity for people to decide: Are they for the farmers or are they against the farmers? This bill, for the most part, is very good for the green growing regions of the Midwest. The choice is easy. This bill contains those production incentives for ethanol, biodiesel, and other renewable energy sources—the best ever for Senators from other energy-producing regions, such as the gulf States, the Southwest, the Rocky Mountains, and the Appalachians. The bill moves the ball forward for energy production.

The Finance Committee has a history in the area of energy-related tax policy. Almost one decade ago, my committee put its imprint on a comprehensive energy-related tax policy. The bill the committee produced strikes a very good balance between conventional energy, alternative renewable energies, and conservation.

I thank Senator BAUCUS for working with me and every member of this committee on its priorities. I also thank the Democratic staff for its hard work in helping us put together a bipartisan bill that may now be destroyed because of a Democratic filibuster.

First and foremost, we have an expansion of production credit for wind energy. Back in 1992, I was the first to offer this proposal. Now we have an important expansion of this production credit to cover, in addition to wind, biomass, geothermal, and solar energy. As the President has wisely said, as a matter of national security, we need to reduce our dependence on foreign oil. That means all domestic energy sources—green or otherwise—are fair game.

Along those lines, we have a new tax credit for biodiesel fuel that is included in this bill. The conference report contains several provisions that enhance tax incentives for ethanol production because it is a clean-burning fuel that will continue to be a key element in our transportation fuel needs.

We also remove in this bill the prejudice against ethanol for highway trust fund purposes by providing a tax credit for ethanol production. When we complete our work on the highway bill next year, ethanol fuels will pay the full gas tax into the highway trust fund.

This bill also provides an effective small producer tax credit.

With this bill, ethanol will be treated as all other energy incentives. It will be derived from the general fund. Ultimately, all communities, rural and urban, will get more highway money if this bill passes. If you care about highway money for your local roads, you should vote for cloture.

There are a number of other good provisions in this bill that benefit agriculture, clean coal, and new technologies for gas production. The bill, in other words, is balanced with new energy conservation measures, as well as alternative renewable fuels.

We have an opportunity—almost the last opportunity—to do what it takes to get this bill passed. We are responding to national priorities. There is no going back to the House for another chance.

I ask all Senators to think long and hard about what this vote today represents. This is an historical moment. It is as if we are on the last steps of a trail to the top of a big mountain that we have climbed. We can either take the next few steps and enjoy the view or we can jump off the side of the mountain. There is no going back down the trail.

For Senators from my part of the world, the grain growing regions of the Midwest, the choice is easy. This bill contains production incentives for ethanol, biodiesel and other renewable energy sources. We are for farmers they are against farmers. For Senators from other energy-producing regions, like the Gulf States, the Southwest, the Rocky Mountains, and the Appalachians, this bill moves the ball forward on energy production.

The Finance Committee has a distinct history in the area of energy-related tax policy. Almost one decade ago, this committee put its imprint on comprehensive energy-related tax policy. Then, as now, the bill the committee produced strikes a balance between conventional energy sources, alternative energy, and conservation.

I would like to thank Senator BAUCUS for working with me and every member of this committee on their priorities. I would also like to thank the Finance Committee Democratic staff for the hard work they have put in to get us here.

First and foremost, we have an extension and expansion of the production credit for wind energy. Back in 1992, I was the first to offer this proposal to the Senate. Now, we have an important expansion of this production credit to cover biomass, geothermal wells and solar energy.

As the President has wisely said, as a matter of national security, we need to reduce our dependence on foreign oil. That means all domestic energy sources, green and otherwise, are fair game. Along those lines, we have a new tax credit for bio diesel fuels that will be included in this bill.

The conference report contains several provisions that enhance the tax incentives for ethanol production. Ethanol is a clean burning fuel that will continue to be a key element in our transportation fuels policy.

We remove the prejudice against ethanol for highway trust fund purposes by providing a tax credit for ethanol production. When we complete our work on the highway bill next year, ethanol fuels will pay the full gas tax into the highway trust fund. We are most of the way there. This bill also provides an effective small producer tax credit. With this bill, ethanol will be treated as all other energy incentives. It will be derived from the general fund.Ultimately, all communities, rural and urban, will get more highway money if this bill passes. If you care about highway money for your local roads, you should vote for cloture.

There are a number of other very good proposals in the conference report. They benefit agriculture, clean

coal, and new technologies for gas production. The bill is balanced with new energy conservation measures as well.

So, to sum up, we have an opportunity to do what we should do. We are responding to a national priority, energy security, in a balanced and comprehensive way. Let there be no mistake about it, Mr. President. A vote against cloture is a vote to stop this bill. There is no going back to the House for another chance. There is no going back to conference with the House with the leverage the energy-producing States had on this bill. As the lead negotiator on the Senate side for the tax provisions, let me tell you it was not easy. The Ways and Means Committee likes oil—they don't like clean-burning ethanol. It was a difficult conference. We will not get this chance again.

So, for my friends on both sides of the aisle, especially those from the Midwest, this is the time to show your cards. You can show whether you are with farmers or with other interests.

As I said, at the start, we are on the last steps of the trail to the mountain top. There is no looking back now. A vote for cloture completes the journey.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. GRASSLEY. We either pass this bill or the good provisions in it for ethanol are lost forever.

The PRESIDING OFFICER. Who yields time?

Mr. BINGAMAN. Mr. President, I yield 5 minutes to the Senator from Illinois, Mr. DURBIN.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. I thank the ranking member for yielding. I spoke on 2 successive days on this bill, and I feel strongly about it. I spent 20 years in Congress supporting ethanol and I believe in it. I think it is important to help our farm economy, reduce pollution, and reduce our dependence on foreign oil. There is no doubt this bill would greatly expand ethanol across America. That is a good thing. It is something I support.

I cannot support this bill. I cannot support this bill because, frankly, it is fundamentally unfair and unjust and it is unbecoming of the Senate to offer this to America as an energy policy.

When it comes to energy, this bill is a full-scale retreat. This bill fails to include any provisions whatsoever to deal with fuel efficiency and fuel economy of the cars and trucks we drive. How can we in good conscience stand before the American people and say this is an Energy bill for our future and not address the No. 1 consumption of energy, oil imported from overseas—the cars and trucks that we drive? Why? Because the special interest groups that oppose fuel efficiency and fuel economy won the battle. They won the argument. The American people were the losers.

There is another aspect to this bill which troubles me. This bill is a full-scale retreat when it comes to environmental protection for America. Think about this for a moment. Every major environmental group in America opposes this Energy bill. What has brought them all together? The fact that in the course of negotiating this bill, those few people sat in that secret room, gave away the Clean Air Act, the Clean Water Act, access to America's public lands, and the natural heritage which we helped to leave to our children. That is what is at stake. To walk away from basic environmental protection in the name of promoting energy is a bad deal for America's future.

To think for a moment that we have reached a point in time where China—this new developing Nation, China—has more and better fuel efficiency standards than the United States of America should be a supreme embarrassment to everyone in this Chamber.

This bill is a gusher of giveaways. We are going to build a nuclear reactor. We are going to start building coal mines in some States. We are going to build all sorts of shopping centers. It goes on and on. I am no babe in the woods. I have served in Congress and on the Appropriations Committee long enough to tell you I have an appetite for pork like every Member of the Senate and the House, but I have to agree with the Senator from New York. If giveaways turn out to be a substitute for energy policy, then we have defrauded the American public. We need to have leadership on this issue, and we do not.

The single worst part of this bill, as far as I am concerned, the most shameless aspect of this bill is found in section 1502. It is the most egregious giveaway I have ever seen in my time on Capitol Hill because in a dark room, the people who wrote this conference report said to the major oil companies and some major chemical companies that they would protect them from liability for the very product which they sold, which has contaminated water supplies across America.

Think about that for a moment. They have said that for families and individuals whose health and homes have been damaged by MTBE as a contaminant, they are going to close the courthouse doors. They are going to lock the doors and say to those families: You are going to have to bear these losses and these medical bills on your own. That is shameless. To think it is included in here should be enough for every Senator to vote against this bill.

To add insult to this injury, there is a $2 billion Federal subsidy for the MTBE producers and industry, not just protecting them in court for their wrongdoing but giving them a lavish Federal subsidy.

What does it come down to? Who are the big winners in this bill? It is obvious: Big oil companies, big energy companies, high rollers on K Street, and the muscle men on Capitol Hill.

Who are the big losers in this bill? Families with kids who have asthma, who will find more air pollution, which will mean that their kids have to stay home from school; families with water supplies contaminated by MTBE, which make their homes uninhabitable and they have no recourse to go to court to hold these oil companies accountable.

Basically, the biggest loser in this bill is Americans who expected more from this Congress, who expected leadership and vision and instead have a very sorry work product which should be defeated.

The PRESIDING OFFICER. The Senator's time has expired. Who yields time?

Mr. BINGAMAN. Mr. President, how much time remains on the two sides?

The PRESIDING OFFICER. The junior Senator from New Mexico has 6½ minutes. The senior Senator from New Mexico has 9 minutes 45 seconds.

Mr. BINGAMAN. I suggest the absence of a quorum and ask that the time be equally divided.

The PRESIDING OFFICER. Without objection, it is so ordered. 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. BINGAMAN. Mr. President, we have come to the point of deciding whether to vote to send this bill to the President for his signature or to effectively set this conference report aside, regroup, and pursue another strategy.

Those of us who are about to vote against cloture do so not because we are against having an Energy bill but because we are against having this Energy bill. A view has been stated over the last few days that this particular conference report, even with its problematic provisions and its excess spending, is the only option available if we wish to deal with energy problems in this Congress.

It is argued that if we do not pass this bill today, then energy is dead as an issue for this Congress. In my view, that is not a logical conclusion to reach. We are not at the end of this Congress. We are reaching the midpoint in this Congress. There is nothing magical about having to pass energy legislation in odd-numbered years.

The Energy Policy Act of 1992, which was the last fairly comprehensive bill passed through this Congress, was put to final passage a few weeks before the Presidential election in that year.

There is a broad consensus in the Senate for enacting forward-looking energy legislation. We know this is true. Three and a half months ago, we passed an Energy bill by a margin of 84 to 14. That bill would have made 35 trillion cubic feet of Alaskan natural gas available to the country, which this conference report would not. That bill would have saved twice as much energy as this conference report is projected to save. That bill gave a real

boost to renewable energy in the production of electricity. It took a modest first step toward dealing with the reality of global warming. It did not undercut the National Environmental Policy Act. It did not roll back the Clean Air Act. It did not exempt anyone from the Clean Water Act. It was $10 billion lighter on the tax side than this legislation before us. It was another $3 billion lighter on the direct spending portion of the bill. It did not unfairly shift all of the costs of building new electric transmission to consumers who do not get the full benefit of that transmission. It did not contain embarrassing tax giveaways such as a proposal to build a mall for a Hooters restaurant. It was a reasonably good bill.

I have served on the Committee on Energy and Natural Resources for 19 years. That is longer than any Member of my party in the Senate. I did not get on that committee to filibuster Energy bills. I went on the committee to pass good energy legislation.

The reason so many of us believe we should not proceed to pass this Energy bill is that many of the provisions that caused the earlier bill I referred to to pass with 84 votes 3½ months ago have been deleted in conference and an array of irrelevant and objectionable provisions have been added. It is almost as if a calculation had been made that as long as we stuck ethanol provisions into the bill and kept provisions out that would open the Arctic National Wildlife Refuge to drilling, then there would be 60 votes for passage of the bill and no one would look too much at the other details and no one would be concerned about the other effects of the legislation.

Well, we are about to test that proposition. I hope it turns out to be wrong. If it turns out to be a miscalculation and cloture cannot be invoked on this bill this morning, then our job on energy will not be done in this Congress. In fact, this may be an opportunity to get things back on a better and a more bipartisan track.

Both sides have made their share of mistakes in assembling massive Energy bills in this Congress and in the last Congress. Yesterday, Senator NICKLES criticized the process Democrats used in the last Congress to move an Energy bill directly to the floor, and many of those criticisms were valid. Throughout this Congress and at each stage, we Democrats have tried to make a constructive contribution to the bill, even in spite of the flawed process that has seemed excessively partisan and closed to us and to the public, but now we are faced with a choice of voting for or against the bill in its totality. Those who oppose cloture, both Democrats and Republicans, choose to do so because in its totality the conference report will not lead us to an energy future that is secure, clean, affordable, and fiscally responsible.

If this conference report is rejected, I for one will continue to push for the enactment of a good, comprehensive energy policy. It may be that having tried twice to do so with thousand-page bills and failed, Congress should look at smaller legislation.

I hope this conference report is rejected and, once the dust settles, we can find a way to move forward with forward-looking legislation.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

The Senator from New Mexico.

Mr. DOMENICI. How much time do I have remaining?

The PRESIDING OFFICER. Nine minutes.

Mr. DOMENICI. I yield 1 minute to Senator BURNS.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BURNS. Mr. President, I thank my good friend from New Mexico for yielding.

I want to say one thing, and that is that the general premise of this bill is in the right direction. The emphasis is on renewables and things we can do that are good for the environment and still produce energy. All this other chaff and dust that has been kicked up around it that gives opponents such a move in the right direction can be dealt with later, but the general premise of the bill is good because a balance is there in the areas in which most of us really believe.

Let us not take our eye off the ball. Let us move it on down the field under a premise of developing a policy and a way to not only deal with the environment but also produce energy.

I tell my colleagues, we can deal with those things that are objectionable at a later time, but we must move in this kind of a direction.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Has Senator Burn's minute expired?

The PRESIDING OFFICER. Yes.

Mr. DOMENICI. Mr. President, first of all, there are a lot of people to thank for getting us where we are. We are a long way from where we started. I want to thank them. In particular, on the Democratic side I thank the distinguished Senator from Louisiana—from the very beginning; thank you very much for all your help and all the others who put a lot of work into this.

I regret very much the statements that this bill was done in privacy and secrecy, in some way different in terms of a conference than most conferences around here. But I would like to tell the Senate, energy is a big hole in the Congress. Energy policy is a big hole, and we keep dropping problems in it but we never solve them.

Everyone talks about conservation and renewables, but we happen to be talking about those and production. As soon as you start talking about production, somebody produces and they are certainly not nonprofit corporations. So as soon as you say ''produce and we'll give you an incentive,'' you are ''giving money to big companies.'' You are giving it to companies who will do the job and wouldn't otherwise do it.

I want to repeat, for everybody, the history. Last year we could not write a bill in committee. Think of that. My good friend, Senator BINGAMAN, talks about how poorly we conducted ourselves. They couldn't write a bill in committee. So we wrote it on the Senate floor. Do you all remember that? We were down here, humiliated that we had to write an Energy bill on the Senate floor because we couldn't write it in committee.

Then what happened? We went to conference with the House. And, boy, if it was ever a storybook conference, it was wide open. And it took month after month, and guess what happened, Senator BURNS—zero. Nothing was done. So there is another one, the big hole sucked it up. But we did it right. We had a conference. We had it open.

This Senator decided that to do it that way would yield nothing. For the first time I decided that we should write the bill differently and we should circulate it differently. Most of this bill was put on the Internet. In fact, that is the first time in history that a conference report was on the Internet. Anybody who wanted to read this bill had weeks and weeks to read all but the last 15 percent. It was on the Internet. It was delivered to every single office. If you didn't read it, that is not my fault. Then for the last part we gave the opposition 48 hours' notice on the Internet to everybody.

Do you know, this bill was more discussed by the press, piece by piece, than any conference report in the history of America? You will never find a conference report that is reported piecemeal in the media of America.

So where was the clandestine bill? Everybody knew about it. The problem is, just as before, the Democrats didn't like it. Yet they offered amendments. For not knowing anything about it, the distinguished Democrat leader offered 21 amendments, or at least he had them ready. We discussed them. The fact they didn't win them, does that mean the bill is no good? What would you expect when you go to conference? I heard somebody say we should have passed the 15 or 20 percent mandates for renewables. Yes, we should have. We did in our committee. But what do you know about it, the House said no. Not only ''no,'' but ''absolutely no.'' So what do we do, throw the bill out? Of course not.

We have the most powerful renewable provisions in history.

I want to tell everybody the true facts. We have worked harder for the farmers of America than anybody in history. The farmers who are looking to see who is for the farmers, once and for all, you can look to the Republicans, not the Democrats; for the Democrats are leading a parade to kill the most important provision ever thought up for the farmers. The Republicans are here, trying to get it done.

Senator GRASSLEY stood in a corner with his arms out, put on the armor and said, ''It will be this way or we don't have a bill.'' We got it. And guess what. We are just about to throw it away.

If I were the farmers of America, I would ask: Who threw it away? And they are going to all know, the people who killed this bill threw it away. And guess what. Over the last 3 or 4 days, an array of people who build wind energy and solar energy in America walked up to our office. Incidentally, Senator GRASSLEY, before they opened their mouth about the bill, they thanked you because they said all significant wind energy will stop if this bill is not adopted. They didn't say ''tone down; we will come down at half mast.'' They say it stops, because wind energy is predicated upon the credits in this bill, the most significant credits in history; solar energy, the most significant credits in history. Renewables will go faster and farther with this bill than they ever have.

But I don't believe you can leave here today having voted, especially if you vote to kill this bill, and walk out and tell people: Oh, don't worry, we will take care of the farmers next week. Next week is not going to come because I am aware of what it is. You will not get this ethanol bill through the House again. So it is gone and there are some people walking around liking that. Some people have a smile on their face. But I tell you there is no way to get this ethanol bill through the House. I can't imagine another format where Senator GRASSLEY can do what he did and we get this issue out of conference and here.

Then we have all the other things in this bill that we thought were interesting and good for America. They are all falling by the wayside because, for the first time, people have brought an issue called MTBE to the floor and talked about it. The United States House said we ought to hold harmless the product called MTBE—just the product, not people who spill it, not people who cheat with it, not people who, instead of putting it in cars pour it on somebody's lawn—we didn't protect those. We just said the product is OKed by the Environmental Protection Agency, approved by the U.S. Government, and whether I liked it or not, the House said let's hold them harmless for the product itself.

Frankly, I am just beginning to read some stories about the lawsuits on MTBE. In fact, if we had another day at it, I would give you some that would shock you as to what is going on in the United States with these MTBE lawsuits. I can tell you there is one in one State—we got a message on it. Somebody is walking around trying to drum up the lawsuits. It happens to be the chairperson of the bar association of the State. She went to one city that wrote us a letter and said: We told her we are not interested. As far as we know there is no problem in our city with MTBE. Go someplace else and look for your lawsuits. Precisely what I said yesterday—precisely.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. DOMENICI. In addition, if you like blackouts, then you vote to kill this bill because this bill provides a clear, absolute remedy for blackouts.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. DOMENICI. I thank the Chair. I think the majority leader is here. I yield at this time.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. FRIST. Mr. Leader, on leader time I just have very brief closing comments.

I thank the chairman and the ranking member. They have done a superb job.

Several issues have come up. I want to make it clear that this vote is the vote on the Energy bill and on the energy provisions. People have envisioned that there will be other votes, other opportunities; that if this bill has not passed, we can address some of these issues later in some other form.

First, some have made a procedural argument that if cloture is not invoked this morning, we can simply recommit the bill to conference and strip out a provision or two provisions and then bring it back to the Senate.

Everybody needs to understand that is not an option. The other body, the House, has already approved the conference report and therefore the conference committee has been dissolved. It has been dissolved. There is no motion to recommit available. So this is the vote. If you are for a comprehensive Energy bill, you need to vote for cloture. This is the vote.

Second, there has been some speculation, people have mentioned on the floor, if we do not pass this conference report we will pull out this provision or that provision and enact them separately. I wanted to dispel that idea as well. We are not going to pull apart pieces of this conference report and pass them separately. We are not going to do it. We are either going to pass this Energy bill now or the individual provisions that many Senators favor are not going to become law. It is as simple as that. I just use the example of ethanol because, as everybody knows, I joined the Democratic leader in offering the ethanol amendment on the Senate floor earlier this summer.

I have to say it very clearly that this Energy conference report is the vehicle for ethanol. We are not going to enact that as a stand-alone. We are not going to attach ethanol to another vehicle. To the Senators who favor this strong ethanol provision that we have in this conference report—this is the vote. You vote for cloture if you want to see it actually enacted into law. It is important for people to understand.

In closing, this is a good bill. It is a balanced bill. It will make America more secure. It will make America more energy independent, and, as we all have talked about, it will create jobs. We should pass it now. We should send it to the President. The first step right now with this vote is to invoke cloture.

I yield the floor.

CLOTURE MOTION

The PRESIDING OFFICER. By unanimous consent, pursuant to rule XXII, the Chair lays before the Senate the pending cloture motion, which the clerk will report.

The legislative clerk read as follows:

CLOTURE MOTION

We the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate to the conference report H.R. 6, the energy policy bill to enhance energy conservation and research and development, to provide for security and diversity in the energy supply for the American people, and for other purposes.

Bill Frist, Pete Domenici, John Cornyn, Mike Crapo, Larry Craig, Ben Nighthorse Campbell, Michael B. Enzi, Mike DeWine, Christopher Bond, Robert F. Bennett, Trent Lott, Pat Roberts, Jim Bunning, Mitch McConnell, Richard G. Lugar, Norm Coleman, Conrad Burns.

The PRESIDING OFFICER. By unanimous consent, the quorum call is waived.

The question is, Is it the sense of the Senate that debate on the conference report to accompany H.R. 6 shall be brought to a close?

The yeas and nays are required. 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 South Carolina (Mr. HOLLINGS), and the Senator from Massachusetts (Mr. KERRY) are necessarily absent.

I further announce that, if present and voting, the Senator from Massachusetts (Mr. KERRY) would vote ''nay.''

The yeas and nays resulted—yeas 57, nays 40, as follows:

[Rollcall Vote No. 456 Leg.]

YEAS—57

Alexander	Dayton	Lott
Allard	DeWine	Lugar
Allen	Dole	McConnell
Baucus	Domenici	Miller
Bennett	Dorgan	Murkowski
Bond	Ensign	Nelson (NE)
Breaux	Enzi	Nickles
Brownback	Fitzgerald	Pryor
Bunning	Graham (SC)	Roberts
Burns	Grassley	Santorum
Campbell	Hagel	Sessions
Chambliss	Harkin	Shelby
Cochran	Hatch	Smith
Coleman	Hutchison	Specter
Conrad	Inhofe	Stevens
Cornyn	Johnson	Talent
Craig	Kyl	Thomas
Crapo	Landrieu	Voinovich
Daschle	Lincoln	Warner

NAYS—40

Akaka	Cantwell	Dodd
Bayh	Carper	Durbin
Biden	Chafee	Feingold
Bingaman	Clinton	Feinstein
Boxer	Collins	Frist
Byrd	Corzine	Graham (FL)

Gregg	Lieberman	Sarbanes
Inouye	McCain	Schumer
Jeffords	Mikulski	Snowe
Kennedy	Murray	Stabenow
Kohl	Nelson (FL)	Sununu
Lautenberg	Reed	Wyden
Leahy	Reid	
Levin	Rockefeller	

NOT VOTING—3

Edwards	Hollings	Kerry

The PRESIDING OFFICER (Mr. ENZI). On this vote, the yeas are 57, the nays are 40. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

Mr. FRIST. Mr. President, I enter a motion to reconsider the vote by which cloture was not invoked.

The PRESIDING OFFICER. The motion is entered.

Mr. FRIST. Mr. President, the vote, prior to switching my vote for procedural reasons, was 58 to 39; thus, two votes short for invoking cloture. As I said just prior to the vote, America needs a comprehensive national energy policy, and we need it now. Congress has been debating this energy issue for a long time, for nearly 3 years. It is now time for us to stop talking and to deliver to the American people.

I truly believe the bill before us, that the chairman and the other members on the Energy Committee have worked so hard to produce, is a fair bill. It is a balanced bill. It addresses everything from future blackouts to the whole discussion on development of a wide range of reliable energy resources. Now is the time for us to act.

I am very disappointed that we are, at this point, two votes short; that we are facing another filibuster on a very important policy for the American people. I do want to let colleagues know that this will not be the last vote that we have on this bill. We are going to keep voting until we pass it so we get it to the President's desk. We will have at least one more vote before we leave the early part of next week on stopping this filibuster. I don't know when that vote will be, but we will have at least one more vote. I hope we will respond at that time by giving the American people the energy security, the economic security, and the job security that they deserve.

INTELLIGENCE AUTHORIZATION ACT FOR FISCAL YEAR 2004—CONFERENCE REPORT

Mr. FRIST. Mr. President, I now move to proceed to the consideration of H.R. 2417, the Intelligence authorization conference report. Before the Chair puts the question, this conference report has been cleared on both sides, and I hope that we can finish action on it very quickly.

The PRESIDING OFFICER. The question is on agreeing to the motion to proceed.

The Senator from Nevada.

Mr. REID. Mr. President, in response to the leader's statement, we also believe in energy independence and the security of the Nation.

The PRESIDING OFFICER. It is not a debatable motion.

Mr. REID. Fine. I will withhold.

The PRESIDING OFFICER. The question is on agreeing to the motion to proceed.

The motion was agreed to.

The PRESIDING OFFICER. The report will be stated.

The legislative clerk read as follows:

The Committee of Conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2417) to authorize appropriations for fiscal year 2004 for intelligence and intelligence-related activities of the United States Government, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System, and for other purposes, having met, have agreed that the House recede from its disagreement to the amendment of the Senate, and agree to the same with an amendment and the Senate agree to the same, signed by a majority of the conferees on the part of both Houses.

The Senate proceeded to consider the conference report.

(The conference report is printed in the House proceedings of the RECORD of November 19, 2003.)

Mr. FRIST. Mr. President, I am happy to yield to the distinguished assistant Democratic leader for a question.

ENERGY POLICY ACT

Mr. REID. Mr. President, I say through the Chair to my colleagues, we also believe in energy independence. We also believe in the security of this Nation. This was a bipartisan vote that just took place. I think we would all be well advised, this late in the session, to recognize that we should take this bill back to the committee, conference, if necessary, but I suspect it would be better off going back to committee and coming up with a different piece of legislation. People over here want badly to have a bill. The 58 votes we have are firm votes. It would not be advisable to have a vote, say, on Monday or Sunday. Cloture is not going to be invoked.

But let's assume it were for purposes of this argument. Then we have the situation where there are hours following that debate, and I just think we should recognize where we are. The reality is, it is late in the session. We need to go to some other matters. With this vote, we did the Senate a favor, as everyone knows. There are points of order, rule XXVIII. This bill was going nowhere. We just did it quickly rather than prolong it. It doesn't help the Senate to prolong the inevitable. The inevitable is this bill is history. It is not going to go anyplace.

We really did the Senate a favor. Cloture was not invoked. There are points of order against this bill, as we all know. There would be bipartisan votes on those matters. I think we should go on to something else. This was a very good debate. I think we should look back at this as something that is good for the Senate in the sense that the tone was good, and look forward to the very important issues we have facing us, difficult issues. We have the omnibus bill. We have the important Medicare bill. I hope that we would not prolong things on this much longer because this bill, in its present form, is just not going anyplace.

The PRESIDING OFFICER. The majority leader.

Mr. FRIST. Again, to clarify for our colleagues, two votes short, as I implied in my statement. This policy is too important to the American people for us to desert. So we are going to come back. We are going to come back with another opportunity, after I talk to the Democratic leadership. And we will do that at the appropriate time.

For the information of our colleagues, we will be going to other issues—right now, the Intelligence authorization conference report. It is likely today we will be doing Healthy Forests shortly. We have a lot of business today. Medicare will be addressed shortly. The two Houses will be addressing that today.

It may well be that we will begin to address issues such as Medicare later today and continue debate on energy today and look at both issues over the course of tomorrow.

Again, in the intervening time, we will be addressing issues such as Intelligence, Healthy Forests, and other conference reports as they come to the floor.

The PRESIDING OFFICER. The Democratic leader is recognized.

Mr. DASCHLE. Mr. President, I, too, wish to have an opportunity to comment briefly on the vote we have just taken.

Mr. President, for Senators like me, who support enactment of a comprehensive energy bill, the Senate's failure this morning to break this filibuster was as unnecessary as it is unfortunate.

It is a classic example of insisting on provisions that were simply too much for the traffic to bear.

The Senate's lead negotiator, Senator DOMENICI, was, I believe, prepared to work in good faith with his House counterparts to craft a comprehensive energy bill that could attract broad bipartisan support in this body.

Regrettably, his best intentions were undercut by the cynical manipulations of the House Republican leadership during the conference proceedings, which cut Senator BINGAMAN out of the conference process and produced a product that was a far cry from the bipartisan energy bill that passed the Senate in July.

I am convinced that a true conference would have produced a much more balanced energy bill than that before us today.

Make no mistake, however, the overriding reason for the failure of this bill today was not what I consider to be its disturbing lack of balance between production and conservation or between promotion of fossil fuels and renewable energy sources. It was the House Republican leadership's insistence on inclusion of retroactive liability protections for MTBE shielding MTBE producers from legal exposure.

The provision was not contained in either the House or Senate-passed energy bills. In an effort to aid a major special interest, the House Republicans wrote the provision so that it would specifically invalidate the State of New Hampshire's lawsuit against the MTBE industry.

So it is no surprise that New Hampshire's two Republican Senators chose to filibuster this bill.

The drive to placate a narrow special interest not only came at the expense of the public, it trumped the Republican Party's own legislative strategy.

I personally—on numerous occasions—warned Chairman DOMENICI, Chairman TAUZIN, and others responsible for the closely held Republican energy bill conference deliberations that inclusion of this provision threatened enactment of this legislation.

This scenario has, unfortunately, come to pass, ironically because the inclusion of MTBE liability waiver was the straw that broke the camel's back for many Republicans.

While the drumbeat of recriminations about who bears responsibility for this setback had begun even before the vote, the question I am concerned about is what we can do to enact a comprehensive energy bill quickly.

My first preference would be to adopt something close to the bipartisan energy bill that passed the Senate by overwhelming bipartisan votes in the current and past Congresses under the leadership of both parties. But experience tells us that won't happen.

While I fully appreciate that the current bill without MTBE liability relief would still be objectionable to many Senators, there should be no doubt that if this provision was not included, the bill would pass the Senate today and be enacted into law.

Therefore, Mr. President, I call on the White House, and the House and Senate Republican leadership, to join with me to immediately strip out the offending safe harbor language now in the bill.

Further, as a demonstration of good will, I propose that safe harbor language be eliminated for ethanol as well as MTBE.

Once these changes are made, the comprehensive energy bill could be brought back to the Senate and the House, either as a new conference report or as part of the Omnibus Appropriations bill now being readied for final passage in both Chambers.

This simple action would have this energy bill, as imperfect as it is, ready for the President's signature yet this session.

I yield the floor.

Mr. INOUYE. Mr. President, after much deliberation, I have decided to oppose the conference report to H.R. 6, the Energy Policy Act.

The conference report before us today is a serious departure from the comprehensive and balanced approach to energy policy passed by the U.S. Senate earlier this year by an overwhelming bipartisan vote of 84 to 14. The Senate bill carefully weighed many competing interests and struck a fair and even-handed balance that would have strengthened our national security, safeguarded consumers, and protected the environment.

The conference report has tipped the studied balance of the Senate bill drastically in favor of short-term business interests. Regrettably, I am not surprised by the sweeping changes made to the Senate bill because the conference report was prepared by the Republican leadership behind closed doors, without the participation of their Democratic counterparts. Under these circumstances, one cannot be surprised that balance was lost, and a flawed conference report emerged.

Upon review of the bill, I was initially pleased to note its positive aspects. My completed review of the conference report, however, revealed that these few beneficial provisions were far outweighed by the many items injurious to the American people as a whole. The conference report erodes the careful web of environmental protections that safeguard the public health and our natural resources. It promotes a static energy industry by failing both to encourage the development of alternate fuel sources and energy efficient technologies, and does nothing to police the energy industry to prevent a recurrence of the Enron debacle. For example, the conference report does not include the broad, effective prohibitions against price gouging schemes used by Enron and other energy trading firms, included in the Senate version of the Energy bill.

As science has helped to illuminate the negative impacts of environmental pollutants on public health, Congress has responded by enacting a series of statutory protections designed to safeguard the American people by restricting the levels of pollutants that enter our environment. The conference report substantially undermines these protections.

For example, the report would exempt three major metropolitan areas from meeting the Clean Air Act's ozone-smog standard. While industry in these areas may enjoy a respite as a result of the conference report, people with asthma and other respiratory diseases will not. Moreover, it should be noted that this particular provision appeared for the first time in the conference report, and was never debated by the Senate or the House. Without such debate, my colleagues and I are unable to judge whether there are any mitigating factors that might justify a rollback of the Clean Air Act in these three cases.

Of direct concern to my home state of Hawaii is the treatment of methyl tertiary butyl ether, MTBE, and producers of this common gasoline additive. As a fuel additive, MTBE helps gasoline to burn more cleanly, but outside of our gas tanks, MTBE is a proven cancer causing agent that has contaminated groundwater supplies across the country. In Hawaii alone, there are approximately 500 known contamination sites, and in a state completely dependent on its isolated groundwater, this is an alarming statistic. Under this conference report, the State and its counties would have no legal recourse against the producers of MTBE for the expensive process of environmental cleanup, including the remediation and clean up of contaminated soil, water supplies and wells.

The conference report also exempts all construction activities at oil and gas drilling sites from coverage under the Clean Water Act. It goes further and completely removes hydraulic fracturing—an underground oil and gas recovery method from coverage under the Safe Drinking Water Act. Domestic oil and gas production contributes significantly to the short-term security of our national energy infrastructure, but I do not believe that our security interests outweigh our health interests. Nor do I believe that conventional fuel sources can ever provide a long-term solution to our energy security.

As a further blow to ongoing efforts to reduce our nation's dependence on conventional fuels, the Republican conferees dropped Senate-passed provisions that would have encouraged further research, development, and demonstrations of hydrogen fuel resources, for which Hawaii is rapidly developing a keen expertise. The measure also eliminated the broadly-supported goals for introduction of hydrogen fuel cell vehicles.

I support strong renewable portfolio standards, RPS, that provide incentives for producing renewable energy in this country. These measures—such as RPS for electricity, requirements for measures to reduce dependence on foreign oil, climate change policy, and technology—have been dropped from the conference report.

The conference report further dilutes efforts to reduce our dependence on fossil fuels by weakening Corporate Average Fuel Efficiency, CAFÉ standards. I believe that strong CAFÉ standards drive the development and implementation of fuel efficient technologies for use in cars and trucks, and history has proven the strength of this approach. With the volatility of international fossil fuel sources, and the decline of our worldwide stock of this resource, strong CAFÉ standards are more important than ever. By introducing a variety of new and difficult criteria for the administrative development of CAFÉ standards, it will prove difficult or impossible for any President to strengthen the current set of standards before being halted by industry lawsuits.

As a Senator from an island state, I am also concerned about provisions that seek to weaken the laws that protect our coastlines such as the Coastal Zone Management Act, CZMA. For example, the conference report shortens

the time within which states can appeal state consistency review determinations made by the Secretary of Commerce, thus limiting the rights of states under the CZMA.

The conference report also jeopardizes federal conservation lands by allowing the Secretary of Energy to determine the siting of transmission lines through certain national forests and national monuments—even over the objections of the Federal agency charged with maintaining and preserving these natural treasures.

Mr. President, I must also express my serious concern with regard to the provisions of H.R. 6 as they relate to the development of energy resources on Indian lands and the impact of these provisions on the United States trust responsibility for Indian lands and resources. To allow this bill to be passed without amendment, would, in my view, alter the bedrock principles upon which relations between the United States and the Indian nations are founded.

The United States trust responsibility is perhaps the most fundamental principle of Federal Indian law. It was first enunciated in 1832 by United States Supreme Court Chief Justice Marshall. It is the polestar which has guided the course of dealings between the Indian tribes and the United States over the last two centuries.

The United States trust responsibility for Indian lands and resources is derived from treaties and agreements between the Indian nations and the United States, statutes, executive orders, court rulings, and regulations. The Congress has legislated on this basis. The Federal courts have ruled on that basis, and the Executive branch has premised policy on this basis and promulgated regulations based upon this fundamental principle of Federal-Indian law.

The Federal Government's trust responsibility for Indian lands and resources is based on the fact that the United States holds legal title to lands that are held in trust for Indian tribal governments. As the principal agent of the United States as trustee for Indian lands and resources, under current law, the Secretary of the Interior must authorize and approve any activities affecting Indian lands and trust assets.

However, recently the United States Supreme Court ruled in the United States v. Navajo Nation case that tribal governments may not hold the Secretary of the Interior accountable for mismanaging trust assets except if there is a specific authorization contained in a Federal statute. As a result of this ruling, tribal governments are looking to the Congress to protect longstanding principles of established trust law and to clarify with certainty the meaning of the trust responsibility after the Court's pronouncement in the Navajo Nation case.

The Indian provisions of H.R. 6 unfortunately fail to provide a means for tribal governments to call upon the United States, as trustee for Indian lands and resources, to assist them in remedying any damages incurred to tribal lands, nor do they establish express statutory standards for the administration of the U.S. trust responsibility.

The bill requires that any tribe attempting to avail itself of the powers to regulate and develop its own energy resources must waive its rights to seek any recourse against the Secretary of the Interior. This requirement signals a dramatic departure from existing law, and tribal governments across the country have expressed serious concern that this bill will erode the United States' trust responsibility, especially in the aftermath of the Supreme Court's ruling in the Navajo Nation case.

As tribal governments seek to further their rights to self-determination in new areas, such as the leases, agreements, and rights-of-way affecting tribal lands that are addressed in this bill, there must also be an evolution of the duties that the trustee for Indian lands and resources—the United States—undertakes on behalf of tribes desiring to develop energy resources.

My view is that there is a well-founded and long-established partnership between Indian tribal governments and their trustee—and that it is this relationship which assures that if there is any harm or damage done to tribal lands and resources caused by other parties, the tribes will have the full force of the United States government to assist them in securing redress for such harm.

With this end in mind, I respectfully suggested that those standards applicable under the Indian Self-Determination Act be incorporated into this bill, such as the annual trust asset evaluation that is authorized in that act to be conducted by the Secretary of the Interior as a condition of the Secretary's approval of a tribal government's right to enter into leases, business agreements, and rights-of-way without the Secretary's approval.

Unfortunately, this language was not adopted, and instead the bill provides that the Secretary will have the discretion to determine the manner in which trust resources will be managed, and what, if any, ongoing oversight there will be as tribal governments move into an arena that is associated with serious financial and environmental risks.

In addition, in the wake of the Supreme Court's ruling in the Navajo Nation case, the absence of expressly-stated statutory standards for the administration of the government's trust responsibilities as they relate to the development of energy resources on Indian lands is, I believe, a further derogation of the trust relationship that cannot be overstated.

In another section of the bill, state and tribal governments are effectively excluded from the process by which conditions for the operation of hydropower projects are established, and as a result, the protection of fish and wildlife resources is left up to those for whom the financial incentives to reduce costs at the expense of the survival of fish and wildlife resources are great.

There are many in Indian country who share these concerns, and would perhaps express them more strongly than I have been able to do. We do not have a record of which we can be proud when it comes to our dealings with the first citizens of this land, and I fear that this measure will not mark a new, more constructive direction in Federal-Indian relations.

Mr. President, two men involved in the process of bringing this conference report to the floor for a vote—Senator PETE DOMENICI and Senator TED STEVENS—are very dear to me and I have the honor of working with them on a daily basis. I hope they will understand that, as much as I would like to support them and their interests, I must oppose this conference report.

ETHANOL SUBSIDY

Mr. BAUCUS. Mr. President, for several years now I have worked with the highway community to hold the Highway Trust Fund harmless with respect to the ethanol subsidy. While it is good agriculture and energy policy to encourage alternative fuels, it should not be the Highway Trust Fund, and therefore the Nation's transportation system, that bears the burden of the ethanol subsidy.

A few years ago I introduced a bill that transferred revenue from the general fund to the Trust Fund so it could be the general fund that would bear the responsibility rather than the Trust Fund.

This Congress, Senator GRASSLEY and I introduced a bill, S. 1548, that replaced the ethanol exemption with a credit and that transferred the 2.5 cents, currently retained by the general fund to the Highway Trust Fund. Although other provisions in S. 1548 are now contained in the energy bill conference agreement, including the new ethanol credit, the provisions most important to me did not make it in.

I appreciate your commitment and that of Speaker HASTERT and Ways and Means Chairman THOMAS to ensure that the provisions in S. 1548, regarding the Highway Trust Fund will be enacted no later than February 29, 2004 which is the day that the TEA 21 extension expires.

In fact, Speaker HASTERT sent out a press release today that confirms his commitment to enacting these important provisions from S. 1548.

I thank Senator FRIST for working with me to ensure that the Highway Trust Fund will receive all the taxes due to it and that our Nation's transportation program will thrive.

Mr. FRIST. Mr. President, I extend my gratitude to Senator BAUCUS for working together with the Vice President, the Speaker of the House and myself to reach a compromise on the ethanol issue in the energy bill conference

agreement. We understand this is a very important issue to him and to the country and his efforts on this matter have been crucial to developing a strong energy policy.

As per the agreement, I would like to reiterate our commitment regarding the portions of the ethanol issue which are not currently in the conference agreement. In the next highway bill, we will make certain that the 2.5 cents that currently goes into the General Fund, as well as the proceeds from repealing the 5.2 cents from the ethanol tax exemption, are credited to the Highway Trust Fund. Moreover, it would be my desire to hold the Highway Trust Fund harmless with respect to this late date of enactment.

Once again, I thank Mr. BAUCUS for working closely with us to resolve this very important issue. We look forward to enacting these provisions.

Mr. COCHRAN. Mr. President, there are several provisions in this conference report that amend the Commodity Exchange Act, which is administered by the Commodity Futures Trading Commission.

I appreciate the Energy Committee's consultation with the Agriculture Committee with respect to the amendments to the Commodity Exchange Act.

The most important change to the act is to the CFTC's antifraud authority in section 4b, which is found in section 33 of the conference report. Section 4b is the CFTC's main antifraud weapon. In November, 2000, the U.S. Court of Appeals for the Seventh Circuit ruled in *Commodity Trend Service, Inc.*, v. *CFTC*, 233 F.3d 981, 992 (7th Cir. 2000) that the CFTC could only use section 4b in intermediated transactions, thus prompting this clarification. We are amending section 4b to provide the CFTC with clear antifraud authority over non-intermediated futures transactions. Newly revised subsection 4b(a)(2) prohibits fraud in transactions with another person that are within the CFTC's jurisdiction. This new language will make it clear that the CFTC has the authority to bring antifraud actions in off-exchange principal-to-principal futures transactions, including retail foreign currency transactions and exempt commodity transactions in energy and metals. In addition, the new section 4b also clarifies that this fraud authority applies to transactions conducted on derivatives transaction execution facilities as well. The amendments to section 4b(a) of the CEA regarding transactions currently prohibited under subparagraph (iv) are not intended to affect in any way the CFTC's historic ability to prosecute cases of indirect bucketing of orders executed on designated contract markets. *See, e.g., Reddy* v. *CFTC*, 191 F.3d 109 (2nd Cir. 1999); *In re DeFrancesco, et al.*, CFTC Docket No. 02–09 (CFTC May 22, 2003) (Order Making Findings and Imposing Remedial Sanctions as to Respondent Brian Thornton).

The next important changes, or clarifications, come in section 9 of the Commodity Exchange Act that deals with CFTC's false reporting authority. These clarifications are also found in section 332 of the conference report.

In the last 12 months the CFTC has received approximately $100 million in settlements from energy trading firms accused of filing knowingly inaccurate reports. Despite these successes, the amendment to section 9(a)(2) has been included in the legislation in response to a recent U.S. Federal District Court decision in the criminal case of *U.S.* v. *Valencia*, No. H–03–024 (S.D. Tex.). In this case, the U.S. attorney brought a criminal case against an energy trader for filing false reports regarding fictitious natural gas transactions in an attempt to manipulate natural gas price indexes. The Court, recognizing that the U.S. attorney had to show intent for knowingly inaccurate reports, dismissed some of the false reporting counts because there arguably was no intent requirement for false or misleading reports. The CFTC consistently has maintained that an intent to file a false report is necessary for there to be a violation of section 9(a)(2). Accordingly, to address the concerns of the Court in Valencia, section 9(a)(2) will be revised by inserting the word knowingly in front of both false and misleading so it is clear that the CFTC and the U.S. attorneys must show intent.

The legislation also includes an amendment clarifying Congress' intent that section 9 provides a civil enforcement remedy to the CFTC, in addition to criminal prohibitions. This amendment merely clarifies and confirms the CFTC's longstanding use of section 9, as the CFTC has brought over 60 enforcement actions charging violations of its provisions, including but not limited to false reporting charges under subsection (a)(2).

These amendments will permit the CFTC and U.S. Attorneys to continue to bring false reporting cases in the energy arena for acts or omissions that occurred prior to enactment. The bill expressly provides that these amendments simply restate, without substantive change, existing burden of proof provisions and existing CFTC civil enforcement authority, and do not alter any existing burden of proof or grant any new statutory authority.

The last amendment I will mention is a set of savings clauses for the Natural Gas Act and the Federal Power Act. These savings clauses are intended to help clarify the dividing line between the jurisdiction of the CFTC and the Federal Energy Regulatory Commission. The two savings clauses, which are virtually identical, can be found in section 332 and section 1281 of the conference report.

The savings clauses have two purposes. The first purpose is to make it clear that nothing in the Natural Gas Act or the Federal Power Act affects the exclusive jurisdiction of the CFTC with respect to accounts, agreements and transactions involving commodity futures and options. The CFTC, not FERC, has exclusive jurisdiction over commodity futures and options. This exclusive jurisdiction extends to futures and options on natural gas, electricity and other energy commodities, regardless of whether the futures or options contract goes to delivery, is cash settled or offset in some other fashion.

The second purpose of the savings clauses is to clarify that FERC should follow the existing Commodity Exchange Act statutory scheme for requesting futures and options trading data from futures exchanges through the CFTC. Section 8 of the Act recognizes the highly sensitive nature of futures and options trading data and specifically restricts its public disclosure except in very limited circumstances. The regulatory scheme of the act ensures the confidentiality of futures and options trading data and is one of the reasons that investors have such confidence in the U.S. futures markets. FERC can and should be able to obtain futures and options trading data by directing its request to the CFTC not to a futures exchange such as the New York Mercantile Exchange. The CFTC has a long history of sharing futures and options trading data with other Federal and State regulators that agree to abide by the public disclosure restrictions found in section 8. The savings clauses assure that requests for futures and options trading data will be processed in the same way and be subject to the same protections.

I believe the clarifications to the Commodity Exchange Act included in the conference report will only strengthen what is already a strong and sensible regulatory program administered by the Commodity Futures Trading Commission, and I support passage of the conference report to accompany H.R. 6, the Energy Policy Act.

Mr. CAMPBELL. Mr. President, I rise today in strong support of the energy bill conference report and urge its quick passage. I am deeply troubled by the misinformation being cast about by opponents of this bill on the Senate floor and in the press. I would like to take just a moment and distinguish some of the fact from fiction.

First, opponents of the bill have been criticizing the energy bill's electricity provisions. They have made sensationalistic allegations about Enron and the August blackout, among others, and conclude that this bill does nothing to improve our Nation's electricity grid. If opponents of this bill were to take the time to read the bill they have been so fervently criticizing, they would have reached far different conclusions.

Opponents have been desperately trying to color a good piece of legislation with known bad guys. I don't know how many times I have heard Enron thrown around, but never have those folks mentioned that this bill includes significant market transparency, consumer protection, and improved enforcement provisions. The fact: this bill improves matters.

Second, critics have criticized this bill for shielding MTBE producers from product liability lawsuits. Many of those Senators represent States that have sued MTBE producers for contaminating groundwater. On one hand, I appreciate why they object to that provision. My State of Colorado too is searching for ways to meet funding shortfalls, and groundwater out West is always a premium. However, MTBE isn't in groundwater because someone put it there. MTBE is in groundwater because the underground storage tanks made to hold gasoline with MTBE leaked.

Another fact: Congress mandated MTBE's use, requiring the oxygenate be added to gasoline to meet Clean Air Act requirements.

My friends on the other side should focus on fairness, and not just the deep pockets their trial lawyer friends are after. Fairness is the special interest opponents of the bill are so adamant on vilifying.

Opponents of the energy bill conference report have made outlandish claims that this bill does nothing for renewable energy. Again, such statements beg the question; have they bothered to read the bill? The fact of the matter is that this bill includes significant financial incentives for wind, biomass, and solar energy, and has the full support of the Solar Energy Industries Association. Further, the bill requires that 7.5 percent of electricity purchased by the Federal Government come from renewable energy.

Opponents have criticized the Indian energy title of the bill as offensive to the environment. They claim that if Indians opt-in to the voluntary provisions, then those tribes can skirt NEPA. Without touching the prejudicial nature of that statement—the assumption that Indians would violate the environment—I seriously doubt that opponents know why NEPA might apply at all. Under current law, if a tribe wanted to build an energy production facility on their own land with their own money, NEPA would not apply. NEPA only applies on Federal land or when there is some Federal action. Although some critics may like to think otherwise, Indian land is treated as their own land. In the example above, there is no Federal action.

However, if the Nation's most disenfranchised and poverty stricken group seeks third-party funding to develop their own resources, then the Secretary of Interior must review the proposed project. This paternalistic Secretarial review, a historical construct in the law, is tantamount to Federal action triggering NEPA. Indians believe that their lands should be treated like other private land under the law.

Opponents of this bill are playing a cruel joke on Indians. On one hand, they argue that Indians should be free to exercise their right to self-determination. Yet, on the other hand they tell the poorest of the poor that they must do so without any third-party financing. It seems that opponents of this bill believe that, for Indians, self-determination may only be exercised through posing for tourist photos and making handcrafts.

The Indian Energy title in the bill under discussion provides Indians with a completely voluntary tool that could help them to develop their own resources. This title could be a significant empowerment vehicle providing much needed jobs and economic development.

Last, my friends on the other side have made several statements criticizing this bill's process. In part, I have to agree with them. Similar to the failed energy bill of the democratically controlled 107th Congress that never benefited from being drafted in the Energy and Natural Resources Committee, the current energy bill has reached the floor in an imperfect way.

However, the fact of the matter is that the energy bill of the 108th Congress is a far reaching piece of legislation that is good for the country, good for my State of Colorado, which still relies heavily on the agricultural industries, and good for workers. It is important to note that all manner of farm groups support this bill, including the American Farm Bureau, the American Corn Growers, the National Farmers Union, and the National Cattleman's Beef Association. Furthermore, this bill is supported by a host of labor organizations; the Brotherhood of Locomotive Engineers, the United Mine Workers, and the United Transportation Union, to name just a few.

Mr. President, the comprehensive energy bill before the Senate is a critical piece of legislation for the country. Its writers had the unenviable task to ask the questions that most in the Nation are never required to consider—where does our energy come from, and how can we meet future demand? This bill provides important answers and plans for the future. I urge its passage.

Mr. NELSON of Florida. Mr. President, I rise to oppose the energy bill. I wanted to support this bill, but the many environmentally questionable provisions and the large price tag prevent me from doing so.

This bill is not an energy policy bill. It is a special interest bill. We are at war in two countries, and we receive more than 50 percent of our oil from sources beyond our shores. But this bill does not provide a way for us to break free from the security threat that poses. It lacks clear vision for how this country moves away from our dependence on foreign oil and dirty fuel and towards new, cleaner sources of energy.

There are no oil saving provisions or climate change provisions. I do support the incentives for nuclear energy, wind energy, solar energy and other renewable energy sources. I also support the provisions for tax credits for the sale of hybrid and alternative fuel vehicles. The repeal of the Public Utility Holding Company Act and reform of the Public Utility Regulatory Act's mandatory purchase obligation are positive changes. But I can't get past the MTBE liability waiver, the coastal zone management changes, and the huge tax credits for the oil and gas industry. Half of the tax benefits—approximately $11.9 billion of the $22.9 billion—in tax provisions will go to the oil and gas industries, some $72 billion in authorized spending, a 50 percent increase over the price tag going into conference. And this price tag is not offset anywhere in this budget.

With regard to MTBE, my State of Florida has more MTBE spills than any other State in the country—more than 20,000—and those communities in Florida may be held responsible for the cleanup of those sites if the liability waiver in this bill passes. And the ratepayer in these communities, instead of the producers of MTBE, will have to pay the price for the cleanup.

In fact, a lawsuit filed by Escambia County Utilities Authority would be nullified by this bill. And at least 11 other water systems serving 629,000 people will be prevented from seeking redress from the refiners of MTBE who caused the contamination.

My staff talked to the Executive Director of the Escambia County Utilities Authority, Steve Sorrell, and he told my staff that if Escambia's suit cannot go forward the County will be on the hook for an expensive cleanup and the ratepayer will have to pay the price. So if this energy bill passes, the main cause of action in Escambia County FL's suit will be taken away and the ratepayers, the citizens of Escambia County, not the producers or oil refiners, who knew this substance was a health and environmental hazard when it was introduced, will pay the price.

Some have said that we shouldn't hold the producers responsible for the contamination, they just produced the MTBE. They didn't know it was a health risk or environmental hazard.

But the successful lawsuits have uncovered that the refiners did know it was a health and environmental risk and why not let the courts decide whether they are at fault instead of the U.S. Congress. In a document dated April 3, 1984 an MTBE producer employee said:

> We have ethical and environmental concerns that are not too well defined at this point; e.g., 1. possible leakage of [storage] tanks into underground water systems of a gasoline component that is soluble in water to a much greater extent [than other chemicals], 2. potential necessity of treating water bottoms as a ''hazardous waste,'' [and] 3. delivery of a fuel to our customers that potentially provides poorer fuel economy . . .

Another memo by an energy company engineer in 1984 is even more egregious.

This memo says:

> Based on higher mobility and taste/odor characteristics of MTBE, Exxon's experiences with contaminations in Maryland and our knowledge of Shell's experience with

MTBE contamination incidents is estimated to increase three times following the widespread introduction of MTBE into Exxon gasoline . . .

Later the memo notes:

Any increase in potential groundwater contamination will also increase risk exposure to major incidents.

These memos were written more than 5 years before the Clean Air Act amendments passed that ushered in the widespread use of MTBE in gasoline. These documents were uncovered in lawsuits in California in which manufacturers and distributors of MTBE, the very entities immunized from product liability suits in this bill, were found guilty of irresponsibly manufacturing and distributing a product they knew would contaminate water. The jury found by ''clear and convincing evidence'' that these companies acted with ''malice'' by failing to warn customers of the almost certain environmental dangers of MTBE water contamination.

The coastal provisions of this bill are also troubling. Under section 321, of the Oil and Gas title, the Secretary of the Interior will be given broad new authority to grant leases, easements or right-of-ways on the Outer Continental Shelf in moratorium areas. Interestingly, this provision left the Senate prohibiting these oil and gas activities in the moratorium areas, but came back allowing those projects to go forward in moratorium areas—without input from the Department of Commerce as required under the Outer Continental Shelf Lands Act. Section 325 restricts the appeals process for coastal states appealing an oil or gas exploration or development plan to the Department of Commerce. The timeline put in place by this provision is even shorter than that requested by the Bush administration. Section 330 circumvents the Coastal Zone Management Act and deems the Federal Energy Regulatory Commission record the record for a Coastal Zone Management Act appeal—limiting a State's input into the process. For these reasons, I cannot support the bill.

Mr. ENZI. Mr. President, there is an old adage we have heard many times that says that the journey of a thousand miles begins with a single step. Today we are taking another one of those steps in a long journey that will hopefully lead to an increase in our energy independence, more reliable sources of energy, and more stable prices that are not so subject to fluctuations in the energy market.

The bill we have before us is something that will truly affect every American, no matter their age, where they work, where they live, or what activities they pursue in life. One of the many things that bonds us as Americans is our love of so many things that makes us consumers of energy. No matter who you are, you are a strong and vital part of that market.

If you drive a car, you won't get very far without a full tank of gas.

If you use a computer, you have to tie it to some source of electricity to get the power you need to access the Internet or the information stored on your hard drive.

If you live in a mobile home, or in a cabin in the woods and cook your food over an open fire, you are still an energy consumer who is using a resource to make your dinner.

Every lifestyle has its own energy needs and we have been incredibly blessed to have had access to an abundance of energy for many, many years.

In fact, we had such relatively easy access to energy we started to take it for granted. That led to calls for conservation and more wise use of our resources when energy costs first started to rise. That was the start of our journey to create an energy policy—one that has seen us through these past years. Unfortunately, it has taken quite a long time to agree on an update to our policy, one that takes into consideration the changes we have seen in our society and in the availability of energy both here and abroad.

Our dependence on foreign sources of energy continues to be a national concern, one that had me and many others calling for the creation of a national energy policy, which we have done since 1973 when OPEC and the Saudi Arabians first pulled the plug on our supply of crude oil.

The irony was the fact that we had an abundance of oil here in the United States at the time. In fact, we still have a huge supply of oil in the country today, but that oil has not been made available for exploration. Because we hadn't taken the steps to develop it, we allowed a foreign government to disrupt and control part of our daily lives. We became vulnerable to their manipulations and it took us months to recover. In some ways, we are continuing to recover from those days of the long gas lines, high prices and short supplies that we saw in the 1970s.

Things were bad enough back then when we didn't have an energy policy. Still, they could have been much worse. I shudder to think what might have happened if we'd had a situation like 9/11 occur at the heart of that crisis. If the terrorists had struck when we were economically crippled and energy supplies were low, what effect could they have had on our national security?

That kind of scenario is exactly the kind of thing that a national energy policy like the one we are taking up today is supposed to avoid.

It has taken us quite a while to get where we are, but we finally have something before us that will provide us with a plan, a blueprint for the future that will also address our needs in the present. It is time now for us to take it off the planning board and put it into action. After all, 30 years ought to be enough time to put the basics of a plan together, and that is how long we have had since the energy crisis of the 1970s to work out a plan like this. Now we have before us the beginning of what will be a long and continuing effort to stabilize our energy markets and protect our national security.

This bill isn't perfect, but it is a good start. It is more than a beginning, but it is not the final answer. It is a temporary remedy that will start producing results immediately while it lets us continue working on a more permanent solution. In other words, it is a chance to grab the brass ring and get another ride on the energy merry-go-round, while providing for the ride we are currently on.

I am pleased that this bill includes a number of important provisions that support and promote clean coal development. Coal is an important product of Wyoming, and one of the most important ways we can reduce our dependence on foreign energy is to find ways to diversify our energy supplies and better utilize our Nation's abundant coal supplies—especially clean burning coal like what we mine in Wyoming.

In addition to our coal supplies, in recent years our new energy development has focused on the increased use of natural gas. I support natural gas development and I hope that our gas industry continues to grow and flourish. IO am also keenly aware of the fact that there isn't enough natural gas or infrastructure available to supply all of the world's energy needs so we are going to have to continue relying on coal for some of our energy uses.

That does not mean we have to continue doing business as usual and continue to push our aging coal-fired power plants well beyond their originally designed lifetimes. We have the technology and the ability to design and build cleaner and more efficient power plants that utilize new clean coal technology, but we won't be able to do that if we cripple our economy and prohibit new development.

This won't surprise anyone, but none of us are going to be enthusiastic about everything in this bill. Again, it is not a perfect bill, but it is a good start on a policy. It does not have everything I want in it, but it does have more than enough to make it worth our support. There is a provision that would have greatly helped Wyoming get the more than $400 million that it is owed by the Federal Government through the Abandoned Mine Lands Trust Fund, but that provision was not included in this bill. We have received assurances from the Finance and Energy Committees that they would take up this matter early next year, and we are grateful for their commitments. However, I would have preferred that the provision had been included in this bill and we didn't have to take up any of the committee's time next year. Still, again, on balance, and taking the whole bill into consideration, it is a good bill and it deserves our support.

I know I am not the only one who feels that one provision or another

could have been added or left out and it would have made for a better bill. Like me, almost every State can point at something that they wish could have been included but was not. It is a reason to be disappointed, but it's not a reason to ignore the task at hand, which is to continue the process and develop a national energy policy.

There are just too many positive things that the bill would do for the country in the long and short term. To begin with, the bill would create nearly 1 million jobs and implement mandatory electricity reliability standards that we believe may prevent future massive blackouts as was experienced in August by the Northeast.

It would encourage the Federal Government to increase energy efficiency in Federal installations.

It would increase assistance for lower income families by raising the base authorization of LIHEAP to $3.4 billion. The bill also includes incentives to increase solar, wind, geothermal and other biomass technologies.

It encourages modernizing and streamlining our Nation's hydropower laws.

It provides incentives for responsible oil and gas development and royalty relief for marginal wells. In other words, it helps keep wells that are slow, but long-term energy suppliers going so we don't always have to rely on short-term, get-rich-quick wells for all of our energy needs.

It provides incentives to encourage consumers to purchase more hybrid and alternative fuel vehicles and authorizes two new programs that would improve the efficiency and quality of our Nation's fleet of school buses.

There are a number of other provisions included in this bill that will contribute to our Nation's energy security and I hope my colleagues will take the time to look at what is in this bill for what it really is: A desperately needed and all-important first step toward a policy that will increase our energy independence, ensure we have a more reliable supply of energy available, and a more stable energy market for consumers to purchase from with prices that are not so subject to as much fluctuation and change.

Mr. BURNS. Mr. President, I would like to commend the chairman of the Energy Committee for his leadership on this challenging bill both on the Senate floor and through the conference. This is the first comprehensive energy legislation this country has seen in more than a decade, and it is a huge step forward for America. This energy bill is about looking forward to our future, and creating the energy and the jobs that will keep this country best in the world.

This is a large and complicated bill. It addresses everything from energy efficiency and conservation, to research and development for new technologies, and policies to encourage a wide variety of energy sources nationwide. People will always find something to criticize in a sweeping piece of legislation, but we need to focus on the huge accomplishments this bill will achieve.

We will advance cutting-edge technologies such as hydrogen fuel cells and improve clean technologies already in place like nuclear power, hydropower, wind, and solar energy. At the same time we will shore up our own domestic production of the resources we use most, including clean coal, oil, and natural gas. We will begin to use 5 billion gallons of ethanol and biodiesel annually as a result of this bill, and that is a very good thing for farmers and consumers across America. Real reforms in the electricity title will result in more reliable service and more investment in the backbone of our electricity infrastructure.

I would especially like to acknowledge Senator DOMENICI's wise counsel in regard to an amendment I had intended to propose to enhance the economic growth of western States. My amendment would have provided for the study and creation of National Interest Electric Transmission Corridors by the Secretary of Energy, based on national security and energy policy grounds. Pursuant to those designations, the permitting and siting of needed electric transmission lines would be provided for. While most of this additional capacity would probably be achieved by broadening existing rights-of-way, there would no doubt be some need for additional rights of way. Upon the advice of the chairman and his assurance that he would pursue these concepts, I declined to offer that amendment on the Senate floor.

I am very encouraged that the chairman has been successful in having the concept of National Interest Electric Transmission Corridors included in the bill, for any area experiencing electric energy transmission constraints or congestion. Transmission capacity in these western States is one of the significant issues regarding their future economic expansion. Furthermore, if we could unlock the tremendous coal, wind and other resources of these States through mine-mouth electric generation and provide for the transmission of that electricity to load centers it would take significant pressure off our increasing reliance on natural gas as a power source. This is one of the keys to a balanced energy portfolio and lessened reliance on foreign energy sources.

My home State of Montana can make a significant contribution to our Nation's energy independence, provided we can develop the needed transmission infrastructure to move electricity to market if we generate it from our coal and wind resources. This is very important for both the generating States and the end-user markets and is simply good national energy policy and good national security policy.

This energy bill isn't perfect, but it helps us transition into tomorrow's economy without sacrificing our quality of life today. It is a good balance, and a good compromise between the countless demands that have been made by those with opposing viewpoints. No one can win every battle, but without this energy legislation the entire country loses. I am disappointed there are Members in this body who would rather complain about this bill than enact it. We shouldn't let partisanship get in the way of progress, and this bill is progress. No one got all they wanted, but every State in the Union will benefit, and every American will be better off if we ensure this country's energy security by passing this legislation.

Mr. HATCH. Mr. President, I rise today to express my strong support for H.R. 6, the Energy Policy Act. It has been a long, long time since we could claim to have a national energy policy, and I am very proud to say that we are about to deliver an energy plan to the American people that is comprehensive and forward looking. It is a balanced bill that promotes greater energy independence and cleaner air.

It is no simple task to construct complex legislation of such a broad scope. A good deal of the credit for the fact that we have a conference report today goes to the heroic leadership of Chairman DOMENICI and Chairman GRASSLEY, and the respective Democratic ranking members Senator BINGAMAN and Senator BAUCUS. I congratulate our colleagues for their leadership.

And when it comes to leadership, we all know that it was President George W. Bush who first put us on the path to a national energy plan. One of the President's earliest acts was to establish the National Energy Policy Development Group, which produced the National Energy Policy Report, an early template for the legislation we have before us today.

We don't have to convince the American people that we need this energy bill. They already know. They are the ones who paid more than $2 per gallon to fill their cars this summer. They are the ones who sat in blackouts for days. And, they are the ones who have watched their natural gas bills go through the roof.

I am pleased to report to the American people that the Energy Policy Act addresses each of those problems—and more.

My State of Utah is an energy resource State. Utah has long helped to fuel our Nation's growth, whether it be by supplying the uranium that fueled our early nuclear industry, the oil and natural gas for our vehicles and homes, or the clean coal which powers our coal-fired electricity plants. Utah has also been a leader in producing renewable electricity with our large hydropower facilities and our significant geothermal plants. Thanks to environmental protections, labor laws, and health and safety regulations, our Nation is cleaner and stronger than ever before. And I am glad these protections are in place. However, the many layers

of these rules and regulations do make energy production more expensive. In Utah, where we have many millions of acres of beautiful public lands, we have the extra difficulty of developing energy while trying to preserve significant portions of scenic areas. In my State we want all the protections our laws provide, but we recognize the need for assistance from the Federal Government to keep this activity going in this country. And in doing so, this legislation leaves almost no stone unturned.

The act will help us to leap forward in creating more efficient buildings and homes in this Nation, and it starts at home by addressing congressional and other Federal buildings. The act takes large strides forward in promoting the use of renewable energy in the United States. The bill also covers solar energy, wind energy, hydro power, and geothermal energy, the latter being particularly important in my State of Utah.

I am pleased that the Energy Policy Act includes important provisions to increase the reliability of our electricity system.

We have seen what happens when we lack a reliable affordable electricity supply; our modern society comes to a near standstill. Reliable electricity is one of the most important services we can provide our Nation. Most of the electricity produced in the United States comes from coal-fired power plants. The newer coal plants which are prevalent in the West are very clean and very efficient. This legislation promotes the most advanced technologies in this industry which will lead to further improvements in the reliability of our electricity system and in the quality of our air. The bill also provides programs to improve electricity service to our Native Americans.

Importantly, the Energy Policy Act addresses our need for a more reliable fossil fuel supply. This includes home heating oil, natural gas, and our other basic transportation fuels, petroleum and gasoline.

The transportation sector in the U.S. accounts for nearly two-thirds of all oil consumption, and we are almost entirely dependent on petroleum for our transportation needs. Is it any wonder, that 50 percent of our urban smog is caused by mobile sources? If we want to clean our air and address our Nation's energy dependency, we must focus on the transportation sector. And we must focus first on those technologies and alternative fuels that are already available and abundant domestically.

To that end, 14 cosponsors and I introduced S. 505, the Clean Efficient Automobiles Resulting from Advanced Car Technologies Act of 2003, or the CLEAR Act. The CLEAR Act is the most comprehensive and effective plan we have seen in this country to accelerate the transformation of the automotive marketplace toward the widespread use of fuel cell vehicles. And it would do so without any new Federal mandates. Rather, it would offer powerful market incentives to promote the advances in technology, in our infrastructure, and in the alternative fuels that are necessary if fuel cells are to ever reach the mass market. As a result our Nation benefits from cleaner air and greater energy independence.

I am very pleased to report that a large portion of the CLEAR Act was included in the Energy Policy Act. And for that I give my heartfelt thanks to Finance Committee Chairman GRASSLEY and Senator BAUCUS.

First, the bill offers CLEAR Act credits to consumers who purchase alternative fuel and advanced technology vehicles, such as hybrid-electric vehicles. These credits would lower the price gap between these cleaner and more efficient vehicles and conventionally-fueled vehicles of the same type. This is a direct attack on our Nation's huge appetite for petroleum as a transportation fuel, and I am confident that the CLEAR Act credits will accelerate our shift toward a more efficient and cleaner transportation future.

When I introduced the CLEAR Act, it contained a significant tax credit for the installation costs of retail and residential refueling stations. I was disappointed that this provision was weakened in conference and replaced with a provision that extends and expands an existing tax deduction for infrastructure. However, I am pleased that an infrastructure incentive did survive in the Energy Policy Act.

As originally introduced, the CLEAR Act also provided a very important tax credit of 50 cents per gasoline-gallon equivalent for the purchase of alternative fuel at retail. This would have brought the price of these cleaner fuels much closer in line with conventional automotive fuels and contributed significantly to the diversity of our fuel supply.

This was a very important component of the CLEAR Act that did not survive the conference process. It was important because of the combination of this incentive, the infrastructure incentive, and the alternative fuel vehicle credit working together was meant to have a larger effect on the market than could have been accomplished by providing these incentives alone at different times. For instance, the fuel credit would have combined with the vehicle credit for an added incentive to consumers to buy cleaner cars. The fuel credit also would have combined with the infrastructure credit for a very powerful incentive to install new fueling stations. The presence of more fueling stations also opens the way for the purchase of more clean vehicles, and so on. Because all three incentives are not in the final bill, we will not achieve the synergy that would otherwise have been possible, and the potential benefits of the CLEAR Act may not be fully realized.

In spite of this disappointment, I am very pleased that such a large portion of the CLEAR Act was included in the energy bill. I can see the day when alternative vehicle fuels, fuel cells, and other advanced car technologies will be common. And considering the environmental and security costs associated with our petroleum-based transportation system, that day cannot come too soon.

As I have outlined in my statement, the Energy Policy Act will go a long way to bringing our nation into the future. It will increase our energy security and clean our air. I urge my colleagues to support these goals and throw their support behind it.

Mr. CONRAD. Mr. President, I come to the floor today to support the energy bill conference report.

I have long believed we need a comprehensive national energy policy. The reality is that our economy depends on affordable energy. We often take it for granted, but just imagine how different our daily lives would be if we did not have plentiful, affordable oil, natural gas, and electricity. We depend on energy in almost everything we do in our lives, from turning on the light in the morning, to driving our cars to work, to cooking our dinner, to watching TV at the end of the day.

And energy is absolutely critical to the functioning of our economy. Our manufacturing sector uses vast amounts of energy to produce the whole range of products we take for granted in stores all across the country. Our services sector—and particularly our high tech sector—rely on electricity. Our agriculture economy uses enormous energy inputs for planting, harvesting and processing its bountiful production. And without energy, we could not transport these goods and services to consumers.

It is virtually impossible to understate the importance of energy to our daily lives and to our economy. Yet our energy policy is seriously lacking.

As the blackout in the northeast demonstrated last summer, our national electricity infrastructure is decades old and dangerously overloaded. Quite simply, we have under-invested in making sure that the national electricity grid can keep up with demand for electricity. Since 1992, demand for electricity has been growing at 2–3 percent per year while transmission capacity has been growing at only .7 percent per year. At the same time, deregulation of the electricity industry has led to a hodgepodge of control over transmission capacity, without clear rules and responsibility for maintaining the reliability of the system. We need new rules to improve the reliability of the grid and new incentives to increase transmission capacity if we're to avoid future meltdowns.

And, we remain overly dependent on foreign oil. Oil imports now account for nearly 60 percent of consumption, and the projection is for that percentage to continue increasing inexorably. That puts our economy at risk, because it is vulnerable to price spikes caused by

OPEC or supply disruptions in foreign trouble spots. And it creates national security challenges. We currently rely on the vast oil reserves in the Middle East to meet our import demands, and that makes ensuring the free flow of oil from that unstable, undemocratic part of the world a vital national security interest. So we need an energy policy that will reduce our reliance on imported oil.

For these reasons, I have long believed we need to update our national energy policy. The bill we have before us begins to address these challenges. It will improve the reliability of our electric grid. It provides positive incentives for renewable energy. And it promotes conservation.

Let me be clear, though. This is not a perfect bill. It does not go nearly as far as I would like in addressing the issues I have outlined and other critical elements of a comprehensive national energy policy. It contains several provisions that I do not think should be in an energy bill. But on balance, it is a positive step for North Dakota and the national economy, and it will mean additional jobs in my State.

Let me first talk about the provisions I support that will help ensure our national energy security and benefit North Dakota.

First, the bill strongly promotes the use of ethanol and other bio-fuels. The bill will require 5 billion gallons of ethanol by 2012. And it will create a biodiesel tax credit of $1 per gallon for feedstocks such as canola and 50 cents a gallon for recycled feedstock such as restaurant grease. These are clean and renewable fuels, and these provisions are good for the environment, good for our energy independence, and good for North Dakota farmers.

Second, I am very pleased that the bill contains a provision I fought for to extend the production tax credit for wind for 3 years. North Dakota has the highest potential for wind energy of any State in the Nation. This provision will spur the production of wind energy facilities and equipment in North Dakota. That is good for electricity consumers, good for the environment, good for wind energy equipment manufacturing workers, and good for farmers and others who will benefit from having wind turbines on their land.

Third, the bill contains a 15 percent investment tax credit to support the development of clean coal technology that will benefit North Dakota's lignite coal industry. We have a thriving lignite coal industry in North Dakota, with seven lignite plants that use 30 million tons of lignite each year. And jobs in the lignite industry are among the highest paying jobs in my State.

Fourth, the bill contains incentives for adding pollution control equipment on older coal plants and incentives for building new, more environmentally friendly coal plants. This could be a big help in getting a new lignite plant in western North Dakota while maintaining our pristine environment, something I have been working on for years.

Fifth, the bill contains modest steps to promote energy conservation, including a tax credit of up to $2000 to encourage people to better insulate their homes, and provisions to encourage the purchase and use of more energy efficient appliances.

Sixth, there are provisions to encourage small producers of oil and gas. Many people do not think of North Dakota as an oil and State, but we have significant reserves that can be tapped to help reduce our dependence on foreign oil and address the shortage of domestic natural gas production. The bill includes a tax credit for marginal wells, provisions to speed up permitting on Federal lands, and a section to encourage a particularly important process for natural gas extraction.

Seventh, the bill includes a set of provisions to improve the reliability of the national electric transmission grid, reducing the chances of a massive failure like the one that affected the northeast last summer.

Eighth, the electricity title also ensures that small cooperatives will not be subject to burdensome FERC jurisdiction and contains native load protections for co-operatives, which are a major source of electricity in North Dakota. These provisions ensure that North Dakota rural electric co-ops can continue to provide low-cost power to their consumers.

Finally, the bill expands and extends assistance to low income families in meeting their home heating needs. The Low Income Home Energy Assistance Program, LIHEAP, has provided valuable assistance to thousands of North Dakota families in paying their winter heating bills.

Because of all these important provisions, a number of North Dakota groups support the bill. These include the North Dakota Farmers Union, the North Dakota Farm Bureau, the North Dakota Rural Electric Cooperative Association, the Lignite Energy Council, and the Greater North Dakota Association.

As I said earlier, however, this bill is far from perfect. There are a number of areas where it could and should have been much better.

For example, the conference report does not contain a Renewable Portfolio Standard. The bill that passed the Senate required that 10 percent of electricity be produced from renewable energy sources by 2020. This modest RPS would have helped to clean up our environment and spurred wind energy development. I supported this provision and wish it had been included in the conference report.

More generally, the conference report falls short on promoting the use of renewable fuels and emphasizing conservation. If we are ever to overcome our dependence on foreign oil imports, we will need to be more aggressive on these fronts. The conference report could and should have done more in this area.

I am also disappointed that the bill does not contain tradeable tax credits to encourage cooperatives and municipal utilities to further invest in renewable energy sources. Tradeable credits would have leveled the playing field for these electricity suppliers as we build wind farms and other renewable energy facilities. The conference report could and should have included this provision.

And I do not believe the conference report goes nearly far enough in creating new incentives for expanding transmission capacity to reduce the risk of blackouts. I had hoped the conference report would contain provisions to eliminate the transmission bottleneck that is preventing my state from expanding lignite and wind energy plants to export more electricity to regional markets. Here again, the conference report could and should have done more.

Finally, the bill contains a number of unnecessary provisions that I do not support. The liability waiver for the dangerous fuel additive known as MTBE—or methyl tertiary butyl ether—is troubling. Clean Air Act changes that will allow certain cities to postpone compliance with reductions in ozone damaging pollutants have nothing to do with promoting sound energy policy and should not be in the bill.

I believe we have more work to do to produce a truly comprehensive energy policy that addresses our energy, economic and national security challenges. In particular, I will continue to push for an expansion of transmission capacity to protect against the failure of our electricity grid and allow North Dakota to increase its exports of electricity. It is my hope that we will be able to work on these issues in a bipartisan manner.

Despite its shortcomings, on balance the bill before us takes positive steps to address our Nation's energy needs. It will encourage domestic energy production, promote renewable fuels, and modestly encourage conservation to help reduce our reliance on foreign oil. It will help to reduce the likelihood of major transmission breakdowns.

And it will provide significant benefits to my State of North Dakota. Energy is the second largest sector of the North Dakota economy, and it will benefit very directly from a number of provisions in the bill. And agriculture, the largest sector of the North Dakota economy, will also see important benefits from the various renewable fuel incentives.

For those reasons, I support the conference report.

Mrs. LINCOLN. Mr. President, I rise today to announce my support for the Energy Policy Act of 2003. I want to thank Chairmen GRASSLEY and DOMENICI and Senators BAUCUS and BINGAMAN for working with me to include renewable energy and energy efficiency provisions important to my home State of Arkansas. While some may say this bill is not perfect, it is a step toward reducing our dependence on foreign oil and

increasing the use of renewable resources in this country.

Nine months ago, I stood before this body and spoke on the dangers of continued reliance on foreign sources of energy. Today, I am pleased to stand here in support of a bill that includes several provisions I believe will take our country's energy policy in the right direction. I know this bill is not perfect, and I am disappointed that some of my colleagues who have been leaders on this issue for many, many years were excluded from the drafting of this bill.

But I am pleased that those who did draft this bill made an effort to address energy concerns in every sector of this industry. In Arkansas, we have investor owned utilities and co-operatives. This bill will help both of these providers serve their customers in a more efficient and reliable manner. And while this bill may not go as far as some would like in the direction of renewable energy, there are many provisions in this package which will help the United States begin the long process of eliminating our dependence on foreign oil. I believe the renewable fuel standard, requiring our government to purchase at least 5 percent of its energy from renewable sources, represents a positive step toward this goal. I personally fought to include provisions that will encourage greater use of renewable resources, increased production of efficient appliances, and greater investment in delivering fuels to rural America.

In Arkansas, we recognize the importance of renewable fuels in helping the United States to become more energy-independent. That's why I am excited about the provisions in this bill that will encourage greater use of a valuable new alternative fuel, biodiesel. Biodiesel, which can be made from just about any agricultural oil, including oils from soybeans, cottonseed, or rice, is completely renewable, contains no petroleum, and can be easily blended with petroleum diesel. It can be added directly into the gas tank of a compression-ignition, diesel engine vehicle with no major modifications. Biodiesel is completely biodegradable and nontoxic, contains no sulfur, and it is the first and only alternative fuel to meet EPA's Tier I and II health effects testing standards. Biodiesel also stands ready to help us reach the EPA's new rule to reduce the sulfur content of highway diesel fuel by over 95 percent. These tax credits are necessary as biodiesel is not yet cost-competitive with petroleum diesel.

This legislation will provide tax incentives for the production of biodiesel from agricultural oils, recycled oils, and animal fats and will ensure that biodiesel becomes a central component of this Nation's automobile fuel market. This legislation is identical to language authored by myself and Senator GRASSLEY included in the last Congress's Energy Bill. It is intended to be a starting point for our debate and discussion as we draft an energy bill for consideration in this Congress.

This legislation will provide a partial exemption from the diesel excise tax for diesel blended with biodiesel. Specifically, the bill provides a one-cent reduction for every percent of biodiesel from virgin agricultural oils blended with diesel up to 20 percent.

The legislation will also provide a half-cent reduction for every percent of biodiesel from recycled agricultural oils or animal fats. With today's depressed market for farm commodities, biodiesel will serve as a ready new market for surplus farm products. Investment now in the biodiesel industry will level the playing field and create new opportunities in rural America. This bill also contains a provision I fought for that will provide a tax credit for production of fuels from animal and agricultural waste.

Thanks to new technological developments, we can now produce significant quantities of alternative fuels from agricultural and animal wastes in an environmentally-friendly manner. The production incentives included in this bill will assure implementation and commercialization of this new generation of technology. I am also pleased this bill includes language to encourage additional collection and productive use of methane gas generated by garbage decomposing in America's landfills. Landfill gas is a renewable fuel that can be used directly as an energy source for heating, as a clean burning vehicle fuel, and as a hydrogen source for fuel cells. Furthermore, it can power generators to produce electricity. There are compelling environmental reasons to encourage these projects.

Even the large landfills that are required under the Clean Air Act to collect their gas and control non-methane organic compounds often find it more cost-effective to simply flare or otherwise waste the gas rather than use the methane to produce electricity. Some smaller landfills are not required to collect the gas, and may continue to emit it for decades under the Clean Air Act. Thus, landfill gas projects will not only reduce local and regional air pollution while yielding a renewable source of energy, they will also reduce the country's yearly emissions of greenhouse gases by a very substantial amount at a relatively small cost. I also worked to include a provision that will encourage new waste-to-energy facilities to produce electricity directly from the combustion of our trash. Arkansas stands with other environmentally conscious States in understanding that waste-to-energy technology saves valuable land and significantly reduces the amount of greenhouse gases that would have been released into our atmosphere without its operation. The volume of waste generated in this country could be reduced by greater than 90 percent by utilizing waste-to-energy facilities, and EPA has confirmed that more than 33 million tons of greenhouse gases can be avoided annually by the combustion of municipal solid waste. Municipal solid waste is a sustainable source of clean, renewable energy and I am proud to see this measure enacted into law.

Another provision I am extremely proud of is one that will provide a tax credit for the production of super energy-efficient clothes washers and refrigerators if those appliances exceed new Federal energy efficiency standards. Conservation and efficiency are the most effective and immediate ways to limit our energy consumption and reduce pollution. I am confident this provision will spur manufacturers to develop super-efficient appliances that will be affordable for consumers.

Another provision of which I am particularly proud relates to the clean-up of Southwest Experimental Fast Oxide Reactor, a decommissioned nuclear reactor near the community of Strickler, Arkansas, in the northwest corner of my State. The site is contaminated with residual radiation, liquid sodium, lead, asbestos, mercury, PCBs, and other environmental contaminants and explosive chemicals. I have been fighting to rehabilitate this site since I came to the Senate, and now we know that persistence pays off.

SEFOR was built by the Southwest Atomic Energy Associates, a consortium of investor-owned electric utilities, and the U.S. Atomic Energy Commission for testing liquid metal fast breeder reactor fuel. SEFOR began operations in 1969 and was permanently shut down in 1972. After the reactor's useful life, the ownership of the site was transferred to the University of Arkansas. The Federal Government helped create these contaminants, and therefore should pay to help clean them up. This is great news for northwest Arkansas, because this site has threatened public health and the environment in one of our state's most beautiful areas for too long. I thank the conferees for retaining my provision related to cleaning up this site.

The final provision I would like to praise relates to improving our country's natural gas infrastructure. I am proud that this bill contains provisions to make it easier for natural gas companies to deliver clean-burning natural gas to this Nation's rural homes, by decreasing the depreciation time for natural gas pipelines.

America's demand for energy is expected to grow by 32 percent during the next 20 years and consumer demand for natural gas will grow at almost twice that rate, due to its economic, environmental, and operational benefits. That level of natural gas use is almost 60 percent greater than the highest recorded level. To satisfy this projected demand, we must substantially expand our existing gas infrastructure and this provision will do that. These are provisions in this bill that I am very proud of, but there are also provisions in this bill that I am not proud of. I am very disappointed by the way in which the

issue of MTBE liability is handled in this bill. I am also disappointed by the lack of a renewable portfolio standard in this bill and I will continue to work to see that a RPS is enacted in coming years.

Our current global situation shows us just how important it is that we takes steps to reduce our dependence on foreign oil. I hope that this bill is taken for what it is: not a comprehensive solution, but a certain step in the right direction. Much more work needs to be done if we ever expect this country to lose its dependence on fossil fuel and foreign sources of energy and I urge my colleagues to continue to work hard until we achieve this goal.

Mr. BIDEN. Mr. President, for our national security, for our economic future, for the health of our environment, our country needs an effective, comprehensive national energy policy. We must free ourselves from dependence on foreign sources of energy. We must leave behind costly, inefficient energy practices and invest in cutting-edge technologies that will keep our economy the most productive in the world. And we must protect and heal the natural environment that we will leave to our children and grandchildren.

The legislation before us fails to meet those needs. When I, and 83 other Senators, voted for the Energy Policy Act on July 31, it was very a different piece of legislation. Unfortunately, the bill has been drastically changed since then. Without sufficient discussion and input from our side of the aisle, unacceptable parts were added to this legislation and crucial parts were taken away. We have been left with a bloated symbol of lost opportunity. I cannot support it.

This is not a trivial matter. This bill would set our energy policy for the next 10 years; we must get it right. Consider how things have changed since we last enacted an energy policy in 1992 and what new challenges we will face in the next 10 years.

Cracks in our energy policy, both in infrastructure and regulation, have become evident in the last few years. They have been most clearly shown during the Enron scandal and the August blackout in the Northeast and Midwest. These were clear signals of serious problems in the current system. Sixty million people were affected by the blackout, and it cost New York City alone $1 billion. This should have been a call to action, but it was not. This bill fails to address the weaknesses in our electrical grid that were exposed over the summer.

The Federal Energy Regulation Commission is prohibited in this bill, until 2007, from reforming the national power grid through mandating Regional Transmission Organizations, which would be necessary to ensure that further blackouts don't occur. This legislation also requires those who want to construct a Regional Transmission Organization to foot the full bill themselves, basically guaranteeing that it won't happen. I have received complaints from the Public Service Commission in Delaware on this very provision.

As our colleagues from the West Coast have reminded us so forcefully, Enron-style energy market manipulation was a major force in undermining the energy system in that part of the country. But this bill does not close the loopholes, with cute names like ''Fatboy'' and ''Get Shorty,'' that allowed Enron to inflate their profits, and that directly caused some of the disruptive and costly power shortages.

The bill also rescinds the Public Utility Holding Company Act without providing an adequate replacement. PUHCA has for decades protected energy customers from energy corporations, like Enron, who might undertake predatory actions or make risky acquisitions or mergers. The repeal of this legislation leaves consumers holding the bag if a power company loses money on a non-energy investment. They could just put it on their customers' electric bills.

Not only does this bill not address the problems of the past, it doesn't plan at all for the future. Our reliance on oil and gas today is inescapable, but the need to move toward something better is undeniable. We will invest billions of taxpayer dollars in this bill for a resource that can't possibly sustain us. Our dependence on oil ties us to internal politics of unstable countries around the world. It condemns us to unsustainable levels of pollution. It should not be a very radical idea to suggest that we need to shift the type of energy that we use in this country. We consume almost 25 percent of the world's daily production of oil, though we hold only 3 percent of the world's oil reserves. This is a deficit that we will pay for with lack of control over our own economy and security. We are bound to the price fixing of Middle East suppliers and unrest in South America and the states of the former Soviet Union, and we will continue to be unless we invest in alternate sources of energy and curb the rate at which we consume.

Unfortunately, this bill takes no major steps toward these goals. In fact, the conference refused to include renewable portfolio standards, supported by 52 Senators, which would have required utilities to generate 10 percent of their electricity from renewable energy sources by 2020.

To deal with our dependence on fossil fuels, we must address both supply and demand. But this bill fails to provide us with a sensible energy conservation program. It doesn't address the need to improve fuel efficiency in our cars and trucks. In that regard, we can now count China among the countries with more foresight than this legislation provides on the issue of automobile efficiency. And this bill simply dropped a measure, accepted 99 to 1 by the Senate, that would have instructed the President to reduce our daily oil consumption by a little more than 5 percent by 2013.

Instead of a forward-looking policy on energy, this bill has been turned into a vehicle to undermine our Nation's environmental laws to the benefit of fossil fuel producers. The bill spends $1.8 billion in taxpayer dollars for the purchase of conventional coal-burning technologies, which reduces future demand for ''clean-coal.'' At the same time, subsidies to promote the cleanest coal technologies have been cut by 20 percent.

It rolls back provisions of the Clean Air Act, by allowing communities to bypass compliance deadlines on ozone attainment standards if they can prove that some of the pollution drifts into their area from upwind locations. Unfortunately, almost all communities with poor air quality can meet this test. The result is a significant weakening of the Clean Air Act and a slap in the face to cities, like Wilmington, DE, who have met clean air standards despite dealing with upwind pollution.

This is not only an environmental problem. Currently, 130 million Americans are living in areas that don't comply with the air quality standards, and non-compliance has been linked to an increased occurrence of respiratory problems. A group of health organizations including Physicians for Social Responsibility and the American Lung Association have estimated that this rollback would cause more than 385,000 asthma attacks and nearly 5,000 hospital admissions per year.

The Clean Water Act has likewise been weakened. Oil and gas drilling sites are exempted in this bill from run-off compliance, and hydraulic fracturing, an oil and gas recovery technique, has been completely removed from regulation under the Safe Drinking Water Act.

These are two major changes, but there are other assaults on the environment. For instance, royalties charged to oil and gas recovery units on public land were reduced; offshore oil drilling in the Outer Continental Shelf was authorized; and, a Senate-approved provision, authorizing research on global climate change, was eliminated. This bill prefers ignorance to understanding when it comes to the most important environmental issues that our planet faces today.

And, in perhaps the most transparent concession to special interests, this bill not only waives liability, retroactively to September 5, for those who have produced the toxic substance, MTBE, that is polluting our ground water supply, but it grants its manufacturers $2 billion in transition funds and doesn't ban the additive until 2014, a provision which can be easily waived by the President or any Governor. This leaves those affected communities with a $29 billion clean up tab.

But, that is not the only tab that this bill leaves with the American people. It leaves us to pay $25 billion,

mostly in pork, almost half in backward-looking tax breaks to fossil fuel producers. That is simply too much to be spent on a bad idea. This is not a roadmap, a vision on the horizon, to guide us for the next decade.

This bill fails to give us the comprehensive energy policy our Nation needs in this new century. It does nothing to free us from our dangerous dependence on fossil fuels. It does not set a clear course toward cleaner, more efficient technologies. And it fails to protect our environment. In too many ways it has sacrificed the long-term interests that we all share for short-sighted special interests. We can, we must do better.

Mr. KOHL. Mr. President I regret having to vote against this energy package. The country needs a coherent energy policy to help us tackle the challenges that come with economic growth. Our constituents need to know that when they wake up in the morning, the lights will be on and the energy to power our days will be available.

Our economy needs plentiful, affordable, reliable energy as we struggle to climb out of a devastating period of slow growth and job loss. Unfortunately, this bill does more to meet the needs of special interests than the needs of a growing economy.

We need an energy bill that leads to lower prices, a clean environment, and consumer protection. The bill before us today is a missed opportunity to further any of those goals. It has come up short in its effort to lower natural gas prices for Wisconsin consumers. Natural gas prices have been a roller coaster for the people from my State, and we need a large long term supply to come on line. The North Slope of Alaska was the answer, but this bill has done little to make that supply a reality.

Another problem plaguing consumers in Wisconsin is spikes in gas prices brought on by our overdependence on boutique fuels. Most recently, in southeastern Wisconsin, a fire at a refinery resulted in consumers paying $2 a gallon for gasoline because we could not bring in gasoline from other regions without violating the Clean Air Act. The bill before us could have limited the different blends of gasoline in use around the country, so that if one area had a supply disruption, fuel could be imported from another region. I worked with members of the Wisconsin delegation to include language to solve this problem in the future, but that was not retained in the conference Committee negotiations. Wisconsinites will continue to be held hostage to local refineries during supply disruptions.

I supported provisions in the Senate energy bill that would have created a renewable fuels portfolio standard or RPS. The RPS was going to be an aggressive target that would have created a significant market for renewable energy technologies. While the bill does contain tax provisions to encourage the use of renewable energy, the RPS was a new and exciting effort to wean us of our addiction to fossil fuels. The RPS was dropped in conference, even though it had received several strong votes in the Senate. Many States are creating their own RPS, but a national requirement would have set the renewable energy industry on a path to mainstream success. Instead, we are left with small changes at the margins which will not significantly affect our energy production mix.

High electricity prices over the last few years have made it clear that consumers need better protection from unscrupulous companies. Again the Senate bill contained provisions that would protected consumers from the kind of price gouging schemes created by Enron. My colleagues worked hard to make sure the Federal Energy Regulatory Commission had the teeth and the oversight capability to protect consumers in a world without the Public Utility Holding Company Act. Again the conference turned their back on the Senate provision and embraced House language that defends industry at the expense of State and Federal regulators.

The Congress has squandered another opportunity to craft a far reaching and progressive energy policy for this country. Instead we have chosen to pander to special interests and create a particularly unsavory piece of legislative sausage. The bill before has been laden with three time the tax breaks the President requested, and more than $100 billion in spending. We can do better than this. We should do better than this, which is why I oppose the bill and support the filibuster. Congress owes it to the American people to come back next year and put together a bill that meets the needs of everyone, consumers and industry alike, instead of playing favorites and leaving the taxpayers with the bill.

Mrs. MURRAY. Mr. President, I want to take time to comment on the Energy bill before us today.

It is disappointing that such a massive bill could do so little to promote our energy independence, national security, economy, or environment. It does nothing to protect our rate-payers from the type of energy crisis we faced in the Pacific Northwest and California. Those who claim otherwise are simply masking the real mission of this bill which is a taxpayer giveaway to the big energy companies.

A 1,200-page bill has much to comment on, but I will not take time to detail every concern I have. I want to discuss the electricity title, the lack of a true energy policy, and threats to our environment.

First let me discuss the electricity title of the bill. For those of us from the Pacific Northwest this title was of the utmost concern.

For over 2 years the Pacific Northwest has been struggling against the Federal Energy Regulatory Commission's, FERC, effort to deregulate the transmission system through its promotion of regional transmission organizations, RTOs, and standard market design, SMD, rules.

Two simple points: First, FERC had proposed a solution in search of a problem that doesn't exist in the Pacific Northwest. Second, the one-size-fits-all approach being promoted by FERC would neither work nor be cost-effective in our unique hydropower based system.

With those concerns in mind I have been working with many of my colleagues in the Pacific Northwest and Southeast, who have similar regional concerns, to keep FERC from moving forward with these plans. I am pleased that the bipartisan group has been successful in delaying until 2007 FERC's ability to move forward with SMD.

While the bill delays SMD implementation, it does not permanently stop FERC from ultimately pursuing this power grab, and does nothing to stop RTO development.

In fact, the bill is an outright endorsement of the RTO plan, going so far as to provide incentives to utilities for joining such transmission organizations.

FERC has not demonstrated that such a system in the Pacific Northwest will be an economic benefit to the region and, to date, the majority of Washington State utilities remain opposed to the RTOs. Even with the SMD delay provision, this bill is a threat to the electricity system of the Northwest, and I cannot add my voice to this bill's support of RTOs.

Also of great concern in the electricity title is the bill's failure to deal with market manipulation. The Pacific Northwest and California are still feeling the direct effects of the 2000–2001 energy crisis that we now know was caused, in large measure, by energy companies manipulating prices.

Given the lessons we have learned over the past 3 years, one would have hoped that this Energy bill would aggressively attack these known methods of market manipulation. But that is not the case. This bill only bans one type of manipulation and ignores all the other methodologies we know were used.

By remaining virtually silent on market manipulation, this bill is giving a nod to energy companies to once again employ Fat Boy, Get Shorty, and other infamous price-gouging schemes.

This bill is an open invitation for companies to once again seek to fatten shareholders' wallets at the expense of ratepayers. This is more true now that the bill repeals the Public Utility Company Holding Act, PUHCA, without implementing any countervailing laws to protect against abuse in the industry.

In total, this bill promotes schemes that are counter to Washington's ratepayers and fails to protect them against the manipulative practices that have already raised their rates.

The bill also lacks a comprehensive energy policy.

During the past 3 years of debate on energy I have acknowledged we should recognize the current importance of oil, gas, and coal in our energy production today. But to ensure America's energy security for the future, it must strongly promote energy efficiency, conservation, clean, and renewable energy sources, and should diversify our energy sources.

But rather than aggressively promoting renewable energy and conservation, this bill maintains the status quo. This bill directs billions of taxpayer dollars to traditional energy producers who already have healthy market shares and hardly need Government support.

Of the roughly $23 billion in tax credits in this bill, only $4.9 billion, or 20 percent, would go towards renewable energy or conservation.

I support the production tax credits for wind, solar, geothermal, and biomass renewable energy in this bill, but unfortunately public power is left out of the equation.

Many Washington residents are served by publicly owned utilities and cooperatives and they should receive the same incentives to invest in renewable energy as this bill gives to the for-profit utilities.

Earlier drafts of the tax title included a tradable tax credit for public power investment in renewables. I know that Senate Finance committee members fought for this provision, but unfortunately the President and House objected to the provision.

With so much of Washington and the Pacific Northwest served by public power utilities, it will be much harder to get these type of investments made.

We hear constantly that we need to decrease our reliance on oil from the Middle East and yet this bill does nothing substantive to increase automobile efficiency standards. The United States is the most technologically advanced country in the world. There is no reason we cannot build and produce more fuel-efficient cars.

Without addressing fuel efficiency standards, it is hard to praise this bill for promoting energy efficiency or national security.

In the end, this bill does nothing more than preserve the status quo of energy production in the United States. We are not more secure, we are not more independent, and we have not truly diversified our production sources. All we have done is promote the traditional energy sources of oil, coal, and gas at the expense of our national security and environment.

This bill does serious harm to our environment and our health by effectively turning back the clock on decades-old environmental protections.

First, the bill includes a provision that would amend the Clean Air Act to allow more delays for adhering to the EPA's smog regulations. This provision is not just illogical, it is dangerous.

Second, the bill's provisions for our coastal regions present a threat to an area my State wants protected.

For Washingtonians, the coastal areas are some of the most pristine and cherished natural areas in the State. Under this bill, these areas, along with coastal areas in many other States, would be placed in serious jeopardy.

The bill would grant new authority to the Department of the Interior to authorize energy development projects on the Outer Continental Shelf, OCS, including the transport and storage of oil and gas. At the same time, it would undermine the rights of States to manage their coasts. Under the Coastal Zone Management Act, CZMA, States were given the right to have a say in Federal projects that impacted their coastal regions. This bill would severely compromise these rights.

Third, the bill has alarming environmental implications for drilling and construction projects. It would allow an expedited application process for drilling on Federal lands by requiring the Department of the Interior to automatically approve applications once they have met certain standards, regardless of any outstanding environmental concerns.

It also exempts companies from adhering to the Clean Water Act's runoff regulations for construction and drilling sites. Without adherence to these guidelines, the risk of ground water contamination increases dramatically.

Fourth, I am concerned about a measure to provide legal immunity to chemical companies that produce the gasoline additive MTBE. The toxic substance is known to have caused ground water contamination, and this bill shifts costs for cleanup to taxpayers.

Lastly, this bill contains huge amounts of subsidies for the oil and coal industries. Nearly half of this bill's incentives are given to the oil and coal industries, two of the most environmentally destructive fossil fuels that have contributed to global warming. This is not just irresponsible; it is wrong.

We must actively work to reduce our dependence on foreign oil, but subsidizing the industries and rolling back environmental protections is not a logical methodology.

In contrast, the bill provides less than one-quarter of its incentives to industries that produce renewable energy. The facts are clear. Renewables are simply not the top priority of this piece of legislation.

These are some of the many reasons I cannot support this piece of energy legislation. Not only does it put consumers at risk by repealing necessary protections, but it seriously puts at risk our own health and the health of our environment with the special interest giveaways to the oil, gas, and coal industries.

Finally, let me address the claims about job creation in this bill. For Washington State, a more aggressive promotion of renewable energy could have been a boost to local companies involved in this area of generation, but this bill did not provide that direction.

Proponents have argued that the bill encourages the construction of a natural gas pipeline from Alaska, which would create jobs in Washington State. Unfortunately, the bill does not provide the guarantees needed for what could have been an important project. To construct the pipeline, its builders say they would need some protection against gas prices falling below a certain level. But, this bill provides no mechanism for risk mitigation, so according to its own builders, the pipeline will not be built.

The negative aspects of this bill are overwhelming. It fails to adequately address the real problems that we all face. It threatens the environmental progress we have made in the past and the progress we hope to make in the future. Without measures that substantively promote responsible energy use, increased conservation, energy independence, consumer protection, and environmental safeguards, this bill is simply unacceptable.

I cannot support legislation that puts us all in danger, and that is exactly what this bill does. The people of Washington State deserve better, and the people of America deserve better.

Mr. LEVIN. Mr. President, it is difficult to oppose a bill that has a number of provisions that I not only support, but worked to have included in the bill. However, the process and the product are deeply flawed and I cannot support it.

There are many objectionable provisions that were added to this bill that were not in either the House or Senate versions of this legislation; for instance the retroactive MTBE liability waiver, underground storage tank provisions that would require taxpayers, rather than polluters, to pay $2 billion to clean up leaking underground storage tanks containing gasoline and other toxic chemicals, even at sites where viable responsible parties are identifiable, and the numerable State-specific projects that will cost billions of dollars and were, again, not considered by the House or the Senate.

The Senate passed a comprehensive and balanced Energy bill in July. Then, after weeks of closed-door meetings with virtually no input from Democratic conferees, the Republicans put forward this ''take it or leave it'' Energy bill that is drastically different than the bill that the Senate passed. We have no opportunity to amend this bill, or choose among its good and bad provisions. It is all or nothing.

There are simply too many provisions on the negative side of the ledger. The massive power failure of August 2003, on top of the massive price manipulation perpetrated by Enron and others, provided additional proof, proof that shouldn't have been needed, that the United States' deregulated energy markets are not functioning well. This bill doesn't help that problem. It may make it worse.

The Conference report would repeal the Public Utility Holding Company

Act of 1934, PUHCA, longstanding consumer and investor protection legislation governing energy industry structure and consolidation, 1 year after enactment of this bill. Unfortunately, the bill fails to provide adequate protections to prevent industry market manipulation and consumer abuses. Governor Granholm of Michigan has said that replacing PUHCA with ''weaker anti-fraud and market manipulation rules'' could weaken the States' ability to protect consumers. Further, while the enactment of this legislation's mandatory reliability provisions would be an improvement over the current voluntary system of standards, the bill fails to ensure that regional transmission organizations will have the authority to enforce those standards in order to prevent, or respond effectively to, another blackout. Uncertainty in the power industry threatens our economy and security and creates the loss of investor confidence in U.S. energy markets. If necessary, we should adopt a stand-alone bill that sets mandatory reliability standards, requires utilities to join regional transmission organizations and establishes consistent rules for the enforcement of standards nationwide than pass an Energy bill filled with so many harmful provisions.

In addition, two provisions in this conference report would significantly impede the ability of Federal and State agencies to investigate and prosecute fraud and price manipulation in energy markets. These provisions would make it easier to manipulate energy markets without detection.

Section 1281 of the electricity title states: ''Any request for information to a designated contract market, registered derivatives transaction execution facility, board of trade, exchange, or market involving accounts, agreements, contracts, or transactions in commodities (including natural gas, electricity and other energy commodities) within the exclusive jurisdiction of the Commodity Futures Trading Commission shall be directed to the Commodity Futures Trading Commission.'' Section 332(c) of the oil and gas title contains similar language specifically applicable to investigations by the Federal Energy Regulatory Commission, FERC.

If adopted, this would curtail all State and Federal authority, other than CFTC, to investigate wrongdoing in CFTC-regulated markets. This would impede FERC, Department of Justice, and State investigations of fraud and manipulation in these markets. It would turn the CFTC into an impediment for all other Federal and State investigations into matters within CFTC-regulated markets, which would be an unprecedented intrusion into the enforcement of State and Federal consumer protection laws. Had this approach been in effect in recent years, FERC would not have been able to investigate manipulation of the energy markets, including the fraud and manipulation perpetrated by Enron through EnronOnline.

Section 1282 of the electricity title would impose a higher criminal standard, ''knowingly and willfully,'' for filing false information and for improper round trip trading than exists under current law. The new round trip trading provision is inconsistent with current law and the Cantwell amendment, which prohibited market manipulation in electricity markets, and which recently passed the Senate.

For example, section 4c of the Commodity Exchange Act states it is ''unlawful for any person to enter into . . . a transaction . . . involving the purchase or sale of any commodity for future delivery'' if the transaction ''is, of the character of, or is commonly known to the trade as a 'wash sale' or . . . is a fictitious sale.'' There is no requirement that the violation be ''willful.''

Manipulation is difficult to prove even under current law. By raising the burden of proof, this provision will make it nearly impossible to prove illegal round trip trading or wash sales. Rather than weakening the laws preventing fraud and manipulation in energy markets, the Congress should be strengthening these prohibitions.

There are other provisions that would affect FERC's ability to ensure markets are transparent and fair.

The ''Enron loophole'' was attached during the conference on an omnibus appropriation bill in 2000, and was a factor underlying the massive manipulation of the energy markets in 2000 and 2001. The provisions in this bill, attached under hurried circumstances would widen the loophole and increase the chances of more manipulation and dysfunctional markets. This is the wrong response to the current crisis of confidence and integrity in our energy markets.

I am also disappointed that the conference report on this bill directs the Department of Energy, DOE, to ''as expeditiously as practicable, acquire petroleum in amounts sufficient to fill the Strategic Petroleum Reserve to the [1 billion] barrel capacity,'' but does not include any direction to DOE to fill the SPR in a manner that minimizes the cost to the taxpayer or maximizes the overall supply of oil in the United States. That second direction is critical—otherwise the filling of the SPR could lead to continuing high gas prices.

The Levin-Collins amendment, which was adopted unanimously by the Senate last month, directed DOE to develop procedures to fill the SPR in a manner that minimizes the cost to the taxpayer and maximizes the overall supply of oil in the United States. The Levin-Collins amendment expressed the sense of the Senate that the DOE's current procedures for filling the SPR are too costly for the taxpayers and have not improved our overall energy security.

DOE's internal documents state that filling the SPR without regard to the price and supply of oil in the global markets exacerbates price problems in those markets. By increasing demand for oil at a time when oil is in scarce supply, the SPR program pushes the price of oil up even further. Moreover, when near-term prices are higher than future prices, oil companies will meet the additional demand for crude oil by removing oil from their own inventories rather than purchasing high-priced oil on the spot market. Thus, under these price conditions, which have generally prevailed over the past year and a half, adding oil to the SPR will lead to a corresponding decrease in private sector inventories. Since market prices are so closely tied to inventory levels, filling the SPR under these market conditions both depletes private sector inventories and pushes up prices for America's consumers.

Furthermore, according to the Department of Energy's own analyses, taking costs into consideration—as the DOE did prior to early 2002—can save taxpayers several hundreds of millions of dollars over the span of a few years. Acquiring more oil when prices are low will increase revenues to the Treasury from the sale of high-priced royalty oil that is not needed to fill the SPR. Secondly, allowing oil companies to defer deliveries to the SPR when prices are high in return for the delivery of additional barrels of oil at a later date—as DOE did prior to early 2002—enables the DOE to increase the amount of oil in the SPR without any additional costs.

In summary, the unqualified direction in the bill to DOE to fill the Strategic Petroleum Reserve to 1 billion barrels is likely to increase the cost of crude oil and crude oil products, such as gasoline, home heating oil, and diesel and jet fuel, to American consumers and businesses, as well as to the taxpayer, with uncertain benefits to our national security.

Also, while I support the provision in this legislation that would increase the use of ethanol to 5 billion gallons by 2012 and 3.1 billion gallons by 2005, it needs to be reasonable in a way that ensures the continued viability of the Highway Trust Fund.

Twice the Senate passed legislation that included a Volumetric Ethanol Excise Tax Credit, VTEEC, that would address the shortfall in revenue to the Highway Trust Fund that was caused by the ethanol tax exemption. In addition to taxing ethanol, the VTEEC, as passed by the Senate, would maintain the credit for ethanol production by paying for it from the general treasury, create a biodiesel credit and ensure that all taxes charged on ethanol go to the highway trust fund.

Unfortunately, the arrangement worked out by House and Senate Republicans gives ethanol blenders the new option to receive a 5.2 cent tax credit after paying the federal gas tax or they could continue receiving the current ethanol exemption of 5.2 cents. Since most blenders likely would continue to choose to receive the exemption up front rather than wait for a tax

credit, the highway trust fund would still lose billions of dollars per year. Efforts by Senator BAUCUS to address this problem were approved by the Senate conferees, but was refused by the House. While I support increased ethanol production, it is imperative that increased ethanol production does not diminish the Highway Trust Fund.

Additionally, I am troubled that this legislation exempts producers of MTBE from liability. MTBE, an oxygenate that can and should be replaced by ethanol, is a potentially harmful product and its producers should not be exempt from liability. In Michigan, it has been estimated that MTBE has contaminated ground water around over 700 leaking underground storage tank sites. Further, as many as 22 water supply wells have been deemed unusable due to MTBE contamination. Because of this MTBE liability waiver, the State of Michigan may have to pay over $200 million to clean up those sites. Governor Granholm has strongly protested that we need to hold manufacturers accountable for the damage that MTBE does to public health and the environment, not guard them from liability which then allows them to pass the cleanup costs on to the States.

As I stated earlier, this bill has a number of provisions that I support and that I worked to have included in it. These include tax credits for advanced technology vehicles and joint research and development between the Government and the private sector to promote the expanded use of advanced vehicle technologies. But in the end, the good provisions must be weighed against the large number of bad provisions, and there are too many objectionable provisions for me to support this bill.

The Senate has worked to create a national energy policy for years. In just a few weeks, without bipartisan negotiation, this piece of legislation was created. We should work to complete a long-term, comprehensive energy plan that provides consumers with affordable and reliable energy, increases domestic energy supplies in a responsible manner, invests in energy efficiency and renewable energy sources and protects the environment and public health.

Mr. LIEBERMAN. Mr. President, I rise in the strong opposition to the bill before us, the conference Energy Policy Act of 2003. The bill before us is a pork-laden, budget-busting, fossil-fuel promoting vestige of the past, developed largely in secret by a handful of GOP Members. This legislation is a mere shadow of what it was and could be.

This could have been a proud moment for this Congress and for the Nation. Rather than caving to special interests and wallowing in pork barrel politics, we could have risen to the challenge and met our obligation to help prevent such crises as the Enron energy scandal and the blackout of 2003 from reoccurring. We could have acted to promote our economic prosperity, strengthen our national security, and protect the health and welfare of all Americans through bold, balanced legislation. We could have finally tackled global warming—the greatest environmental challenge of our time. We could have considered a real jobs bill, based on opening new markets and spurring new technologies. We could have set American energy policy on a better, brigther course.

Instead, we are stuck with this—a sewer of an Energy bill. The bill that has emerged from the closed door, Republican-only conference, and which we consider today is a legislative disaster. Sadly, it bears little resemblance to the balanced, bipartisan legislation that passed the Senate last July. The Senate bill, which originally passed this body in the 107th Congress, strengthened our national security, safeguarded consumers, and protected the environment, and was developed in open, meaningful, bipartisan fashion.

Before I move to the substance of the conference bill, I must offer a few harsh words with the process of GOP majority employed to produce it. In all my time in the Senate, I have never witnesses a more unfair and unstatesmanlike spectacle. With the exception of the tax provisions of this bill, in which Senator GRASSLEY seized every possibility to involve his Democratic colleagues, this is a thoroughly partisan product.

Here is the way the conference went: One conference meeting at which Democratic conferences offered opening statements only: complete shut out of Democratic conferences from negotiations over the substance of the bill: a few staff-level meetings for show after policy decisions had already been made and reflected in GOP-only developed text; special-interest lobbyists exerting extraordinary influence over the bill; release of a more than 1,000-page document only 48 hours before the scheduled meeting to adopt it—40 percent or more of which was new text. It is inconceivable to me that legislation of this import was developed this way. Quite simply, this process afforded no real opportunity for Democrats to influence the final product and no opportunity for the American public—whom this body is charged to represent—to view and comment on the final product. I second the comments of many of my Democratic colleagues that we will never be subject to a conference like this again.

In dissecting the pork-laden bill that emerged from the smoke-filled back rooms of the conference committee, let me first highlight one provision of extraordinary importance to the State of Connecticut. Connecticut has worked for decades to ensure that the construction and operation of natural gas pipelines and electric cables across our national treasure, the Long Island Sound, fully comply with State and Federal environmental and energy laws. The bill before us contains a provision to permanently activate the Cross Sound Cable—a provision that did not appear in either the House or the Senate bill and as to which no one received advance notice. The Cross Sound Cable had been temporarily activated by Federal order in emergency response to the summer's massive blackout, but had been prevented from permanent activation by the State of Connecticut until it complies with State laws. So much for States rights and environmental and consumer protection. Shameful.

That is only the tip of the iceberg. Let me review the most egregious offenses buried in this bill.

First, subsidies and giveaways to industries and special interests. My good friend, Senator MCCAIN, has labeled this bill the porkiest of the porkbarrel, budget-busting bills. CBO estimates that the bill will cost more than $30 billion in industry tax incentives and direct spending. Taxpayers for Common Sense has estimated that it will cost in excess of $90 billion. This stunning price tag includes millions of dollars in direct incentive payments to mature energy industries, including payments to undertake equipment upgrades they would have to do anyway. The bill authorizes $1.1 billion for a nuclear reactor in Idaho to demonstrate uneconomic hydrogen production technologies. It has loan guarantees to build coal plants in several States, provided as last-minute sweeteners to secure Senatorial support for the bill. The bill contains interesting new ''green bonds'' for five projects throughout the country, by which projects would get financial benefits for ''green'' construction of primarily shopping centers. One project, in Shreveport, LA includes a new Hooters restaurant. Is this groundbreaking energy legislation? How can we approve legislation gushing money this way given the mushrooming budget deficit? Our neediest citizens will surely pay the cost.

Second, inadequate consumer protections. The bill does not adequately protect consumers against utility mergers and electricity market manipulation. For example, broad, effective prohibitions against price gouging schemes used by Enron and other energy trading firms, which passed the Senate 57 to 40 earlier this month, are excluded from the bill. The legislation repeals the requirements of the Public Utility Holding Company Act, PUHCA, without putting adequate consumer protections in place.

Third, electric transmission line and natural gas pipeline and construction. The bill allows the Secretary of Energy to determine the siting of transmission lines through Federal lands, including national forests and national monuments, except those in the National Park System, over the objection of the responsible Federal agency. The bill overrides State energy and environmental legal authorities to give the Federal Government power to site and construct transmission lines and natural gas pipelines.

Fourth, MTBE liability protection. In a provision added in conference to benefit companies primarily based in Louisiana and Texas, the bill provides retroactive and prospective liability protection for producers of methyl tertiary-butyl ether, MTBE, cutting off the rights of injured Americans across the country and imposing a huge financial burden for cleanup on our States and local communities. Simply unbelievable.

Fifth, environmental protection rollbacks and giveaways. The icing on the cake for this bad bill is the significant environmental protections it strips away for the benefit of energy producers. The bill also contains new provisions to make our air much dirtier. The conference bill would exempt metropolitan areas from meeting the Clean Air Act's ozone-smog standard. This issue was never considered by the Senate or the House and was inserted into the conference report during ''conference committee'' meetings. A new report from Clean the Air reveals that the ill-conceived Energy bill would have severe public health consequences around the country, especially for children. Delays in implementing the Clean Air Act could lead to nearly 5000 hospitalizations due to respiratory illness and more than 380,000 asthma attacks and 570,000 missed school days each year. The bill exempts all construction activities at oil and gas drilling sites from coverage under the Clean Water Act and removes hydraulic fracturing, an underground oil and gas recovery method, from coverage under the Safe Drinking Water Act. The conference bill expedites energy exploration and development at the expense of current National Environmental Policy Act, NEPA, requirements. Environmental review is waived for all types of energy development projects and facilities on Indian land.

I want to be fair. The conference bill does contain provisions that make limited progress—baby steps only—toward achieving energy goals. And the bill recognizes the political reality that the Senate has spoken forcefully to the fact that it will not permit the Bush administration to drill in another of our Nation's treasures, the Arctic National Wildlife Refuge. You can search the bill to find requirements for renewable fuels, (increase in sales of renewable fuels, including ethanol, from 2 billion gallons to 5 billion gallons by 2012); Federal energy efficiency standards for energy use and appliances; increase in Federal Government purchase of renewable energy, 7.5 percent of electricity from sources such as wind, solar, geothermal, and biomass; funding for energy research and development, including related to hydrogen fuels; and limited tax incentives for alternative vehicles, renewable energy sources, and energy efficiency. That is why some of my colleagues claim this bill articulates an energy program for the 21st century. Hogwash. These weak provisions do not even register on the scale against the predominant special interest, fossilized provisions of the conference bill.

What is this bill missing? Frankly, the list is staggering. I have time to highlight five key areas:

First, renewable portfolio standards. Our Senate-passed bill required utilities to generate 10 percent of their electricity from renewable energy facilities by 2020. Such a provision would spur new technology development and work to wean the country off foreign oil dependence and the drilling-first-and-only mindset that has predominated American energy policy for generations. In addition, the majority touts this bill as a great jobs creation bill; according to studies of the Tellus Institute and Union for Concerned Scientists, the renewable industry would create new, sophisticated job opportunities for hundreds of thousands of Americans.

Second, climate change. Greenhouse gas emissions from the burning of fossil fuels threaten not only our environment, but also our economy and our public health. Should we continue unabated our current rate of polluting, we threaten to disrupt the delicate ecological balance on which our livelihoods and lives depend. This bill is so short-sighted that it contains no provisions of any kind to address climate change.

Third, fuel economy improvements. No credible Energy bill can lack means to improve fuel economy for automobiles and trucks. This is key to reducing our dependence on foreign oil because the transportation sector is the single largest user of petroleum.

Fourth, oil savings provision and specific hydrogen standards. Amendments agreed to by the Senate last summer contained provisions with specific deadlines—real teeth—to reduce our dependence on foreign oil and to move us to the hydrogen fuel program of the future. Neither appears in this bill.

Fifth, Alaska natural gas pipeline. I strongly support the construction of this pipeline, which will bring millions of gallons of natural gas to the lower 48 States and create almost half of the new jobs, 400,000, touted under this bill. The conference bill, however, fails to provide the necessary incentives to enable construction of the Alaska natural gas pipeline, which would prevent the U.S. from becoming more dependent on natural gas imports.

This abominable bill must not be made law. Any Senator serious about advancing America's energy and environmental policies and curtailing Government waste is compelled to vote against the Energy bill before us. We can and must do better. Americans deserve a real Energy bill, one that we can be proud of. This is not it. Let us reject this legislation and return to the drawing board, recommitting ourselves to producing a balanced, innovative, and responsible energy policy for the 21st century.

Ms. SNOWE. Mr. President, as I rise to speak to the issue of the conference report to H.R. 6, the Energy Policy Act of 2003, I want to first recognize the efforts of Energy Committee Chairman DOMENICI and Finance Committee Chairman GRASSLEY for the extraordinary time and effort they have devoted to developing a national energy policy for a 21st century America. Theirs was an arduous task in addressing not only political differences with the bill but also regional ones as well. So I thank them for their work.

This has certainly been a long road. Congress has been debating and voting on a number of energy issues over the past two Congresses, one when under Democratic control and one under Republican leadership. There have been a myriad of issues to consider as we have attempted to shape appropriate policy, and to help increase the public's awareness of the benefits to our health and national security in shifting from foreign fossil fuel imports toward renewable, efficient, and alternative energy sources and manufacturing technologies. Yes, it has been a long, hard road but this conference report simply does not put us on the right road to accomplish these goals for the good of the Nation. We have yet to find that new direction, but we must keep seeking it.

As Theodore Roosevelt once said, ''Conservation is a great moral issue, for it involves the patriotic duty of ensuring the safety and continuance of the nation.'' The conferees had the opportunity to raise the bar for the Nation's future domestic energy systems through new energy policies, through the creation of tax incentives for available and developing technologies, and most of all for incentivizing the entrepreneurial spirit of the American people. But, this goal, in my opinion, has not been reached in the Energy conference report before us.

Since we started to develop new strategies for the Nation's energy policy for the 21st century, we have had to undergo a fundamental reassessment of our energy infrastructure in the aftermath of the horrific events of 9/11 and the ongoing turmoil in the Middle East. We realize now more than ever that we must reduce our vulnerabilities to terrorism with more secure, localized, and reliably distributed energy delivery systems rather than relying solely on our current centralized infrastructure of pipelines, refineries, powerplants, patchwork of electricity grids, and oil tankers berthed in our harbors. The United States simply cannot afford to continue to spend at least $57 billion a year buying oil from the Middle East and continue its upward trend of fossil fuel usage.

The entire world—particularly the developing and fast-growing nations of China, India, and Brazil—desperately needs access to clean, low-cost, energy-efficient and renewable resources. The key is to make the best alternate energy systems that are competitive with today's nonrenewable sources of energy

so that they can be developed and used both at home and sold abroad.

Since 2000, I have been proud to have been a member of the Finance Committee where I worked to develop responsible tax incentives to increase the efficiencies of the electricity we produce, the vehicles we drive, the appliances we use, the homes in which we live, and, in turn, enhance the competitiveness of our domestic manufacturers. Our task is to incentivize, through the Tax Code, our U.S. manufacturers to develop and employ the most promising and cost-effective technologies to the U.S. and global marketplace with all due speed.

Unfortunately, the conference report increases oil and gas tax credits to $11.9 billion while conservation and energy efficiency incentives were decreased to $1.5 billion. An equitable balance has not been achieved nor is it a step forward.

We need to expand the mix of the country's energy sources with the realization that power from nuclear and fossil fuels will continue to be a large part of the energy basket in the next decades—but, at the same time, we must encourage safer, cleaner and decentralized sources as well. The conference report before us simply does not progress far enough in this direction, instead maintaining more of a ''business as usual'' approach to the Nation's energy future.

One of my greatest disappointments is the absence of provisions from the Feinstein-Snowe SUV loophole legislation that would have phased-in changes in CAFÉ standards requirements in four, attainable stages that would have brought the standards for SUVs in line with passenger cars within the next 8 years. Closing this loophole alone would save our nation approximately 1 million barrels of oil, or fully 10 percent of the oil our vehicles consume on a daily basis.

Right now, all our vehicles combined consume 40 percent of our oil, while coughing up 20 percent of U.S. carbon dioxide emissions—the major greenhouse gas linked to global climate change. To put this in perspective, the amount of carbon dioxide emissions just from U.S. vehicles alone is the equivalent of the fourth highest carbon dioxide emitting country in the world. Given these stunning numbers, I cannot fathom why we continue to allow SUVs to spew three times more pollution into the air than our passenger cars.

Like Senator FEINSTEIN and I, other nations have realized the value of these changes. Even China—a developing country—has great concerns about its increased reliance on foreign oil, so much so that Chinese officials say they have to save energy—and how are they prepared to accomplish this? By implementing more stringent CAFÉ standards for new vehicles—including those manufactured in the United States—in their country than we currently have in the United States or in this conference report. How ironic that China is more progressive than the United States in their attempts to save energy and decrease dependency in oil imports at the same time that the United States overall fuel economy has actually fallen to its lowest level since 1980.

According to a November 18 New York Times article, vehicles made by Western automakers that do not meet the standards the Chinese Government has drafted may have to be modified to get better gas mileage before the first phase of the new rules becomes effective in July of 2005. I ask unanimous consent to print the November 18 article in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CHINA SET TO ACT ON FUEL ECONOMY; TOUGHER STANDARDS THAN IN U.S.

(By Keith Bradsher)

GUANGZHOU, CHINA, Nov. 17—The Chinese government is preparing to impose minimum fuel economy standards on new cars for the first time, and the rules will be significantly more stringent than those in the United States, according to Chinese experts involved in drafting them.

The new standards are intended both to save energy and to force automakers to introduce the latest hybrid engines and other technology in China, in hopes of easing the nation's swiftly rising dependence on oil imports from volatile countries in the Middle East.

They are the latest and most ambitious in a series of steps to regulate China's rapidly growing auto industry, after moves earlier this year to require that air bags be provided for both front-seat occupants in most new vehicles and that new family vehicles sold in major cities meet air pollution standards nearly as strict as those in Western Europe and the United States.

Some popular vehicles now built in China by Western automakers, including the Chevrolet Blazer, do not measure up to the standards the government has drafted, and may have to be modified to get better gas mileage before the first phase of the new rules becomes effective in July 2005.

The Chinese initiative comes at a time when Congress is close to completing work on a major energy bill that would make no significant changes in America's fuel economy rules for vehicles. The Chinese standards, in general, call for new cars, vans and sport utility vehicles to get as much as two miles a gallon of fuel more in 2005 than the average required in the United States, and about five miles more in 2008.

This country's economy is booming, and a growing upper class in big cities like this one is rapidly buying all the accouterments of a prosperous Western life, including cars. As China burns more fossil fuels, both in factories and in a rapidly growing fleet of motor vehicles, its contribution to global warming is also rising faster than any other country's.

But Zhang Jianwei, the vice president and top technical official of the Chinese agency that writes vehicle standards, said in a telephone interview on Monday that energy security was the paramount concern in drafting the new automotive fuel economy rules, and that global warming has received little attention.

''China has become an important importer of oil so it has to have regulations to save energy,'' said Mr. Zhang, who is also deputy secretary of the 39-member interagency committee that approved the rules at a meeting this month.

China was a net oil exporter until a decade ago, but its output has not kept up with soaring demand. It now depends on imports of oil for one-third of its needs, mainly from Saudi Arabia and Angola. Before the war, Iraq was also an important supplier. By comparison, the United States now imports about 55 percent of the oil it uses.

The International Energy Agency predicts that by 2030, the volume of China's oil imports will equal American imports now. Chinese strategists have expressed growing worry about depending on a lifeline of oil tankers stretching across the Indian Ocean, through the Strait of Malacca, a waterway plagued by piracy, and across the South China Sea, protected mainly by the United States Navy.

Various Chinese government agencies still have three months to review the legal language in the fuel economy rules, giving automakers some time to lobby against them; as yet, there has been no mention of the approval of the new rules in the government-controlled Chinese media.

But Mr. Zhang said that the rules in draft form were the product of a very strong consensus among government agencies and that ''the technical content won't be changed.''

Two executives at Volkswagen, the largest foreign automaker in China, said that representatives of their company and of domestic Chinese automakers attended what they described as the final interagency meeting to approve the rules. Under pressure from the government, these auto industry representatives agreed to the new rules despite misgivings, the executives said. ''They had no choice but to agree,'' one of the Volkswagen executives added.

The executive said that Volkswagen's vehicles would meet the first phase of the standards in 2005, while declining to comment on compliance with the second, more rigorous phase, which is to take effect in July 2008.

The new standards are based on a vehicle's weight—lighter vehicles must go the farthest on a gallon—and on the type of transmission, with manual-shift cars required to go farther than those with less efficient automatic transmissions.

In a major departure from American practice, all new sport utility vehicles and minivans in China would be required to meet the same standards as automatic-shift cars of the same weight. In the United States, standards for sport utilities and minivans are much lower than for cars.

The Chinese rules do not cover pickups or commercial trucks. According to General Motors market research, there is little demand for pickup trucks in China except from businesses, because the affluent urban consumer who can afford a new vehicle regards pickup trucks as unsophisticated and too reminiscent of the horse-drawn carts still used in some rural areas.

Typically, heavy vehicles are much harder on fuel than light ones, but the new Chinese standards permit the heavy vehicles to get only slightly worse gas mileage. As a result, they provide an incentive for manufacturers to offer smaller, lighter vehicles, which will be easier to design.

The new standards would require all small cars sold in China to achieve slightly better gas mileage than the average new small car sold in the United States now gets, according to calculations by An Feng, a consultant who advised the government on the rules. But officials in Beijing would require much better minimum gas mileage for minivans and, especially, S.U.V.'s than the average vehicle of either type now gets in the United States.

American regulations call for each automaker to produce a fleet of passenger cars

with an average fuel economy of 27.5 miles a gallon under a combination of city and highway driving with no traffic; window-sticker values for gas mileage, which include the effects of traffic, are about 15 percent lower. Light trucks, including vans, S.U.V.'s and pickups, are allowed an average of 20.7 miles a gallon without traffic.

But the Bush administration has raised the comparable American standard to 22.2 miles a gallon for the 2007 model year and is now completing a review of whether to raise limits further for 2008. The administration is also considering adopting different standards for different weight classes of light trucks.

Over all, average fuel economy in the United States has been eroding since the late 1980's as automakers shifted production from cars to light trucks. It fell in the 2002 model year to the lowest level since 1980. Automakers in Europe have accepted European Union demands to increase fuel economy under different rules that could prove at least as stringent as China's minimums.

The Chinese standards would require the greatest increases for full-size S.U.V.'s like the Ford Expedition, which would have to go as much as 29 percent farther on a gallon of fuel in 2008 than they do now in the United States, Mr. An calculated. Sport utility sales in China have more than doubled so far this year, but are still a much smaller part of the overall market than they are in the United States.

Because the American standards are fleet averages while the Chinese standards are minimums for each vehicle, the effect of the Chinese rules could be considerably more stringent. A manufacturer can sell vehicles in the United States that are far below average in fuel efficiency if it has others in its product line that offset it by being above average. But under the Chinese rules, the fuel-inefficient models—especially new ones introduced after the standards take effect—would be subject to fines no matter how well their siblings do, Mr. Zhang said, and the maker would not be allowed to expand production of the gas-guzzling models. In Garrison Keillor's phrase, China plans to require that every vehicle be above average.

Mr. An said that at the final meetings on the new rules, the only outspoken objections had come from a representative of the Beijing Automotive Industry Holding Company, which makes Jeeps in a joint venture with DaimlerChrysler.

According to people who have seen the new standards, many Jeep models sold in China do not now comply with them; neither do the Chevrolet Blazer sport utilities built by a General Motors joint venture in Shenyang. Some of Volkswagen's car models also fall slightly short, these people said. By contrast, Honda's cars, built at a sprawling factory complex here in Guangzhou, the commercial hub of southern China, would comply easily because they use advanced engine technology, these people said.

Trevor Hale, a DaimlerChrysler spokesman, declined to comment in detail. ''DaimlerChrysler complies with local regulations where it does business,'' Mr. Hale said in an e-mail response to an inquiry. ''It continues working to improve fuel economy in the vehicles it develops, builds and sells around the world.''

Bernd Leissner, the president of Volkswagen Asia Pacific, said that his company's cars would comply because ''it's just a question of how to adapt the engine—it's something that could be done quickly.''

The fastest way to improve fuel efficiency is to switch from gasoline to diesel engines, as Volkswagen is starting to do in China. The latest diesel engines are much cleaner then those of a decade ago, but are still more polluting than gasoline engines of similar power.

A spokeswoman for General Motors, which is beginning to introduce Cadillac luxury cars in China, said she did not have enough information about the newly drafted rules to comment on them, but that her company's vehicles were comparable in fuel economy to those of rival manufacturers in the same market segments. Executives of G.M. were preparing for an event in Beijing on Tuesday and Wednesday when the company plans to showcase examples of its work on gasoline-saving fuel-cell and hybrid engines for cars.

In the United States, G.M. has argued that tighter fuel economy rules are unnecessary because technological improvements will someday improve efficiency anyway. G.M. and other automakers have also contended in the United States that higher gasoline taxes would represent a better policy than higher gas mileage standards, because it would give drivers an economic incentive to choose more efficient vehicles and to drive fewer miles.

China is still considering its policy on fuel taxes, but has not acted so far, because higher fuel taxes would impose higher costs on many sections of society, Mr. Zhang said.

Another company that could run into trouble over the Chinese mileage standards is Toyota, which on Nov. 6 began selling a locally produced version of its full-sized Land Cruiser sport utility vehicle in China. A spokesman said on Monday that Toyota had not yet heard about the new Chinese fuel economy regulations, which has been prepared with a level of secrecy typical of many Chinese regulatory actions.

Japan is also phasing in new fuel efficiency standards based on vehicle weight that allow heavier vehicles only slightly worse gas mileage than lighter ones. American automakers have complained that the Japanese rules discriminate against them because Japanese automakers tend to produce slightly lighter cars anyway.

China has more than 100 automakers, as Detroit did a century ago, but the bulk of its output comes from a small number of joint ventures with multinational companies. Total production has more than doubled in the last three years, to about 3.8 million cars and light trucks in 2002, nearly as many as Germany. The United States builds about 12 million a year, Japan about 10 million.

The cars that Chinese automakers produce on their own tend to very small and lightweight, but the engines are built on older technology, and may not have an easy time complying with the new fuel economy standards.

The government has been encouraging the industry to consolidate, and the new rules may hasten that process by forcing investment in engine designs that small companies may not be able to afford on their own.

Ms. SNOWE. Mr. President, just consider for a moment how much the world has changed technologically over the past 25 years. We have seen the advent of the home computer and the information age. Computers are now running our automobiles, and global positioning system devices are guiding drivers to their destinations. Are we to believe that technology couldn't have also helped those drivers burn less fuel in getting there? Are we going to say that, while even a developing country like China is transforming, America doesn't have the wherewithal to make SUVs that get better fuel economy?

We should keep in mind that China is expected to pass the United States in the next 10 years as the largest emitter of manmade carbon dioxide, the major greenhouse gas that the vast majority of international scientists believe is causing global climate change. And, it is interesting to note that there is not one mention of climate change in the entire conference report. Not one reference in a report of over 1,000 pages that is supposed to shape the Nation's energy policy for the 21st century.

Last year's Energy bill—which I remind my colleagues is the bill the Senate actually passed this year—had at least three different titles addressing climate change, including research on abrupt climate change. Also, the administration's National Energy Policy of May, 2001, stated, ''Energy-related activities are the primary sources of U.S. man-made greenhouse gas emissions representing about 85 percent of the U.S. man-made total carbon-equivalent emissions in 1998.''

Other grave concerns I have involve provisions in the report that will threaten coastal and marine environments and lead to further degradation of our oceans. As Chair of the Subcommittee on Oceans, Fisheries, and Coast Guard, I am troubled by the ramifications of these provisions, as I strongly believe that any changes to U.S. marine policy should only be developed with contributions and oversight of the subcommittee.

For example, under section 321 of title III, the bill grants sole authority for all energy-related projects in the Outer Continental Shelf to the Secretary of the Interior. Currently, protecting these ecosystems is the responsibility of the Department of Commerce. This section does not suggest that the Department of the Interior should even consult with Commerce.

Two other sections in this bill would limit the ability of the Secretary of Commerce and coastal States to guide, plan, and regulate activities that affect coastal and ocean resources and that occur in offshore areas— a right they currently have under the Coastal Zone Management Act.

Further, section 325 would shorten the timeframes for submitting information and appealing the permitting decisions for offshore activities that are inconsistent with States' coastal management plans—regardless of the quality or quantity of information received. Another section, section 330 would limit all appeals or reviews of offshore energy action to the Federal Energy Regulatory Commission record. I believe that the Secretary of Commerce should have the discretion to develop a record that is relevant to issues on appeal.

These provisions are inconsistent with the administration's proposed rule amending the appeals processes, and they conflict with the goals and purposes of the Coastal Zone Management Act reauthorization bill, S. 241, I introduced last January. Moreover, the U.S. Commission on Ocean Policy, established and appointed by President Bush pursuant to the Oceans Act of

2000, is poised to present its recommendations to Congress on offshore energy and other ocean-related issues.

All of these provisions have serious consequences for marine environmental health, and they should not be hastily adopted without the thoughtful input of the Commerce Committee, the administration, and the U.S. Commission on Ocean Policy.

Moving from our oceans to our air, there are other disturbing provisions in the conference report that have been raised by many of my colleagues. For instance, the report contains a provision delaying clean air protections for millions of Americans, leading to thousands of additional asthma attacks—and that is of particular concern to me as my State of Maine leads the Nation in per capita cases of asthma.

Also, I am disappointed that the conference report contains no renewable portfolio standard, or RPS, to raise the amount of renewable energy as a source of electricity nationwide by increasing the percentage of electricity produced from wind, solar, geothermal, incremental hydropower, and clean biomass that produces electricity from burning forest waste.

The conference report does not ban MTBE that is polluting our ground water for another decade rather than the 4 years in the Senate bill, while at the same time virtually dismissing pending lawsuits states already have filed against MTBE producers for cleanup. State officials in Maine do not approve of extending the ban on MTBE or the fact that the heavy financial burden of cleanup will shift to the communities and water users because MTBE producers receive a safe harbor from lawsuits in the report.

For hydropower, the conference report provisions give the last say for hydropower permits to industry and does not give equal weight to the agencies/stakeholders process that has worked so well in Maine for reaching consensus on hydropower decisions, especially for dam removals.

On electricity reliability, the report holds up FERC's ability to go forward with its standard market design for regional transmission organizations—or RTOs except on a voluntary basis, until 2007. A voluntary only program, however, does not spur the capital needed right now for increased electricity transmission in New England, for instance. I hope my colleagues are aware that the New England RTO kept the great majority of New England's electricity grid working and the lights on during the blackout of August of 2003. Actually, the only component of the electricity title that effectively addresses the basic causes of the 2003 blackout is the establishment of electric reliability organizations that would enforce reliability standards through improved communication standards and would be overseen by FERC.

Regarding consumer protections, the conference report repeals PUHCA, the Public Utility Holding Company Act, that currently protects consumers from higher electricity prices. However, the conference report contains little language that ensures that consumers are shielded from higher bills resulting from, for instance, large electricity and gas convergence mergers. Public Power, co-ops and municipalities, who represent 25 percent of the industry, are especially vulnerable to the lack of adequate consumer protections in the report.

Also, the conferees stripped the tradable tax credits for Public Power that I and others had included in the Senate Finance Committee amendment. These tradable tax credits would have allowed Public Power to invest in renewable energy and assist them in decreasing their CO2 emissions by moving away from burning as much coal as they currently do.

On fiscal policy, I do not believe the conference report shows fiscal restraint or uses taxpayer dollars wisely. The fiscal year 2004 budget resolution calls for approximately $15.5 billion to be spent on tax incentives, and the Senate Finance Committee stayed within this budget blueprint. The conference report contains $24 billion in tax incentives plus another $5.4 billion in spending and with no offsets.

One of my concerns is that important tax incentives that appeared in the Senate and House Energy bills over the past 2 years have not been included in the conference. Where they have been included, they are so pared back that I question whether the various industries will take advantage of the smaller energy efficiency tax incentives provided, particularly for the construction, lighting, and heating, ventilation and air-conditioning, or HVAC, for commercial buildings.

Gone are provisions for tax incentives to promote the use of more efficient air-conditioners, even though 70 percent of the energy demand in peak periods is for air-conditioners, and that was a significant factor in last August's major blackout in the Northeast. The lack of these provisions that could be instrumental in the short term for energy savings simply does not move the Nation's energy policy forward into this century.

The knowledge of alternative and renewable sources has been known for over a century as the simple principle of fuel cells —combining hydrogen and oxygen to produce electricity and pure water—and the photovoltaic principle behind the solar power of the sun, were both discussed in 1839—164 years ago. We should ask ourselves why, instead of our daily diet of approximately 19 million barrels of oil a day, we are not also choosing to bolster even more the development of these sources of renewable energy for our consumption and to grow our economy.

Imagine automobiles driven by fuel cells—our U.S. auto manufacturers and the Federal Government are beginning to invest in fuel cells. Imagine businesses and homes having their own free-standing and reliable fuel cells—one of the cleanest means of generating electricity—that Senator LIEBERMAN and I have promoted. Fuel cells can provide electricity instead of our current vast, centralized fossil fuel systems that make our air dirtier and less healthy, causing us to spend millions more on health care each year. We need to be more serious about promoting these technologies.

I do not believe that the Energy conference report before us sets the Nation on the right course for the future and well being of the Nation, and I will, regretfully, vote against the conference report with the hope that Congress can continue working toward a more meaningful, secure, and balanced energy-efficient future for the Nation.

Mr. DORGAN. Mr. President, I rise to support the Energy conference report. While I have some serious concerns about the way this bill was created, I believe our country will be better off with this bill than without it. On balance, it will advance our interests.

This bill takes important, major steps toward developing renewable and limitless sources of energy such as ethanol, wind, and biodiesel. It puts us on the road to the development of a new hydrogen fuel cell economy, which is essential if we are to lessen our dependence on foreign oil. And it contains important conservation measures by improving efficient standards on appliances and other devices we use in our daily lives. If we are serious about security our energy future, I believe we must implement these measures without delay.

Additionally, this bill enhances our ability to develop more traditional sources of energy, while protecting our environment. It contains strong provisions to promote clean coal technology so that we can more effectively use our coal resources without degrading our environment. The bill also funds a pipeline to access over 30 million cubic feet of natural gas in Alaska and bring it to the lower 48 States. And it provides additional incentives for the discovery and recovery of oil and natural gas.

There is much in this bill that is positive, and I intend to vote for it. Having said that, I know this bill is far from perfect. But in some important matters, it is a step in the right direction.

The bill omits a renewable portfolio standard, RPS, that would have required utilities to produce 10 percent of their electricity from renewable sources. That is a serious omission. A majority of the Senate conferees voted to add this amendment to the conference measure and it passed. Unfortunately, the House stripped this amendment out without even debating it. I want to make it clear that I have not given up on this issue. I want to inform those who blocked this provision—get ready. I am going to keep fighting until we get an RPS standards enacted into law.

Unfortunately, this bill also provides liability protection for the producers of the fuel additive, MTBE. This is a major mistake. Insulating the big oil companies, while making the mom and pop gas stations of America liable for the costs of cleaning up these contaminated sites is simply wrong and bad policy.

I also want to address concerns that the bill waives a number of other important environmental provisions. For years, the administration has complained that the process of siting and permitting new energy projects is cumbersome and in the name of efficiency needs to be modified. This measure does that. But let me caution the administration for a moment. While Congress has provided discretion to the appropriate agencies in an effort to streamline the process, these agencies will be held accountable if they violate the spirit and trust we have given them. I expect these agencies to make informed decisions based on public input, sound science, and common sense.

Additionally, as a member and former chairman of the Commerce Committee's Consumer Affairs Subcommittee, let me address the issue of consumer protection. This bill repeals the Public Utility Holding Company Act and does not, in my opinion, go far enough to protect consumers from price gouging. Congress will be watching very closely to ensure that the agencies responsible for preventing market consolidation and market manipulation are doing their job. I believe we must keep pushing to get better protections for consumers. The experience on the west coast in recent years is a painful reminder that corporate power, if left unchecked, can cause serious injury to our consumers.

These deficiencies in the Energy bill could have been avoided had the majority party included Democratic conferees in a meaningful dialogue. Instead, Democrats were frozen out of the Energy conference. It was a flawed and arrogant process that prevented the American people from getting the best of what both political parties had to offer in the development of a national energy policy.

However, does the lack of involvement lessen the need for us to take steps to reduce our dependence on foreign oil? Does it lessen our need to promote energy efficiency and energy conservation? Does it lessen our need to promote the use of renewable energy and renewable fuels and vehicles? I believe the answer to all of these questions is no.

I will vote for the conference report, because on balance, this bill is a net plus for America. But my vote is in no way an endorsement of the manner in which the majority conducted this conference. In the future, before conferees are appointed, we will insist on a commitment that both political parties be represented in the deliberations of the conference.

These concerns aside, we must remember that energy is vital to our economy and our way of life. We count on a reliable energy supply for our everyday needs—heat, light, electricity, and all of the things that keep our society productive. Our economy would be devastated if we lost access to that supply, and were left without alternatives.

If, God forbid, terrorists would shut off the supply of oil to our country tomorrow, our economy would be flat on its back. We now import 55 percent of the oil we use, much of it from troubled parts of the world. That holds our economy hostage to this growing dependence on imported oil, in particular to the Middle East.

We need a new energy future that contains strong provisions dealing with conservation, aggressive approaches to renewable and limitless sources of energy, and embraces a new hydrogen fuel cell future which can allow us to break our dependence on foreign oil.

If a meaningful energy policy is analogous to a novel, then this bill is just a first chapter. It is not as comprehensive, as wise, or as bold as the American people have a right to expect. Let me reiterate, this is not a be-all-end-all comprehensive Energy bill, no matter who tells you it is. I am prepared to continue to modify, amend, and reform this measure as many times and as long as it takes in order to ensure it does what it is supposed to do: create a fair and balanced national energy policy, one that works to advance our country's interest.

In closing, we are left with two choices: one, do nothing and pray we don't have further blackouts, further price spikes, or God forbid, a terrorist strike on our supply of foreign oil; or two, enact the proposed energy legislation and use it as the first brick in the foundation of crafting a comprehensive energy policy that will reduce our dependence on foreign oil and strengthen our energy diversity and security.

Given these two choices, I choose action over inaction and urge my colleagues to do the same.

The PRESIDING OFFICER. The Senator from Kansas is recognized.

Mr. ROBERTS. Mr. President, it is my understanding that the pending business before the Senate is the Intelligence conference report; is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. ROBERTS. Mr. President, I rise today to urge Senate passage of the conference report for the Fiscal Year 2004 Intelligence Authorization Act.

On November 20 the conference report was approved by the House of Representatives. In order to quickly provide the Intelligence Community the authorities it requires in order to pay, house, and equip its personnel for our most sensitive and critical national security work, this legislation should be sent to the President without delay. The horrible terrorist attacks in Turkey underscore the urgency of our task.

This conference report is good legislation with important management and budget authorities. I will review just a few of them for you.

In the conference report, the Senate receded to a number of significant House provisions of interest. The most significant of these is a provision that will consolidate and organize existing intelligence-related functions in the Department of the Treasury by creating a new Office of Intelligence and Analysis. This administration-supported provision also creates a new Assistant Secretary position.

Senate managers also accepted a House provision intended to foster better information-sharing among Federal, State and local government officials. The bombings in Turkey illustrate that terrorists remain capable of striking at the heart of peaceful societies. We must be prepared to meet this continuing threat.

The conference report retains a Senate provision on Central Intelligence Agency Compensation Reform, with a House amendment to ensure that Congress will have an opportunity to assess the impact of such reform before it becomes permanent.

The conference report provides important new personal services contracting authority to the Director of the Federal Bureau of Investigations. This authority is intended to permit the Director to exercise greater hiring flexibility as was recommended post-9/11 in order to bring aboard certain categories of critically-needed skills more quickly.

Turning to the budget, when we began to review the President's fiscal year 2004 request I became very concerned at the recent growth in intelligence funding. I am still concerned.

There is clearly not enough money in future years to fully fund the intelligence programs in this year's budget request. That is the sad reality of this budget. The intelligence community is stretched thin, with far more requirements than available funds. Too many projects and activities have been started that cannot be accommodated in the top line. It does not matter what caused this problem. The problem exists. Unless the President directs a dramatic and sustained increase to the intelligence budget next year, we will have to make the hard choices ourselves.

A significant issue that must be addressed by the executive branch is the manner in which cost estimates for the procurement of major intelligence community systems are conducted. The magnitude and consistency in the cost growth on recent acquisitions indicates a systemic intelligence community bias to underestimate the cost of major systems.

This ''perceived affordability'' creates difficulties in the out years as the National Foreign Intelligence Program becomes burdened with content that is

more costly than the budgeted funding. This underestimation of future costs has resulted in significant re-shuffling of NFIP funds to meet emerging shortfalls.

In an attempt to correct this problem, the conference report contains a provision which would mandate a fundamentally more sound approach to cost estimates for major systems. The business-as-usual approach must end.

There is another area I wish to mention in general terms concerning the analytical capabilities of the intelligence community. All recent after-action reports or studies of intelligence failures point to the inability of analysts to process ever-growing quantities of information. In an effort to correct this problem, the conferees agreed to move funds to programs at the Defense Intelligence Agency, the National Security Agency, and the CIA to improve the community's analytic capabilities.

My key objectives in formulating the conference report were to ensure our Nation's continuing effort to prosecute the war on terrorism and to ensure that the ''longer view'' about intelligence community requirements is taken into account. I believe that this conference report meets both objectives.

We met those objectives because we had bipartisan cooperation when and where it counted. I wish to thank the distinguished vice chairman, Senator ROCKEFELLER, as well as the distinguished House chairman, Representative GOSS, and his ranking member, Representative HARMAN, for their assistance in making the conference report possible. The staff of both intelligence Committees must also be commended for their diligent work on this important legislation.

There is no opposition on our side of the aisle. We have worked very hard with the House to come up with a good compromise. This bill is vitally needed on behalf of national security. A similar bill passed the Senate several weeks ago by unanimous consent.

I yield to my distinguished colleague, the vice chairman, Senator ROCKEFELLER.

The PRESIDING OFFICER. The Senator from West Virginia is recognized.

Mr. ROCKEFELLER. Mr. President, I agree with the chairman of the committee, the Senator from Kansas. There is no objection on this side. It has been cleared. There is no objection on our side. I presume the bill will be voted through.

Mr. President, I am pleased to join the distinguished chairman of the Select Committee on Intelligence in recommending passage of the conference report on H.R. 2417, the Intelligence Authorization Act for Fiscal Year 2004.

The bill authorizes appropriations for the Central Intelligence Agency, the Defense Intelligence Agency, the National Security Agency, and the intelligence components of the F.B.I. and other U.S. government agencies. It also contains a number of important provisions intended to lay the foundation for process and organizational changes in the intelligence community.

The classified nature of U.S. intelligence activities prevents us from disclosing publicly the details of our budgetary recommendations. As I described to the Senate when our bill was considered in July, 10 years ago I joined a majority of Senate colleagues in voting to express the sense of Congress that the aggregate amount requested, authorized, and spent for intelligence should be disclosed to the public in an appropriate manner. The House opposed the provision. I continue to believe that we should find a means, consistent with national security, of sharing with the American taxpayer information about the total amount, although not the details, of our intelligence spending. In holding the intelligence community accountable for performance, and the Congress and the President accountable for the resources they provide to the Intelligence Community, citizens should know the Nation's overall investment in intelligence.

The bill includes a number of provisions intended to promote innovations in information sharing, human intelligence, and counterintelligence, among other things. Many of these initiatives represent initial steps rather than solutions, but they are necessary to raise the level of awareness in Congress and the executive branch regarding a variety of urgent and complex challenges and to lay the foundation for reforms the committee will be considering next year.

Section 351 of the bill requires a report on the threat posed by espionage in an era when secrets are stored on powerful, classified U.S. computer networks rather than on paper. A single spy today can remove more information on a disk than spies of yesteryear could remove with a truck. We have already suffered losses, for example, in the Ames, Regan, and Hanssen cases, where sloppy computer security permitted traitors to exploit large quantities of highly classified information. Unfortunately, these cases provide a warning that appears to have gone largely unheeded. We still do not have a cohesive set of policies and procedures to protect our classified networks from cleared insiders who seek to betray their country, Our reliance on classified information systems for warfighting and intelligence is growing daily, yet hundreds of thousands of individuals have virtually unrestricted access to these critical networks.

All but a few Government personnel are honest and patriotic Americans, but the sad fact is that there has not been a day since WWII when we have not had spies within our Government. There have been over 80 espionage convictions in the last 25 years. They include personnel from the Army, Navy, Air Force, Marine Corps, NSA, CIA, FBI, State Department, the National Reconnaissance Office and the Office of the Secretary of Defense. It is a very real and continuing problem and there will undoubtedly be more espionage arrests in the months and years ahead. Espionage is an unfortunate fact of life, and we simply cannot afford to operate classified systems in which thousands of individuals enjoy the ability to download or upload classified information at will.

Other countries are seeking to exploit this situation to collect defense secrets, and no doubt contemplate blinding our Government and troops in time of war. We would never permit such broad access to weapons in an armory, yet these classified systems are of much greater strategic significance than M–16 rifles, tanks, or 500 pound gravity bombs. We simply must develop the policies and capabilities necessary to control input and output devices on these systems and monitor their use.

Section 352 of the bill calls for a review of our cumbersome, outmoded, and many would say ineffective personnel security system. It is a fact that almost every spy has held high-level security clearances. It is also a fact that few, if any of these individuals were identified through routine security clearance updates.

Most people who become spies join the government with no intention of betraying their country. Research by the Defense Department shows that most spies are people who develop grievances as their careers progress, at times having developed money and alcohol problems as well, and then turn to espionage as a way of feeding their egos and their bank accounts.

Yet, we give a young, single Navy recruit seeking an intelligence assignment the same scrutiny as a 30-year intelligence operative with financial troubles who routinely travels to countries of concern. Further, even when derogatory information surfaces, sometimes even very disturbing information which raises serious espionage issues, the government rarely revokes the clearances we rely on so heavily and which cost so much.

In the information age, we cannot wait 5 to10 years to identify employee problems that may be related to espionage. Too much damage can be done too quickly. We need fresh thinking and recommendations that will provide more effective security for the large sums of money the taxpayer is investing.

Section 354 of our bill calls for a review of classified information sharing policies within the Federal Government. This is an issue closely related to the foregoing provisions regarding inadequate security policies. ATM machines, for example, are a wonderfully convenient and effective means of providing access to banking resources—but they could not exist without magnetic cards, personal identification

numbers, cameras and locks. Similarly, improved security is not a barrier to more flexible information sharing, it is a fundamental ingredient. The Joint Inquiry report on the 9/11 attacks highlighted information sharing as a critical shortcoming that prevented the interception of several hijackers. To help accelerate reform, the Joint Inquiry requested an administration report by this past June 30 on progress to reduce barriers among intelligence and law enforcement agencies engaged in counterterrorism. Unfortunately, no report has been submitted.

We have the technology for improved information sharing, and significant progress is being made. A Terrorist Threat Integration Center has been established, and new guidelines regarding sharing of grand jury information have been promulgated. These are very important steps forward. But to truly break down the barriers to information sharing, rather than relying on workarounds, we need revised policies on sharing classified information which recognize and exploit the opportunities provided by modern information technology. This is especially important as we look to bridging the gap between the Intelligence Community and organizations charged with Homeland Security.

Section 355 of the bill identifies a problem that would probably stun most taxpayers. Simply stated, notwithstanding the many billions of dollars invested in complex intelligence systems, ranging from satellites, to aircraft, to ships, and land-based collection platforms, there is no capability in the executive branch to independently and comprehensively model the performance of these systems. Consequently, new multi-billion-dollar systems are procured without the ability to rigorously evaluate potential tradeoffs with other systems.

Questions such as these should be asked: Given projected satellite, aircraft and UAV constellations, what is the marginal value of adding space-based radar satellites? Are there alternative investments that can better satisfy intelligence requirements? Don't senior policymakers need the ability to systematically examine the interactions of these many systems to identify trade-offs that can be achieved?

Currently, most of the analysis of proposed collection systems is performed by the agencies seeking to justify their programs, or by senior policy officials who struggle to apply common sense and spread-sheet level analysis to systems that often have overlapping capabilities. There is no reason that a rigorous, independent and comprehensive capability cannot be developed to support the programmatic reviews of the DCI and the Defense Department. This is but one example, though an important one, of the ways in which we believe the intelligence community can improve its strategic planning and decisionmaking processes.

Section 356 of the bill raises an issue of profound strategic significance for the United States, namely the growing reliance of our country on hardware and software produced overseas. Although specific cases are classified, this is clearly a growing problem.

After 1973, when the risks inherent in America's reliance on foreign oil became clear, many positive steps were taken to ameliorate our national vulnerabilities. Those steps included establishment of a strategic petroleum reserve, establishment of the Central Command, and research into alternative fuels. Unlike our dependence on foreign oil, however, our rapidly growing dependence on foreign hardware and software creates numerous opportunities for espionage and information operations that are extremely difficult to detect. Ironically, the countries identified by the FBI as most actively engaged in economic espionage against the United States are leading producers of the hardware and software we all use on a daily basis.

The plain truth is that even the Defense Department does not know where most of the hardware and software it uses originates. Moreover, the Government does not have the right to examine source code unless voluntarily supplied. Further, at the present time, there are limited capabilities for analyzing source code that is made available. This situation requires serious attention by senior policymakers, including Congress, and the report required by section 356 should help to prompt a long overdue discussion of these issues.

In concluding my remarks, I would like to look beyond our current bill to the issues the Intelligence Committee must contend with next year. Other committees share responsibility for reviewing the funding and systems needed by the intelligence community, but our committee is uniquely positioned to evaluate the intelligence community's performance—both its successes and failures—and to identify the changes required to meet the challenges of the future.

In my view, money alone is not sufficient to enable the intelligence community to reach its full potential. The current structure of the intelligence community is fundamentally unchanged from its establishment in 1947. Serious change is long overdue. I strongly believe that new structures and authorities, coupled with able and aggressive leadership, are required to dramatically improve our intelligence community's efficiency and effectiveness.

In many respects, the organizational issues confronting the intelligence community are analogous to those confronting the Defense Department prior to the Goldwater-Nichols Act. The fundamental problem confronting the Department of Defense prior to Goldwater-Nichols was excessive military service control over military operations, policies and budgets. In response, Congress strengthened the weak integrating mechanisms in DoD, specifically the Chairman of the Joint Chiefs and the Commanders of the Combatant Commands. The difference in military performance before Goldwater-Nichols—e.g., Desert 1, Lebanon, and Grenada—and after—Panama, Haiti, and Iraq—is stark and clear. In fact, I am convinced that the Goldwater-Nichols Act did more to enhance U.S. national security than any weapons system ever procured by the Department of Defense.

Although the Goldwater-Nichols reorganization is not a precise template for restructuring the intelligence community, the problems are fundamentally similar: towering vertical structures—NSA, CIA, DIA, NRO, NIMA, the service intelligence components—and relatively weak integrating mechanisms—the DCI and his Community Management Staff. Any reorganization proposal needs to address this fundamental problem of inadequate integration and coordination. In that regard, I would suggest that the intelligence community's lack of responsiveness to the DCI's declaration of war on al-Qaida prior to 9/11 was in part a result of the DCI's weak community management authorities and inability to move the system. I am convinced that a strengthened DCI could more effectively manage the intelligence community, leading to performance improvements comparable to those achieved by the military in the wake of the Goldwater-Nichols Act.

A conservative, incremental approach would involve the creation of a permanent cadre to staff the DCI much as the Secretary of Defense has an OSD staff. This simple change, coupled with aggressive business process reengineering and ''year of execution budget authority'' for the DCI over NFIP programs, would significantly strengthen the DCI's ability to manage the intelligence community and respond to new threats and opportunities.

A more aggressive and far-reaching plan would have to address the fundamental changes that have occurred since the current structure was established by the National Security Act of 1947. Specifically, it would recognize that the once useful distinction between home and abroad has become not only irrelevant, but dysfunctional. This is not to suggest any need to reduce the protections afforded U.S. persons under the Constitution, merely that globalization and the development of cyberspace, combined with the rise of apocalyptic terrorists groups empowered by lethal new technologies, require a different, more agile structure that is not impeded by outmoded geographic distinctions. In that regard, we should find ways to more effectively coordinate foreign and domestic intelligence.

Achievement of any substantial reorganization will require meticulous research by the congressional oversight committees, a substantial hearing record, and sustained interest by the administration. At the end of the day,

incremental steps will be better than none, and a more aggressive reorganization require a consensus not only on the Intelligence Authorization Committees, but with the Armed Services Committees as well. As challenging as these issues are, we simply cannot fulfill our duty to the American people unless we confront these crucial issues when Congress returns next year.

In conclusion, the important steps we have taken with this measure, to include full funding of the administration's requests for intelligence activities, are the result of lengthy deliberations on matters as complex as they are vital. It is gratifying to see the work that has been done in both Chambers come together today in a bill we can send to the President. It is a useful first step, but only a first step, towards the development of an intelligence community better able to adapt to the rapidly evolving threats confronting our great nation.

Finally, I would like to thank the chairman and the Committee staff for their arduous work on this bill. I look forward to making great strides together next year.

I urge support for this measure.

OFFICE OF INTELLIGENCE AND ANALYSIS

Mr. SHELBY. Mr. President, I rise in my capacity as the chairman of the Committee on Banking, Housing and Urban Affairs regarding the Conference Report to accompany H.R. 2417, the Intelligence Authorization Act of 2004. Section 105 of the act will create a new Office of Intelligence and Analysis within the Department of the Treasury. The Office is to be headed by a newly authorized Assistant Secretary for Intelligence and Analysis appointed by the President and confirmed by the Senate. It will enhance the Department's access to intelligence community information and permit a reorganization and upgrading of the scope and capacities of Treasury's intelligence functions in light of the Nation's counterterrorist and economic sanctions programs. This section was drafted with bipartisan participation and close coordination with the Department of the Treasury.

The particular terms governing the new office are important to me as chairman of the Committee on Banking, Housing, and Urban Affairs over legislative and oversight matters relating, inter alia, to the Nation's economic sanctions laws and the Bank Secrecy Act, and, more generally, because of the importance of carefully delineating the limitations on any part of the U.S. intelligence community that lie within the structure of an executive department of the Government. I have a letter signed by the ranking member of the Banking Committee, Senator PAUL S. SARBANES, and myself addressed to Secretary of the Treasury John W. Snow, as well as Secretary Snow's response. This letter reflects the agreement of Treasury about the organization, structure and role of the new Office and Assistant Secretary position created and important related organizational matters concerning the Financial Crimes Enforcement Network and the Office of Foreign Assets Control.

I request unanimous consent that the two letters be included in the RECORD. They provide, I believe, a good statement of congressional intent with regard to the establishment of the new Office and the new Assistant Secretary position. At this time I would yield the floor to the ranking member of the committee on Banking, Housing and Urban Affairs, Senator SARBANES.

Mr. SARBANES. I thank the Senator. I simply want to note my agreement with the chairman and with his request to include the two letters in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. SENATE, COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS,

Washington, DC, November 20, 2003.

Hon. JOHN W. SNOWE,

Secretary of the Treasury, Department of the Treasury, Washington, DC.

DEAR SECRETARY SNOWE: A proposed amendment to section 105 of the Intelligence Authorization Act of 2004, H.R. 2417, would create a new Office of Intelligence and Analysis within the Department of the Treasury, The Office would be headed by a newly-authorized Assistant Secretary for Intelligence and Analysis appointed by the President and confirmed by the Senate. The Office would enhance the Department's access to Intelligence Community information and permit a reorganization and upgrading of the scope and capacities of Treasury's intelligence functions in light of the nation's counterterrorist and economic sanctions programs.

We are writing to you to confirm formally, before consideration of the amendment proceeds, your and our mutual understanding of the role of the proposed new Office and Assistant Secretary within the Department of the Treasury. Such confirmation is necessary because of the authority of the Senate Committee on Banking, Housing, and Urban Affairs over legislative and oversight matters relating, inter alia, to the Nation's economic sanctions laws and the Bank Secrecy Act, and, more generally, to the Nation's financial system. In that context, the Committee is necessarily concerned with the careful delineation of the functions, and limitations, of any part of the U.S. Intelligence Community that lies within the structure of the Department of the Treasury.

Based on discussions between members of our staffs and the Assistant Secretary of the Treasury (Legislative Affairs), we understand that:

1. The new Office is to be responsible for the receipt, collation, analysis, and dissemination of all foreign intelligence and foreign counterintelligence information relevant to the operations and responsibilities of the Treasury Department, and to have such other directly related duties and authorities as the Secretary of the Treasury may assign to it. The new Office will replace and absorb the duties and personnel of Treasury's present Office of Intelligence Support (''OIS'') and will carry on OIS' work in the provision of information for use of the Department's senior policy makers.

2. The Assistant Secretary for Intelligence and Analysis will report to an Under Secretary of the Treasury (Enforcement) as required by the statute. The Assistant Secretary for Intelligence and Analysis will at no time supervise any organization other than the new Office or assume any other policy or supervisory duties not directly related to that Office.

3. The Secretary will seek prompt designation of a new appointee for the vacant position of Under Secretary, and ensure the chain of command will be organized and implemented as outlined above.

4. Our mutual understanding is that Treasury plans to have an official appointed to a vacant Assistant Secretary position. The official appointed to that position will supervise the Office of Foreign Assets Control (''OFAC'') and the Financial Crimes Enforcement Network (''FinCEN'') as well as other functions, but he or she will at no time supervise the Office of Intelligence and Analysis. This Assistant Secretary also will report to the Under Secretary referred to in paragraphs 2. and 3., above.

5. The general responsibilities of OFAC and FinCEN will not be changed in the course of creating the new Office and these new positions. However, it is anticipated that the new Office will coordinate and oversee all work involving intelligence analysts who work in OFAC and FinCEN (or in other parts of the Treasury) primarily with classified information, in the interest of creating the more robust analytic capability at Treasury that was the articulated reason for the authorization of this new Office. One of the primary tasks of the new Office will be to examine and analyze classified information, in conjunction with the relevant unclassified information already available to OFAC and FinCEN, so that the resultant product can be of use to OFAC and FinCEN as well as to other agencies, under applicable legal rules. Thus, the new Office will have access to all relevant information held by FinCEN and OFAC for national security and anti-terrorism purposes.

The expertise of the Department of the Treasury is necessary and integral to our Nation's security and to success in the war on terrorism. We expect within the next year to highlight your efforts in this area in one of the series of Terror Finance hearings to be held by the Committee, and we look forward to hearing at that time about the innovative approaches to counter-terrorism efforts that the proposed revitalization of Treasury's capacity for financial intelligence analysis can produce.

Sincerely,

RICHARD C. SHELBY,
Chairman, Committee on Banking, Housing and Urban Affairs.

PAUL S. SARBANES,
Ranking Member, Committee on Banking, Housing and Urban Affairs.

DEPARTMENT OF THE TREASURY,

Washington, DC, November 21, 2003.

Hon. RICHARD SHELBY,

Chairman, Committee on Banking, Housing and Urban Development, U.S. Senate, Washington, DC.

DEAR CHAIRMAN SHELBY: Thank you for your letter concerning creation, in section 105 of the Intelligence Authorization Act of 2004, of the proposed Office of Intelligence and Analysis, to be headed by a new Assistant Secretary for Intelligence and Analysis, within the Department of the Treasury. I have reviewed your letter and it correctly states the commitments made to you on behalf about the role of the proposed new Office and new Assistant Secretary within the Department of the Treasury.

I appreciate your input and look forward to working with you, Senator Sarbanes, and

your House colleagues to make sure the Treasury Department meets the Congress' expectations. An identical letter has also been sent to Senator Sarbanes.

If there is anything that I can do to be of assistance to you, please do not hesitate to contact me.

Sincerely,

JOHN W. SNOW.

Mr. ROBERTS. Mr. President, I ask that the Chair put the question to the body.

The PRESIDING OFFICER. Is there further debate?

If not, the question is on agreeing to the conference report.

The conference report was agreed to.

MORNING BUSINESS

Mr. ROBERTS. Mr. President, I ask unanimous consent that there now be a period for morning business, with Senators permitted to speak therein for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

Who seeks recognition?

Mr. CHAMBLISS. 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. REED. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ENERGY POLICY ACT

Mr. REED. Mr. President, we have just concluded a cloture vote which will give us the opportunity to look more carefully at the Energy bill that is before the Senate. I believe such a careful and thorough review of the bill is entirely warranted. Indeed, it is not just my opinion but the opinion of countless numbers of Americans and also countless numbers of opinion leaders throughout the country.

These are a sample of some of the editorials that have appeared with respect to the Energy bill. The Washington Post calls the bill ''depleted energy.'' The New York Times says ''a shortage of energy''. The Atlanta Journal-Constitution directs: ''Put backroom energy bill out of the country's misery.'' The Houston Chronicle: ''Fix the flaws—this proposed energy bill is half a loaf, half baked.''

The American people deserve good national energy policy, created through an open and democratic process. Sadly, the legislation before the Senate is not such a policy nor has it been achieved through an open and transparent and collaborative process. The Energy bill was crafted behind closed doors by members of one political party who chose to involve industry but not elected Senators and Congress men and women. It looks as if the industry got the bill they wanted.

We have been told ''take it or leave it.'' I hope we can leave this bill behind. I hope this cloture vote signifies such a development.

If we leave it behind, one of the salient aspects of the Energy bill presented to Members is that it does not leave any lobbyist behind. In fact, to borrow a statement from my colleague from Arizona, this bill, indeed, leaves no lobbyist behind.

There is an Archer Daniels Midland ethanol provision adding $8.5 billion to gas prices over each of the next 5 years while cutting $2 billion a year from the highway trust fund. It seems to me to be implausible, indeed irrational, that we would enhance an industry while at the same time depriving our local cities and towns and States of the money they need to maintain the roads and bridges of America.

According to the Denver Post, there is $180 million to pay for development projects in Shreveport, LA, including the city's first ever Hooters restaurant. I am not sure how that will help our energy policy.

Let's not forget the $2 billion that taxpayers bear to clean up the mess left by MTBE producers.

As the Wall Street Journal wrote:

> We'll say this for the energy bill that is about to come to a final vote in Congress: It's certainly comprehensive. It may not have all that much to do with energy anymore, but it does give something to every last elected Representative.

This bill utterly fails to establish an energy policy for the 21st century. It does nothing to address our country's dependence on foreign oil, an issue I will discuss at length in a few minutes.

In addition, it contains so many provisions that will hurt consumers and damage the environment that it is impossible to list them all. Here are just a few:

The bill doubles the use of ethanol in gasoline, which will drive up gasoline prices and deny valuable revenue to fix our roads.

The bill fails to make the reforms necessary to modernize our electricity grid and enhance reliability by providing a standard set of rules for our electricity markets. These rules would have provided greater efficiencies, greater reliability, and reasonably priced electricity that our homes and businesses need.

The bill increases air pollution by delaying rules to control mercury and ozone pollution, putting millions of Americans at risk for health problems.

The bill increases water pollution by exempting oil and gas exploration and production activities from the Clean Water Act storm water program.

The bill allows drilling on our coastlines by diminishing States' rights to review offshore oil development projects and other proposed Federal activities to determine if the projects are consistent with the State coastal management plans.

The bill threatens our national security by failing to reduce the Nation's dependence on foreign oil and providing billions of dollars in subsidies to build new nuclear powerplants. And the list goes on and on and on.

The American public deserves an economically sound Energy bill that will strengthen our economy and create good-paying jobs for Americans. But that is not this Energy bill before us.

This Energy bill is business as usual. It is a special interest grab bag cloaked in the rhetoric that it would create jobs and spur the economy. The cost of the entire bill is estimated to exceed $100 billion, more than $120,000 for each job that the authors claim the bill will create. With the tax breaks alone costing American taxpayers over $25 billion, this bill adds to the deficit and further reduces spending for vital programs, such as education, health care, and water infrastructure.

The American public also deserve an environmentally friendly Energy bill that will protect our air and water and reduce greenhouse gases. But that is not this Energy bill.

This Energy bill will endanger the public's health by allowing the energy industry to increase the pollution it emits into the air and water and limiting environmental review of energy projects.

One of the most egregious giveaways to corporations, at the expense of the environment and public health, is the product liability protection for MTBE. MTBE is known to cause serious damage to water quality nationwide. This immunity provision—which is retroactive to September 5, 2003, before virtually all the recent lawsuits involving MTBE—would shift $29 billion in cleanup costs from polluting corporations to taxpayers and water customers.

My State of Rhode Island and our residents are all too familiar with the dangers of MTBE. After MTBE leaked from an underground storage tank at a gas station and found its way into the water system of the Pascoag Utility District in Burrillville, RI, in the summer of 2001, more than 1,200 families were forced to use bottled water for drinking, cooking, and food preparation for several months. Subsequent tests showed MTBE at such high levels that the State department of health recommended residents reduce shower and bath times and ventilate bathrooms with exhaust or window fans. Fortunately, Pascoag's lawsuit against ExxonMobil to pay for the cleanup was filed before the September 5, 2003, cutoff date, but many similar suits filed on behalf of residents in New Hampshire and other States will be thrown out by this bill. That, to me, is a tragedy.

The American people deserve a meaningful Energy bill that will ensure our national security by ending our dependence on foreign oil, diversifying our energy resources, and increasing our Nation's energy efficiency. But that is not this Energy bill.

This Energy bill perpetuates the failed policies of the past 30 years, focusing almost exclusively on squeezing what little domestic energy production

is available and offering generous incentives to the oil and gas industry while giving little attention to developing alternative sources of energy and reducing consumption. We have to face the facts: We cannot drill our way to energy independence.

Furthermore, the bill creates new security threats by reversing a longstanding ban on the reprocessing of spent fuel from commercial nuclear reactors. It promotes, through the Department of Energy's advanced fuel cycle initiative, joint nuclear research efforts with nonweapon states, undermining efforts to curtail new weapons systems. The proliferation of nuclear weapons is one of the most challenging and difficult and serious problems we face, and we are now involving ourselves with states that do not have nuclear weapons, but we are doing so in a way that we could inadvertently and unintentionally give them insights that are advantages. This is poor proliferation policy as well as, I believe, poor energy policy.

Our Nation needs a comprehensive Energy bill, but we must reorder our priorities if we want to achieve greater energy independence. Yesterday's solutions will not meet today's urgent need for energy security. Increased efficiency in our homes, our cars, and our industries, renewable energy resources, and new technologies will secure our energy independence.

We are on a collision course that threatens our economic and national security. Worldwide oil consumption is projected to grow by 60 percent over the next two decades. For developing countries, the growth is expected to be much higher, possibly as much as 115 percent. China and India will be major contributors to these increases in demand and will require imports to meet their needs.

Chinese economic expansion is rapidly changing the oil demand map throughout the world. The International Energy Agency estimates that Chinese demand for oil next year will rise to 5.7 million barrels per day. This would account for about a third of global demand growth. Growing global demand will raise prices for U.S. consumers as countries race for the world's remaining oil supply.

Two-thirds of the world's proven crude oil reserves are in the Middle East. While experts disagree about when global oil production is likely to peak, they agree that when it does, the vast majority of remaining untapped reserves will be left in the Middle East and imports to feed our growing global demand for oil will come from the Persian Gulf.

What is the result of this increasing global demand? Many countries, including our allies and trading partners, will compete with us for finite oil supplies as their and our economies rely more heavily on imports. This will inevitably stress the delicate balance that exists among national interests in the world and give the Middle East a disproportionate leverage in the international arena.

America's dependence on imported oil is a major constraint on our foreign policy. A substantial portion of our Nation's military budget is spent in the Middle East for the defense of oil. Our policy toward the Middle East will not change as long as our economy remains dependent on oil from the region. The United States has less than 5 percent of the world's population but consumes 26 percent of the world's oil. Oil imports contribute to our trade deficit and heighten our economy's vulnerability to oil price spikes. According to the Rocky Mountain Institute, 53 percent of the U.S. oil supply is imported and one-fourth is from the 11 countries of the OPEC cartel.

Net oil imports cost the United States $109 billion in the year 2000—29 percent of the then-record trade deficit. Retail oil products cost Americans more than one-quarter trillion dollars per year. As long as the U.S. economy is dependent on oil, we remain vulnerable to major oil disruptions anywhere in the world and to domestic price spikes. According to the Department of Energy, every million barrels of oil per day taken out of production increases world oil prices by $3 to $5 per barrel. The Organization of Economic Cooperation and Development estimates that an increase of $10 per barrel would cut U.S. economic growth by .2 percent and boost consumer prices by .4 percent. A .2 percent drop in growth would cost the economy $22 billion.

Our economy is extremely vulnerable to variability in oil prices, and we are doing nothing in this legislation to give ourselves a hedge against those variable oil prices.

To achieve energy security, we must wean our economy off its heavy reliance on oil. The immediate priority must be to head off growth in demand. Efficiency is the cheapest energy source. Let me say that again. Efficiency is the cheapest energy source—not drilling in Alaska or the gulf or any place else.

In 2000, America used 40 percent less energy and 49 percent less oil to produce each dollar of GDP than in 1975. Why? Because after the 1973 oil embargo, we were shocked into taking steps to improve our efficiency. We raised gas mileage standards. We provided support incentives for energy improvements and efficiencies throughout our society. This savings we have been able to develop since 1975 has been five times our domestic output of oil in that period.

So we essentially saved five times more oil than we produced in the period. We need to use energy in a way that saves money. It is much cheaper to conserve energy and increase efficiency than build a nuclear powerplant. It is much cheaper and much less deadly to conserve energy and increase efficiency than to send troops to protect oil interests in the Middle East, as we have done since the first Persian Gulf war. While our soldiers in Iraq are fighting for many reasons, we cannot divorce what is happening in the Middle East from our dependence on oil. This bill may create a few jobs, but will it save lives? Will it prevent future military conflicts undertaken to feed America's addiction to oil? I don't think so. I think a bill like this should do precisely that.

The Energy conference report that we are considering is too heavily weighted towards production with minimal emphasis on increasing energy efficiency. According to the American Council for an Energy-Efficient Economy, the conservation savings in the bill will amount to only about 3 months of U.S. energy consumption between now and the year 2020. That fact bears repeating. Over the next 17 years, this bill conserves only 3 months worth of energy or 1.5 percent of energy use. The bill could have and should have saved at least four times as much energy through conservation.

This bill could have taken meaningful steps to secure our energy future, but the drafters of the bill chose not to. The energy conference could have reduced our dependence on foreign oil by increasing CAFE standards, but they did not. In model year 2002, the average fuel economy for cars and light trucks was 20.4 miles per gallon, a 22-year low. Yet if performance and weight had stayed constant since 1981, the average fuel economy would have improved 33 percent, enough to displace the amount of oil we import from the Persian Gulf 2.5 times over. To displace Persian Gulf imports would only take a 3.35 mile-per-gallon increase in the 2000 light vehicle fleet. We are risking our soldiers in the Persian Gulf, but we are unwilling to raise mileage standards in the United States. If we don't do that, I fear we will be at risk again and again and again—our troops, our economy, and our society.

According to the Rocky Mountain Institute, since 1975, the U.S. has doubled the economic activity wrung from each barrel of oil. Overall energy savings, worth about $365 billion in 2000 alone, are effectively the Nation's biggest and fastest growing major energy source, equivalent to three times our total oil imports or 12 times our Persian Gulf imports. Let me say that again. We have the greatest resource available to us. It is not oil under the ground or under the sea. It is energy efficiency. Yet this bill refuses to tap that great resource.

During 1977 to 1985, gross domestic product rose 27 percent. Oil use fell 17 percent. Net oil imports fell 42 percent, and imports from the Persian Gulf fell 87 percent. When we were forced by the embargo in 1973 to take steps to improve efficiency, the results were palpable, dramatic, and beneficial. The key to the huge 1977–85 oil savings was better mileage for our automobiles. Unfortunately, light vehicle efficiency

stagnated through the 1990s. And we refused to do the obvious and increase those standards.

Taking steps to reinvigorate the CAFE program is the best way to produce dramatic savings in oil consumption, those savings that we witnessed in the 1970s and 1980s. That is why I am an original cosponsor of S. 794, which would increase fuel economy standards for passenger vehicles to 40 miles per gallon by 2015 and for pickup trucks by 27.4 miles per gallon. This would save 1.8 million barrels of oil a day by 2015, and 3.1 million barrels a day by 2020. This is the Energy bill we need, not the one we are considering.

Indeed, this approach, a technological approach, is most suited to our greatest advantages. We are the Nation of technological innovation. We are the Nation that first ventured into space dramatically and went to the moon. I cannot believe that if we give them the simple mission of raising gas mileage standards, that our automobile industry cannot do so and do so promptly without losing jobs, without losing market share.

While we fail to take action to increase fuel economy standards and provide $100,000 tax loopholes for SUVs, China, already a growing economic power, recognizes the need to reduce its oil demands from the Middle East. In contrast to this bill, China is preparing fuel efficiency rules that will be significantly more stringent than those in the United States. The Chinese standards call for new cars, vans, and sport utility vehicles to get as much as 2 miles a gallon of fuel more in 2005 than the average required in the United States and about 5 miles more in 2008.

Let me guarantee you, our automobile manufacturers will be trying desperately to sell in that market, and we will be producing cars that go into that market. Yet they will turn to us and say: It is impossible to do that here in the United States.

The Chinese are more sensitive to the global imbalance in supply and demand for petroleum products than we are. They are taking action—and we can't—because they recognize the economic implications and the national security implications.

The Energy bill before us could have reduced our dependence on foreign oil and strengthened national security by including a renewable portfolio standard for America's electricity industry. A strong renewable portfolio standard would diversify our fuel supply, clean our air, and better protect our consumers from electricity price shocks.

According to the Energy Information Agency, gradually requiring utilities to produce 20 percent of electricity from renewable resources such as solar and wind is both affordable and feasible. In addition, it would create jobs by spurring $80 billion in new capital investment. Again, this is the Energy bill we need, not the one we are considering.

For over 30 years, through four different Presidencies, Americans have been promised that our Government would end the national security threat caused by our dependence on foreign oil. But energy security means more than drilling in new places for oil and natural gas. It starts with using less energy far more efficiently. It means obtaining energy from sources that are less vulnerable to terrorism or world politics. Unfortunately, it appears that the American people will continue to wait for a meaningful energy policy that promotes national security and reduces our dependency on foreign oil.

We faced an important vote today. I believe we made the right vote. We have given ourselves more time to improve this bill, to develop legislation that will meet our economic, our environmental, and our national security needs, to serve the American people in a way which will make them more secure and more prosperous. I hope we use this intervening time not simply to return to this legislation but to vigorously reform legislation so that we can present the American people a bill that will serve their needs and not the needs of special interests.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DASCHLE. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. THOMAS). Without objection, it is so ordered.

HONORING TWO SOUTH DAKOTA SOLDIERS KILLED OVER THE WEEKEND IN IRAQ

Mr. DASCHLE. Mr. President, yesterday was a national day of mourning in Italy. Tens of thousands of people lined a procession route and gathered at a basilica in Rome to pay their final respects to 19 Italian soldiers killed last week in a truck bombing in Nasiriyah, Iraq. The soldiers' deaths mark Italy's worst military loss since World War II.

The American people share Italy's sorrow over their enormous loss.

There is also a profound sense of sorrow today in South Dakota. Two of the 17 American soldiers killed last Saturday, when those 2 Army Black Hawk helicopters collided in the sky over the northern Iraqi city of Mosul, were from our State.

South Dakota lost as many soldiers in that instant as we had lost in the entire Iraq war so far.

Today, we mourn our lost sons: Army CWO Scott Saboe; and Army PFC Sheldon Hawk Eagle.

We also mourn the 15 soldiers lost with them, the 405 other U.S. servicemembers who have given their lives, so far, in this war, and all of the sons and daughters of our allies who have been lost in this war.

CWO Scott Saboe was 33 years old, a career soldier with 14 years of military service.

He leaves behind his wife, Franceska, and their 6-year-old son, Justin, who live in Alabama.

His father, Arlo Saboe, is a decorated Vietnam war veteran who lost his wife and brother in the last 2 years. His sister, Amy remington, is stationed at Walter Reed Army Medical Center near Washington.

Willow Lake, where Scott Saboe grew up, is a small town. Only about 300 people live there. On Sunday, more than half of them stopped by Arlo Saboe's house to pay their condolences.

Before Iraq, Scott Saboe had flown helicopters over the demilitarized zone in Korea. As his father told a reporter for the Sioux Falls Argus Leader, ''He was willing to go anywhere.''

He reportedly was scheduled to return to the United States in 2 weeks for training.

Today, at Willow Lake High School, where he played center on the football team, the flag has been lowered to half-staff.

Bill Stobbs, a former teacher and football coach who now is the school's principal, told the Argus Leader:

He died doing what he loved, and he was a dedicated soldier. That's all there is to it.

Darin Michalski, a childhood friend, said:

Most of us can go through our who lives and don't really accomplish anything, and some of us only live to be 33, and we're heroes.

PFC Sheldon Hawk Eagle was just 21.

He lived in Eagle Butte, on the Cheyenne River Sioux reservation, and was an enrolled member of the Cheyenne River Sioux tribe—one of about 90 members of the tribe deployed to Iraq.

He was a descendant of the legendary Lakota warrior leader, Crazy Horse. His Lakota name was Wanbleoheteka, Brave Eagle.

Like Scott Saboe, Sheldon Hawk Eagle grew up in a family that viewed military service as a citizen's duty. His grandfather, father and uncle all served.

Friends and family members describe him as a hard-working, quiet young man. One of his former teachers remembers his ''nice smile.''

His parents died when he was a young boy. He was raised by his aunt and uncle, Harvey and Fern Hawk Eagle.

His only surviving sibling, his sister, Frankie Allyn Hawk Eagle, lives in Grand Forks, ND. He enlisted in Grand Forks, in June 2002, to be close to her.

He was deployed to Iraq in March and reportedly had hoped to be home this coming February.

Emmanuel Red Bear, a spiritual leader who teaches Lakota language and culture at Eagle Butte High School, remembered Hawk Eagle to a reporter as an aggressive, but fair, football player who was a model of sportsmanship on and off the field.

Said Red Bear of Hawk Eagle:

He was a role model, in his quiet way. The younger kids looked up to him. . . . He really was a modern-day warrior.

Tribal Chairman Harold Frazier said simply:

He's our hero. He defended our country and protected our freedom.

News of Scott Saboe's and Sheldon Hawk Eagle's deaths reached their hometowns on Sunday. Many people first heard the news first at church services.

It had been some time since South Dakota had lost anyone in Iraq.

On May 9, CWO Hans Gookezen, of Lead, was killed when the Black Hawk helicopter he was copiloting got caught in a power line and went down in the Tigris River.

On June 18, PFC Michael Dool of Nemo, was killed while on guard duty at a propane distribution center in Baghdad.

The crash of the two Black Hawks last Saturday was the deadliest single incident since the United States invaded Iraq. The military is investigating whether enemy ground fire have caused the crash.

All 17 of the victims were from the Army's 101st Airborne Division—the famed ''Screaming Eagles''—the same unit that parachuted into Normandy on D-Day.

Like people in every state perhaps, South Dakotans sometimes focus on our superficial differences: East River versus West River, Native American versus the sons and daughters of pioneers and immigrants. Today, we are one State, united in sadness over the deaths of our soldiers, and pride over the noble lives they lived.

I yield the floor. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. FRIST. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

OBESITY

Mr. FRIST. Mr. President, I rise for a few moments to speak to a once silent, now highly visible epidemic that plagues every neighborhood in this country. It is an epidemic that plagues our schools. It is an epidemic that plagues our school grounds. It is an epidemic that plagues youth in our playgrounds and it plagues older people in the workplace. It is a plague that in many ways is a new problem—a problem that is only really 15, 20, maybe 30 years old—but it is a problem and a plague that is growing. It is one that specifically hurts children, and, indeed, once it attacks our children, it can destroy in many ways their future quality of life and their future life in terms of longevity. This epidemic, this plague, is childhood obesity.

Just this summer, the Food and Drug Administration announced it will require food labels to list trans fatty acids. Most people do not know what trans fatty acids are; people do not know exactly what they do. But they do things which make in many ways food taste better. They make foods last longer. They give flavor to foods. They increase shelf life. The problem is that these trans fats contribute to heart disease. Heart disease is the No. 1 killer in the United States of America today.

For 20 years, before coming to the Senate, I spent my life in medicine and ended up gravitating to this field of heart disease. It wasn't as big of a problem in the late 1970s or early 1980s, but it was there. What bothers me most is that it is skyrocketing today, and it is increasing faster among adolescents—children—than it is among anyone else.

It is interesting. If my colleagues are listening to me, the likelihood is one out of every two of you is going to die of heart disease—not just my colleagues but on average around the country. That is how common heart disease is in terms of mortality.

Various food companies really deserve praise for their plans to reduce the level of trans fats in their most popular products. These are important advances in public health, and I applaud our food manufacturers for stepping up and taking this leadership position.

Ultimately, however, the responsibility for this growing, skyrocketing epidemic rests with all of us—individual consumers, American consumers—you and me—and all of us because ultimately we make that decision for ourselves in terms of our shopping, in terms of how we conduct our lifestyle, how much exercise we get, and what we eat.

But the point is that we have an epidemic. It is hurting specifically children. Children are really condemned to a lower quality of life because of this epidemic. But the good news is that there is something we can do about it; we can reverse these trends.

Sixty percent of Americans today are overweight. More than one out of two are overweight. By itself, obesity might be considered just another choice we have in life, that we just choose, that is what we do, and, if it hurts us, that is just the way it goes. It is more than just another choice. It really does come down to what we do, which may not be a choice in part because there may be even a genetic component to it. We don't know for sure. But researchers in England believe they have discovered a gene which they are calling an obesity gene that some way predisposes some to overeat. It is a choice in terms of lifestyle: People choose to take the metro or the subway rather than walk. We know our children in schools today are exercising a lot less. We know that our kids today are spending a lot more time in front of the television or at the computer and are less likely to be exercising.

Whether by choice or by some combination of genes and environment, we know obesity is now a major public health threat in the United States of America. Obesity contributes directly to heart disease but also to diabetes. Diabetes is reaching epidemic proportions in our children today. It directly contributes to other illnesses, including cancer and stroke.

There are 300,000 deaths a year that can be directly attributed to fat. The epidemic is spreading in faster and faster proportions with our children. The percentage of kids age 6 to 19 who are overweight has quadrupled since the early 1960s. It is not a static problem; it is getting worse.

Pick any city in the country. Look at New York City's public school children, nearly half are overweight; one in four is obese. The problem is particularly acute among African-American and Hispanic children, especially Hispanic boys. More Hispanic boys than Hispanic girls are obese. In my own State of Tennessee, the statistics are even worse.

Nationwide, type 2 diabetes, the kind of diabetes that is associated with obesity, is skyrocketing. At the Centers for Disease Control and Prevention, estimates are that one in three Americans born in the year 2000 will develop diabetes in their lifetime. One in three Americans born today will develop diabetes in their lifetime. This is attributed to obesity. It is attributed to being overweight. Among African-American and Hispanic children that number is not just one in three Americans, but it is one in two Americans in those populations that will develop diabetes in their lifetime.

People say diabetes is bad and that should be reversed. But it is even worse than saying it is just diabetes because diabetes itself is the leading cause of kidney failure, which is renal failure. Diabetes is the leading cause of heart disease. Diabetes is a leading cause of blindness as well as amputations. It all starts as a child, who, in this growing epidemic, is led to be obese.

As adults, we know how hard it is to battle the fat or the battle of the bulge. We all struggle with that in our environment of fast food and transportation. It is very easy to find excuses not to exercise four times a week for 30 minutes. But imagine struggling with obesity when you are just 10 years of age, where this is reaching those epidemic proportions. Teachers say they see the physical toll on their students every day. Kids are out of breath walking up the school stairs. Kids are not able to participate fully in sports. Kids are not able to participate when they do field trips and go outside, activities we associate with playing and vigorous childhood activity. Kick-ball, jumping rope, and climbing trees for many children today, unlike in the past, have become grueling exercises that, indeed, they try to avoid. They say they will not participate because they are embarrassed to participate.

Mr. President, 25 percent of our Nation's children say they do not participate in any vigorous activity today. That is one out of four children. Obesity is not only robbing them of those

everyday pastimes, it is also robbing them of their childhood years. Obesity is associated with the early onset of puberty among girls.

According to a study from the University of North Carolina, 48 percent of African-American girls begin puberty by age 8; over a quarter by age 7.

Yes, we are in the midst of a national health crisis. It is harming our children in ways that we can observe, but the crisis also occurs in ways we cannot observe. It threatens their future. It also condemns their future in many ways to the lower threshold of having other adult diseases if they start as a child being obese. They carry that with them for the rest of their life.

It affects what we call their morbidity, the relationship to other disease patterns. It affects their longevity in terms of length of life.

There is a lot we can do. We cannot just talk about it. The Surgeon General, Dr. Richard Carmona—for whom I have tremendous respect—is so alarmed, this month he urged the American Academy of Pediatrics to step up the fight against childhood obesity. In the Washington Post yesterday, Rob Stein wrote an article ''Obesity on FDA's Plate'' and he pointed out the Food and Drug Administration has launched an initiative to determine how and in what way it can play a role in helping to fight obesity, which, as the article points out, has reached epidemic proportions in this country.

In that article from yesterday, FDA Commissioner Mark McClellan—again, a physician for whom I have great respect and with whom I have worked in many capacities before; he is doing a great job at the FDA—said:

> The issue of obesity challenges us in every aspect of our efforts to protect and advance the public health, and that is why it needs to be front and center of our public health agenda.

The good news to all this is that there is action in government that obesity is both treatable and preventable, which means there are things we can do to reverse the epidemic. We can reverse the trends. We must reverse the trends. It is now time to put our minds to it in this body.

I am gratified by the action of the HELP Committee which unanimously approved recently the IMPACT Act, the Improved Nutrition and Physical Activity Act. I urge my colleagues to look at this piece of legislation. I urge my colleagues to support this legislation. I hope we can bring it to the Senate floor in the near future.

Very briefly, this act takes a multifaceted approach. It emphasizes youth education to jump-start healthy habits. We know if they begin in their early years, they are carried through life. It funds demonstration projects to find innovative ways to improve health, eating, and exercise and includes vigorous evaluations so we can learn what works best in reversing this epidemic. It does not attempt in any way to control what individual Americans eat or drink. It does not outlaw so-called bad foods. It does not try to replicate the $1 billion diet industry that we know exists. It does not try to replicate the fitness industry, which is actually doing a wonderful job around the country.

It does have a modest pricetag reflecting on the appropriate role of the Federal Government to set this platform to combat this epidemic.

There is no single solution to the growing epidemic of obesity. I believe we must increase awareness of it first and then implement programs we know will have an impact; look at the medical consequences. That is why I come to the Senate floor to share the medical consequences that are totally avoidable if we act, if we educate, and if we adopt practices that we know will work.

We do know the consequences of obesity today. We can and should keep our kids safe by keeping them fit. I look forward to working with my colleagues on this very important issue. It is a new problem, a growing problem, a problem we are obliged to reverse.

Mr. REID. Mr. President, I wish I listened to the speech before I had lunch.

On a serious note, Senator DURBIN is here and he will start talking about the Medicare bill that will soon be taken up in the Senate. I think the leader would agree that people should come now and start talking about this most important piece of legislation.

Senator DURBIN is in the Chamber to talk about it. I think we should invite all Senators because the time later could be a little more constrictive.

I also say, on a serious note, about the speech the distinguished majority leader just gave, one of the reasons the leader has such high respect on both sides of the aisle is we know of his background. It is not often we have someone of his medical talents come to this body. In fact, no one has ever had the same background. He uses it in such a dignified way, in his charitable work when we are on break, doing things for the less fortunate in Africa and other places. And here, it is always good for us to know that when we do deal with health issues, he is here.

So I speak for the entire Senate when I say this presentation he just delivered on obesity is something we should all pay attention to because I know this is not a speech that someone prepared for him; this is something he spoke to with his knowledge as one the finest physicians in America.

The PRESIDING OFFICER. The majority leader.

Mr. FRIST. Mr. President, I appreciate the comments, through the Chair, from the assistant Democratic leader. One of the great things about these issues is we do have the opportunity here to work together on both sides of the aisle on issues which affect people broadly. I very much appreciate his comments in that regard.

I do also add the point, and reinforce the statement the Senator made, that over the course of the afternoon we would like to shortly—and, hopefully, a little bit after 2 or after the appropriate comments are made on Medicare—go to Healthy Forests. We are waiting on some final agreements, but hopefully we can address that today.

But what I really want to say is, this is exactly the way to handle it. I encourage people right now to come and make their statements and make their points and have the debate on Medicare. The bill is out. The bill has been filed. People have access to that bill. I think everybody should take that opportunity, this afternoon, through tomorrow, and through the weekend, to come to the floor to begin talking about that very important issue.

We want to make the very best use of time today, tomorrow, and Sunday, in all likelihood, and Monday, on that issue as well as others. It may be confusing to people. We will be going back and forth because we have a lot of business to do. So we will be on Medicare, and then we will take up Healthy Forests, and then I encourage people to come back and begin Medicare.

I yield the floor.

The PRESIDING OFFICER (Mr. COLEMAN). The Senator from Illinois.

Mr. DURBIN. Thank you, Mr. President.

I join my friend and colleague from Nevada, Senator REID, in saying to Senator FRIST, thank you for your leadership. We disagree on issues from time to time, but we agree on some, too. You have been an exceptionally good leader on the Republican side. I have said this to you privately, and I want to make it a matter of public record: I think you have been eminently fair to the minority in this Senate. And that is, I am sure, not an easy task. There are certainly forces at work in your party, as there are in our party, calling for a different outcome.

But I applaud you for your fairness in allowing the minority on this side of the aisle an opportunity to debate, offer amendments, to express our points of view, and bring an issue to a vote. I do not think a member of any legislature—national or State—could ask for anything more. I think you have worked long and hard to make that a hallmark of your leadership.

As a member of the minority, let me say to the Republican leader, thank you for your service to this institution. You have been a great asset to our Nation and to this body.

MEDICARE AND PRESCRIPTION DRUGS FOR SENIORS

Mr. DURBIN. Mr. President, let me, if I may, address another issue which is about to come before us. If you follow boxing and have watched any big championship fights, you may know that it comes at the end of the evening. During the course of the day and afternoon and the early evening hours, there are preliminary fights, and they are interesting, but they are young

boxers who are untested. But the excitement builds and the attention of the audience builds for the prize fight, the heavyweight championship fight, always the last thing on the card.

Much the same occurs in Washington, DC. We have a lot of preliminary fights that lead up to the championship. You are here witnessing on the floor of the Senate today, and in the closing days of this session, the heavyweight fights.

We just finished one. That was the Energy bill. This was a controversial issue of some 1,400 pages that had been debated for years. It came to the Senate floor and just a short time ago was basically stopped. A filibuster prevailed by a bipartisan rollcall with, I believe, six Republican Senators and a number of Democratic Senators. The Energy bill was stopped. It was a heavyweight fight because those supporting the bill include the biggest energy interests in America, the big oil companies.

Certainly the President and the Vice President and the Republican Party, which controls the House and the Senate, were, by and large, anxious to pass this bill, and we had a confrontation on the floor and my position prevailed on that. It came as somewhat of a shock to people who follow this Senate. It is not very often that the favored side in one of these debates loses. And just a short time ago they did, by two votes. They needed 60 votes to stop the debate and move the issue to a vote, and the motion to stop that debate did not prevail; it only received 58 votes.

Well, the windows are open now, and there is anxious negotiation and a lot of effort underway to try to find two more votes. And I would imagine, in the closing days of the session, we may see this issue surface again. I could express myself in saying I hope it does not, but it makes no difference what I hope. I am in the minority here, and the majority will decide whether they have the votes to bring it to closure.

That is one of the heavyweight fights. But there are two more coming, two more that will affect virtually every family in America.

One is an omnibus appropriations bill, with five major appropriations bills lumped into one, that is now in conference, a conference on which I serve; and debate is underway. The debate is behind closed doors, and I, frankly, do not know what is happening there. But before we can leave, we need to pass that bill. It could include a myriad of issues, issues as farflung as stem cell research in medicine, issues as diverse as education, transportation. All of these issues could come before us in that large bill. That is another heavyweight fight.

But the one I come to address today is one that has received a lot of attention across America for a long time, and it is likely to receive even more attention in the closing days of the session, both in the House and in the Senate.

The issue is the issue of prescription drugs, particularly for seniors. I do not know of a single Member of the Senate who has not expressed support for finding some way to help seniors pay for prescription drugs.

We all know what has happened here. We have more and more and better and better prescription drugs available across America, and a lot of people have learned—in my family and yours, too—that if you take the appropriate medication, with the advice of a good physician, your life can be healthier and you can be stronger and more independent.

So people try to find the right drugs to keep them healthy and to move along with the happiness of life, trying to avoid going in for hospitalization or surgery. Prescription drugs are an important part of that.

But, sadly, prescription drugs for seniors in America are not covered by Medicare. So unless you are in a hospital receiving those drugs, you have to pay for them. For a lot of seniors, it is too expensive. There are people living on fixed incomes under Social Security or relatively small pensions. They have a few assets left on Earth, maybe a home they saved up for all their lives and a car, and they are trying to figure out how to pay several hundred dollars per month for prescription drugs they need, and they can't afford it. So, many do not take the drugs, some take half of what they need, and many find themselves in a terrible, perilous personal position.

We have come forward and said: We should change Medicare. If Medicare covers your illness when you go into a hospital, why wouldn't Medicare cover the drug that would keep you from going into the hospital? That makes eminent sense not just from a human point of view but from an economic point of view. It is money well spent to keep people healthy and to pay for prescription drugs.

So we had this debate, and it went on for years, and we talked about how to do it, and we did not get much done. But we did finally pass a bill out of the Senate, a bill which I supported. It was not the greatest bill. In fact, there were some aspects of it I thought were pretty bad.

Then it went into a conference between the House and the Senate, and they started working out differences. Then something unusual occurred. Someone in the House of Representatives decided that this debate was not about prescription drug benefits for seniors; no; they said this debate is really about the future of Medicare, the whole program.

It isn't about adding a benefit for seniors to pay for prescription drugs but how we are going to change Medicare in the future. Republican leaders in the House said the best way to change Medicare is to change it as a government insurance program and instead let private insurance companies, HMOs, offer Medicare coverage in the future.

My experience as a Senator from Illinois and as a Congressman is that HMOs can break your heart. They cost a lot of money. They deny care, they limit your choice in terms of doctors and hospitals, and, frankly, when the going gets rough and they are not making enough money, they cut and run. Is that what we want to hold out as the future of Medicare? I don't think so. But a lot of people do.

The Republican majority in the House certainly believes that, and that is what they have pushed now in this so-called prescription drug bill. It is no longer a bill about just paying for the prescriptions. It is now a bill about changing the face and future of Medicare. That, to me, makes a substantial difference in our mission and what we need to do.

The bill, as it is currently written, is not a bill which I can support. I guess the biggest disappointment I have is the fact that we started off with such a valid goal and such a lofty purpose. We were going to help our mothers and fathers and grandmothers and grandfathers pay for their prescription drugs. Now we have gone far afield. There are many who want to change Medicare.

Let me ask you: If you stepped back in the course of legislation and wanted to determine whether or not it was good for consumers and families in America, isn't it fair to say that one of the first questions you would ask is: Where does the money go? Who ends up profiting from this bill, and who ends up losing as a result?

Clearly, you want to turn first to the pharmaceutical industry, the people who sell drugs in America. I will readily concede this is one of the most important industries in America. We lead the world in breakthrough drugs and pharmaceuticals. I want to make certain that these drug companies in my State and others are profitable; that with their profits they can fund research to find new drugs. I want to make certain that those drugs are available to Americans. That is something on which everybody agrees. But sadly, what we find in this bill is that the pharmaceutical industry is cheering the loudest for the bill to pay for prescription drugs. That leads us to ask some serious and important questions.

First, let me show you how profitable drug companies are in America today. Take a look at the profitability of Fortune 500 drug companies versus the profitability for all Fortune 500 companies in the year 2002. The red bars indicate the profitability of the drug companies, the drug industry median, and the yellow bar is all other Fortune 500 companies. You can see profits as a percent of revenue in the first illustration, 17-percent profit for the drug industry; 3.1 percent for the rest of the Fortune 500 companies. You can see profits as a percent of assets, 14 percent. Then when it comes to profits as a percent of equity, 27.6 percent for the

pharmaceutical companies; 10.2 percent for the rest of the Fortune 500. So it is very clear that we are talking about a profitable industry.

Here is another illustration of the same point. This is an indication from Fortune magazine of the most profitable industries in America, with 2002 profits as a percentage of revenues. No. 1 on the list is pharmaceutical companies. Pharmaceutical companies are extremely profitable in America today. We understand that. We ought to keep it in mind as we discuss how we are going to pay for prescription drugs for seniors.

Then I would like to show you what some of the people who are the CEOs of managed care companies earn. Here we have a chart that shows the chairman of Aetna, John Rowe, his compensation, exclusive of stock options, $8.9 million; Anthem, Larry Glasscock, president and CEO, $6.8 million; CIGNA, Edward Hanway, chairman and CEO, $5.9 million—this is exclusive of stock options which are usually considerably more—Coventry, Allen Wise, president and CEO, $21.6 million annual compensation; Health Net, senior vice president, $6 million; Humana, president and CEO, $1.6 million—that is pretty small in comparison—then Oxford, Norman Payson, former chairman and CEO, made $76 million; PacifiCare—you may have seen the ads that show the whale flopping in the water—Mr. Howard Phanstiel is not a flop when it comes to his salary, $3 million; Sierra Health, Dr. Marlon, chairman and CEO, $4.7 million; UnitedHealth, Channing Wheeler, chairman and CEO, $9.5 million; WellPoint, Leonard Schaeffer, chairman and CEO, $21.7 million.

The total compensation for these 11 executives at these managed care companies is $166.3 million. Their average compensation, $15 million.

We are struggling to figure out how people who make $200 or $300 or maybe $500 a month can survive. And we are dealing with two industries that are extremely profitable. The obvious question we should ask is: What is fair? What is fair compensation to the pharmaceutical companies and managed care companies, but what is fair to the seniors in America? Therein lies the problem.

This morning's Washington Post, on page A4 in the first section, I think, is written an article that every Senator should read, and those who follow this debate on prescription drugs.

It is entitled ''Drugmakers Protect Their Turf.'' It says: ''Medicare Bill Represents Success for Pharmaceutical Lobby.'' Let me read a little bit from this article:

> No industry in negotiations over the $400 billion Medicare prescription drug bill headed to the House floor today outpaced the pharmaceutical lobby in securing a favorable program design and defeating proposals most likely to cut into its profits, according to analysts in and out of the industry.
>
> If the legislation passes as Republican leaders predict, it will generate millions of new customers who currently lack drug coverage. At the same time, drug manufacturing lobbyists overcame efforts to legalize the importation of lower-cost medicines from Canada and Europe and instead inserted language that explicitly prohibits the federal government from negotiating prices on behalf of Medicare recipients.

The pharmaceutical lobby has become the biggest player in Washington, DC. When I got here, it was the tobacco lobby. I know it because I fought them—beat them a couple times, too—over the course of my career. They had more money than friends, and they went out to buy a few friends, and they did.

Listen to what the pharmaceutical companies have done:

> After objecting for years to proposals to add prescription drug coverage to Medicare, the pharmaceutical lobby recently shifted position and poured enormous resources into shaping this legislation. Since the 2000 election cycle, the pharmaceutical industry has contributed $60 million in political donations and spent $37.7 million in lobbying in the first 6 months of this year.

Thirty-seven million dollars on Capitol Hill? You will meet these fine men and women in their beautiful suits and well-shined shoes in the lobbies right outside this Chamber. The article goes on to say:

> The lobbying continued in earnest this week with a television and print advertising campaign urging passage of this bill. In one series of witty commercials sponsored by the industry-backed Alliance to Improve Medicare, elderly citizens look into the camera and demand: ''When ya gonna get it done?''

I think I may have a copy of that ad somewhere around here. You have seen it. The fellow is pointing to Congress saying, ''When ya gonna get it done.'' That is paid for by the pharmaceutical companies. So if we are talking about helping seniors pay for prescription drugs and the pharmaceutical companies can't wait to see this legislation passed, what does that tell you? It tells you they are not going to have to cut their prices. It tells you they are going to make more money. It tells you that ultimately we are not producing a bill which helps consumers and families and senior Americans. We are creating a profit opportunity for pharmaceutical companies that already lead the Nation in profitability.

The pharmaceutical lobby is so strong in this town that they have been able to deceive the American people into believing that this prescription drug package is somehow going to cause some sacrifice on the part of pharmaceutical companies. It will not.

They are the big winners in this, just as the big oil companies and energy companies would have been the big winners in the last bill. This is the heavyweight fight, the match you can expect to see in the closing hours of this session.

Let me tell you, in closing, what the Washington Post says this morning:

> Perhaps the most striking political victory for the pharmaceutical industry was the decision to reject provisions that would have allowed Americans to legally import drugs from Canada and Europe, where medications retail for as much as 75 percent less than in the United States. Polls show that an overwhelming majority of Americans support that change, and the House approved a measure 243–186. But the Bush administration and the pharmaceutical lobby said the move was dangerous and would cut into future research and development. The provision was dropped from the bill's final version.

So why would people want to import drugs? I think we know the answer. They are cheaper. The same drug made in the United States by an American company, based on research paid for by the Federal Government many times—that same drug for sale in Canada is a fraction of the price. Why? Why is it cheaper in Canada or in Europe, if it comes from the same American drug company? Because we are not importing drugs from Canada or Europe; we are importing leadership.

The Canadian Government, and governments around the world, have decided to stand up to the pharmaceutical companies and tell them there is a limit to how much money they can charge for their drugs. Our Government is unwilling to do that. This bill will not do that. Instead, what seniors have been forced to do—and families, I might add—is to pay high pharmaceutical drug bills, and some are going to Canada trying to keep up with the costs. This bill closes that border for the reimportation of drugs from Canada—meaning that America's senior citizens will continue paying the highest drug prices in the world.

This is all in the name of a prescription drug benefit for those seniors. So it is natural that pharmaceutical companies are spending millions of dollars trying to urge Congress to pass this bill as quickly as possible. The ads that they run—some are directly from their own front organizations, but others come through organizations such as AARP. I know about AARP because once you reach age 50 in America, they start filling your mailbox with solicitations for membership. I have been rejecting those for many years. I don't plan on being a retired person soon. However, the voters will have the last word on that decision.

Here is their full-page ad calling for Congress to pass the proposed prescription drug Medicare bill. Honestly, I think if you looked under the lid, you would find that AARP money to pay for this ad comes through the pharmaceutical companies that cannot wait to see this bill passed. It means more money for them. They want to cut off the sources of drugs coming in from Canada and Europe so they can really charge seniors the highest prices in America.

Let me give you an illustration of what competition can mean when it comes to drug prices. If you said to people: Do you want price controls from the Federal Government, they would say: No, no, no, that is too much Government.

But if you say: Would you want your Government to bargain for the best prices for people who need prescription drugs, most people would say: Why, sure. And why wouldn't they? You could say to them: Do you realize we do that now?

The Veterans Administration does that today; it bargains with drug companies so veterans get cheaper drugs, and the Veterans Administration pays less. The Indian Health Service does it, and some community health centers do it. States also do it through the Medicaid programs. They bargain with them successfully. A lot of people are not covered in those groups—veterans health care, Indian Health Service, or Medicaid. They are left totally unprotected, with no bargaining power.

Look at this chart. These are some fairly common drugs. Xalatan is an eyedrop. If you buy this at the Federal supply schedule price, it is $41 for the prescription. If you go to the drugstore to buy it, it is $101. So we manage, through the Federal Government, to bargain with the drug companies and bring prices down for some people.

Celebrex, for arthritis, is $108 on the Federal Supply Schedule. That is what we pay because we bargain down the price. If your grandmother goes into the drugstore to have that filled, she will pay $173—$65 more.

Lipitor, a very valuable and important drug, is $215, based on what we have negotiated and bargained. If you pay the full price at the drugstore, which many American seniors do, it is $446.

Plavix, for stroke, is $257. It is $593 at the drugstore.

The point I am making is this: This bill is designed so that the Federal Government is prohibited from bargaining and negotiating for lower prices for seniors across America. That is why the pharmaceutical companies are so wild to pass it. That is why they want to see this enacted as soon as possible. It closes down competition. You can no longer go over the border to buy drugs in Canada or Europe, and you cannot find the Federal Government standing up for you and bargaining for seniors to bring down costs.

That is why the pharmaceutical companies are salivating. They cannot wait. They want to see this thing passed because, frankly, it means less competition. So who pays the highest prices for prescription drugs in America today? The people who can afford it the least—senior citizens on fixed incomes.

Even with the prescription drug benefit in this bill, there is no cost containment, no effort to keep the prices under control. So no matter how much money you put into this prescription drug benefit, it is going to go bankrupt because prescription drugs go up in cost 10 to 15 percent a year, and they will continue to. That inflation is going to destroy this program, and it is going to destroy seniors, because this Congress and this President refuse to confront the pharmaceutical companies.

In Canada, their government stands up for their people and says to American drug companies: We are not going to let you gouge or take advantage of our people when it comes to prescription drugs. Our Government refuses to do that. As a result, we find ourselves in this predicament. AARP and others are pleading for a prescription drug benefit that, frankly, has no cost containment built into it.

I came to the floor during this debate and urged colleagues to give to the Medicare Program the ability to bargain, which is what we give to the Veterans Administration and other Federal agencies, to let Medicare go to the drug companies and bargain for the best price for Medicare recipients across America. I was summarily defeated. The pharmaceutical lobby prevailed. I think that answered the basic question as to whether this bill truly will lead to lower drug prices across America. It will not. It will help some seniors pay for drugs, but the cost of drug prices will continue to skyrocket, and the competition from Canada and Europe will disappear. It specifically prohibits the Federal Government from negotiating on behalf of Medicare recipients.

This bill rewards pharmaceutical companies and HMOs—insurance companies. The pharmaceutical companies are going to gain, the Medicare purchasing pool is divided to prevent large group purchasing discounts, and the House language on reimportation was rejected.

There is another element. One of the ways to cut the cost of drugs is to encourage the use of generics. Once a drug has been discovered, it is the exclusive right of the drug company to sell it under a patent. During that period of time, nobody else can make that drug and sell it. When the patent expires, everybody can make the same drug and they do it under a generic name.

You may remember Claritin, with all the ads on television that showed the happy faces skipping through the field of wildflowers saying, ''I don't sneeze anymore.'' It went off patent and it is now available over the counter. So they came in with Clarinex—I think that is the name.

So once you see the generic drugs come in, the prices go down for consumers, and they get the benefit of what was a pretty expensive drug for a long time.

We tried in the Senate to make sure there were more generic drugs for sale because it is a good way to keep everybody healthy at a lower cost. It turns out that the pharmaceutical companies didn't care for that at all. They want people to pay for the more expensive drugs under patent. So they ended up weakening the language we had, which would have allowed generics to come to the market more quickly so seniors could take advantage of it. Also, this would weaken the ability of States to negotiate with drug manufacturers.

Some States are way ahead of the Federal Government. Oregon is one, and my State of Illinois has a plan. The ability of each State to bargain for the people living in that State is also restricted by this bill because all drugs are paid for through Medicare—something else the pharmaceutical companies wanted. They don't want to have to bargain with anybody. They want to charge top dollar. They don't want any voice from consumers or Government to reduce their profitability, which is already at record-breaking levels. They have been successful. They cannot wait for this bill to pass because they are already profitable, and this bill will enhance their profits even more.

Under this bill, seniors will receive a benefit that will cover less than 20 percent of the projected drug costs for seniors over the next 10 years.

A break-even point of $810 is what you have to put in, in payments and copayments, before you get anything back, which means about 40 percent of seniors will either lose money or gain very little under this prescription drug plan.

There is also a hole in this plan. It is complicated, but I will try to explain it, and it has been changing, even this week.

The coverage on this plan, once you make your monthly premium cost and once you pay your copayment—and then understand that you have to pay 25 percent of the cost of the drug itself—the coverage goes up to a certain point and then it stops. If you are still paying for drugs at that point, you have to go to your pocket to pay out. Then when you reach the higher level, it kicks back in again. So there is a period where you are, frankly, not covered.

If you have expensive pharmaceutical costs, you buy into the program, you make your copayment, and you are paying a percentage for each prescription you take, at a certain level the Federal help stops. Then if you keep paying out of pocket without Federal assistance, it kicks in again for catastrophic coverage. Let me try to describe where it is today.

The reports in the news have been, frankly, misleading. They have been reporting the catastrophic cap in the Medicare prescription drug bill is $3,600. It is not true. It is $5,100. So the gap between $2,250 and $5,100 is $2,850, the total out-of-pocket expenses for which seniors will be responsible is $3,600.

We have a situation where at $2,250 worth of costs, the seniors are on their own. It turns out, according to the Congressional Budget Office, 30 percent of seniors spend between $2,000 and $5,000 per year on prescriptions. That is 12.6 million people. It basically means even though prescription drug coverage and this complicated scheme I just described has been offered, there is an exposure where seniors will have to pay

out of pocket, which will be a surprise to many of them, particularly when they are facing astronomical costs.

I had some examples made to give you some idea of what seniors might face in my State and others. One involves Mrs. Jones who has arthritis and takes Celebrex, which costs about $86 a month. Her husband has high blood pressure and takes Norvasc, which costs $152 per month. Under this plan, Mrs. Jones would pay at least $865. If her premium is more than $35 a month, she would pay more. There is no set premium in this bill. Mr. Jones will pay at least $1,064, for a combined cost of $1,929. This benefit will only cover a third of the drug costs of Mr. and Mrs. Jones.

There are other elements we ought to look at here. If you want to get the most help from this bill, you have to be in the lowest income categories. That is fair. I think that is the right thing to do. The people struggling to get by should get the first helping hand from our Government. They decide they are going to look at certain income levels as to whether or not you benefit from this prescription drug. Then they have an asset test which, as I understand it, is $6,000. That means if you have assets of $6,000 or more, you don't get the most help.

Some of these seniors, I know, have the old family car that may still be worth $6,000, and they would be disqualified when, frankly, they have almost no income and very few other assets on Earth.

The asset test is extremely low. Six million poor seniors will be made worse off by this bill. They previously paid nothing for drugs. They will now have to pay copays that increase annually.

Three million fewer low-income senior citizens will receive enhanced benefits than under the original Senate bill because of the strict assets test. Let me give an example.

If a senior has an income of $12,000 a year but owns a $6,100 savings bond, burial plot, insurance policy, or car worth $6,000 or more, they will not have access to low-income assistance. They will have to pay the full premium, deductible and donut, or the period where the Federal program does not apply.

That means if they have high drug costs, they could pay more than $5,000 a year for their medications simply because they own a burial plot and an insurance policy. That is what the bill says. That, frankly, is something about which we ought to be concerned.

We have to understand that when it comes to this prescription drug situation, most seniors are going to be stunned by it. I might add something else that is interesting. The decision was made by the Administration and the Republican leaders in Congress that this prescription drug plan would not go into effect until after the next election, a very interesting political move.

If this is really supposed to help seniors across America, wouldn't you think this President and this Congress would want to put it in place and activate it before the election?

The reason they won't is because it is extraordinarily complicated, it is unfair to many seniors, and it includes provisions that, frankly, seniors won't be happy with at all. So they want to put it off until after the next election, and that is what they have done.

One of the other concerns I have is the role of AARP in this whole conversation. AARP is an interesting organization. Most of us over the age of 50 receive a lot of solicitations. A lot of seniors 50 and older across America have joined. If you look at AARP, it is more than a feel-good operation to try to help seniors pay for trips overseas and maybe give them a few discounts.

It turns out it is a major earner of insurance money. Here is a chart which shows the insurance royalties at AARP over the last several years—insurance royalties which, frankly, indicate $111 million in 1999 up to $123 million in 2002. The same thing goes for the investments they have made. We can see that AARP makes a lot of money from the insurance business.

One of the companies they sell insurance with is UnitedHealth Group. It turns out, coincidentally, that UnitedHealth Group could be one of the biggest beneficiaries of the bill that is going to come before us. So AARP comes to this debate not with clean hands.

AARP is fronting for an insurance company that has the potential for dramatic profitability from this bill. So when AARP announces they are for this bill, they ought to be very honest with the seniors about what that means.

AARP receives millions of dollars from the sale of health insurance policies. AARP's insurance-related revenues made up a quarter of their operating revenues last year and one-third of their operating revenue in 2001.

They receive royalties from AARP insurance policies marketed to their members by UnitedHealth Group, MetLife, and others.

More than 3 million AARP members have health-related insurance policies from UnitedHealth Group. Last year, UnitedHealth Group earned $3.7 billion in premium revenues from their offerings to AARP members.

The royalties AARP earned as a result of lending their name to insurance products, as I mentioned, went up to $123 million in 2002. They received so-called access fees from insurance companies of over $10 million. They received something called a quality control fee of almost $1 million from insurers.

AARP also earns investment income on premiums received for members until the premiums are forwarded to UnitedHealth Group and MetLife. In 2002, AARP earned $26.7 million in such investment income.

There is a total of $161.7 million in revenue from insurance just in 2002.

According to Advertising Age magazine, AARP and UnitedHealth Group hired a direct marketing agency in May to conduct a marketing campaign for their insurance product that could cost $100 million.

UnitedHealth Group stands to gain significant portions of the new Medicare Advantage market that would be created by this bill, given that it is currently participating in a Medicare PPO demonstration project in eight States.

AARP can make a lucrative business even more lucrative by continuing its partnership with UnitedHealth Group. Let's take a look at AARP's advertising.

Last year, AARP earned $76 million on advertising. Their magazine, formerly called Modern Maturity, and now called AARP, The Magazine, has the largest circulation of any magazine in the United States, going to 21.5 million households.

The latest issue has three full-page ads for brand-name drugs, and another for a Pfizer glaucoma kit. It contains four ads for AARP's various kinds of insurance.

Combine that with the four ads for insurance in the November AARP Bulletin, and that is a lot of insurance advertising. The September/October AARP magazine and the October bulletin have a combined 14 ads for insurance.

There is a direct linkage between AARP and the insurance industry and another industry that stands to profit from this so-called Medicare prescription drug bill. It is interesting, too, that when the members of AARP were recently asked in a nationwide poll what they thought of this prescription drug bill that is pending before Congress, the results were amazing. A poll that was released 2 days ago showed that 66 percent of AARP members were somewhat or very unfavorable to the level of prescription drug coverage which I have just described in this bill. Eighty percent of AARP members do not believe this bill does enough to encourage employers to maintain current retiree coverage. Sixty-eight percent of AARP's membership were somewhat or very unfavorable to the following statement: This provision is designed to increase the number of seniors receiving their Medicare coverage through private health plans like HMOs and PPOs by significantly increasing Government subsidies for these plans.

So I would just ask this: If AARP is spending all of this money on behalf of their membership to promote a proposal which two-thirds or more of the members of AARP at this point oppose, what is driving this? I think it goes back to the earlier explanation. AARP is not acting as an advocate for seniors. AARP is acting like an insurance company. AARP has forgotten their mission. They have decided they have a new responsibility: They have to generate money from insurance companies.

Frankly, it is a sad situation because for many years AARP was respected across America for being a nonpartisan voice for seniors. Sadly, at this point in time they are not. As a result, there are very few who are standing up to speak for seniors and what they need.

When I take a look at this bill and what it does, it worries me that what started off as a prescription drug bill to help seniors has become so complicated that it is almost impossible to explain. It has gaps in coverage that will leave seniors without any help when they need it the most and instead is trying to dramatically privatize Medicare as we know it.

There are forces in Congress, primarily on the Republican side of the aisle, who want to privatize both Medicare and Social Security. That has been their goal. As a party, they never supported Medicare. Only a handful of Republicans voted for its creation. Over the years, they have made it clear where they stand. There was a time when former Speaker Gingrich and his assistant Richard Armey, who was a Congressman from Texas, said their goal was for Medicare to ''wither on the vine.'' That does not sound like a group that really is supportive of the program. Instead, it sounds like a group that will look for every opportunity to make sure that Medicare is not as good as it should be.

So ultimately what they are proposing is this: They are going to move Medicare from the program we know today, a Government-run program with low overhead and low administrative costs that serves all Americans universally, to a new model which will bring in HMO insurance companies to cover senior citizens.

Naturally, they are afraid the free market will not work. So they put in generous subsidies to these HMOs so that they will lure away seniors out of Medicare. Here is how this will work: An insurance company wants to insure the healthiest people it can find. Insurance companies do not go out and look for sick people. Insurance companies try, if they can, to exclude from coverage anybody who is going to be expensive. Understandable. If they reduce their risk and exposure, they increase their profitability. So these HMO companies, which are being designed to lure away seniors from Medicare, are going to not only achieve this by looking for the healthiest seniors, they get an added boost from our Republican friends, our free market advocates who argue that they need a subsidy on top of the—billions of dollars in subsidies to these HMOs.

What is wrong with this picture? If one believes in the free market, why in the world would they subsidize an HMO company: so they could take the healthy people out of Medicare? That is exactly what they want to do. What will happen to Medicare then? There will be fewer people in Medicare because these Government-subsidized HMOs will be creaming off and cherry-picking the healthiest people and those left in Medicare are going to be poorer and sicker.

The net result of that is obvious. At the end of any given year, there is going to be a more expensive per-claimant Medicare cost. There will be sicker people left in Medicare.

Those who are opposed to Medicare and behind this idea believe that will drive down the popularity of Medicare. They will be able to stand on the Senate floor and the House floor and say: See, we showed you; Medicare just is not going to work; look how expensive it is for every senior under Medicare.

So they will have achieved their dream and goal by reducing the coverage of Medicare and convincing Congress not to stand behind it.

That is the goal of those who took what was a prescription drug bill, as complicated as it is, and turned it into a bill to privatize Medicare. That is what we have coming before us in the next few hours, in the next few days.

I think, frankly, that when one looks at the HMOs across America, they find that they are doing pretty well. They are pretty profitable, just like these pharmaceutical companies. The average compensation of a chief executive of the 11 largest insurance companies currently serving Medicare was more than $15 million—average compensation, $15 million. The former chairman of Oxford Health Plan—and I mentioned it earlier—was paid $76 million in 2002. According to Weiss Ratings, an insurance rating agency, profits for 519 health insurance companies they evaluated jumped 77 percent from 2001 to 2002.

UnitedHealth Group reported a 35 percent increase. That is the group that is joined at the hip with AARP, and both of them are widely applauding this new idea to move seniors out of Medicare into these HMOs, to privatize Medicare and raise the premiums seniors would have to pay under Medicare. So when we look at this alliance, we can understand why we have now come to the heavyweight division of the prize fights at the close of the congressional session. That is exactly what we are facing.

We have a situation where two of the largest lobbies in this town, two of the biggest special interest groups, two of the best financed industries in America, pharmaceutical companies and HMO insurance companies, are anxious to see us pass a bill which means more profitability for them. Sadly, it will be at the expense of the same people we were really trying to help in the first place.

When it is all said and done, the seniors will not get a helping hand. Drug costs are going to go up. The program they are proposing is so complicated, it is impossible to explain, so it is understandable, and ultimately Medicare as we know it, a program which has served America well for over 40 years, is going to be phased out and privatized and HMOs will take over.

Some people believe—and I believe they think it passionately—that the free market is the answer to everything. I would say to them, take a look at what the free market is doing to health insurance in America today. The free market is at work. The free market is in the process of doing what we expect it to do, increasing profitability. Ask anybody in America about health insurance costs or ask any group why they are going on strike in America. Nine times out of 10 they will say it is because of health insurance coverage: The company we worked for will not pay for the coverage; there is less coverage, and, frankly, we had to go on strike.

It is the No. 1 reason for work stoppages and strikes across America. It is the biggest problem in my State when it comes to business complaints. Health insurance companies are using the free market exactly as they are supposed to. They are reducing their exposure and risk, and they are increasing the cost to the people who need help. As a result, we are finding fewer Americans with worse coverage, and those who have it have worse coverage every single year.

The Republicans believe that that is what we should do to Medicare: We ought to let the same HMO companies that are fleecing businesses and families across America get their grimy hands on Medicare recipients. Let them, with a Government subsidy, lure away the healthiest Medicare recipients and leave the sickest behind. Now, that is good for the companies. It is not good for Medicare, it is not good for seniors, and I believe it is not good for America.

We are in a situation where we have an important decision to make. Some people have said to me: How can you possibly go back to your State and explain that you voted against a prescription drug benefit for seniors? Well, I think those people do not understand the seniors I represent and most seniors across America. These are people wise with years. These are people who have heard a lot of political promises. These are folks who are skeptical when politicians say: I am going to give you the Sun and the Moon. They ask hard questions.

When the seniors across America ask hard questions about this prescription drug benefit, they are going to be sorely disappointed. Two-thirds of seniors already say what they have heard is not enough. They do not want any part of it. That tells me that they are tuned in and following this debate. They want something that is basic, universal, and fair, something that does not come to them at the cost of things they value such as Medicare and Social Security.

Unfortunately, this program, which has been designed behind closed doors and is now being unveiled one corner at a time, is not going to meet the needs of seniors across America.

In the next few days, I am sure you will hear from my colleagues who are

going to come and will explain in detail why this is a bad idea. I think we started off with the right goal, to help seniors pay for prescription drugs. Today, with this bill, we will have failed in meeting that goal. That is why I oppose it.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I am under the impression that there will be a session of the Senate either tomorrow or on Monday or on Tuesday or on any number of those days. I am also under the impression that the Senate is rapidly, hopefully, approaching a sine die date for adjournment.

Being confronted with those expectations, I want to make a speech about Thanksgiving. I don't want it to appear in today's RECORD, necessarily, but I would ask for it to appear in the RECORD of the last day's session prior to Thanksgiving, whatever day that is.

I make such a unanimous consent request, that my speech not appear in today's RECORD but that it appear in the RECORD of the last day of the session prior to Thanksgiving.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The remarks of Mr. BYRD are printed in a future edition of the RECORD.)

Mr. BYRD. Mr. President, I yield the floor. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. COCHRAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. BURNS). Without objection, it is so ordered.

HEALTHY FORESTS RESTORATION ACT OF 2003—CONFERENCE REPORT

Mr. COCHRAN. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of the conference report to H.R. 1904, the Healthy Forests Restoration Act.

The PRESIDING OFFICER. Without objection, the report will be stated.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 1904) to improve the capacity of the Secretary of Agriculture and the Secretary of the Interior to plan and conduct hazardous fuels reduction projects on National Forest System lands and Bureau of Land Management lands aimed at protecting communities, watersheds, and certain other at-risk lands from catastrophic wildfire, to enhance efforts to protect watersheds and address threats to forest and rangeland health, including catastrophic wildfire, across the landscape, and for other purposes, having met, have agreed that the House recede from its disagreement to the amendment of the Senate to the text of the bill and agree to the same with an amendment, and the Senate agree to the same; that the House recede from its disagreement to the amendment of the Senate to the title of the bill and agree to the same, signed by a majority of the conferees on the part of both Houses.

There being no objection, the Senate proceeded to consider the conference report.

(The conference report is printed in the House proceedings of November 20, 2003.)

Mr. COCHRAN. Mr. President, I am pleased to present to the Senate the conference report on the Healthy Forests Restoration Act.

Senators may remember that this bill was passed by the Senate on October 30 by a vote of 80 to 14. It embodied a bipartisan agreement to improve forest health on both public and private lands. It provides Federal land managers the tools to implement scientifically supported management practices on Federal forests, in consultation with local communities. It also establishes new conservation programs to improve water quality and regenerate declining forests on private lands. The legislation will reduce the amount of time and expense required to conduct hazardous fuel projects.

The conference report retains provisions adopted by the Senate that will protect old growth forests. It improves the processes for administrative and judicial review of hazardous fuel projects. But it will continue to require rigorous but expedited environmental analysis of such projects.

The conference report specifically encourages collaboration between Federal agencies and local communities to treat hazardous fuels that threaten communities and their sensitive watersheds. It provides for expedited environmental analysis of hazardous fuel reduction projects adjacent to communities that are at risk to catastrophic wildfire. It requires spending at least 50 percent of Federal hazardous fuels reduction funds to protect communities.

It requires courts considering legal actions to stop a hazardous fuel reduction project to balance the environmental effects of undertaking the project against those of not carrying it out. And in carrying out hazardous fuel reduction projects in areas that may contain old growth forests, it requires Federal agencies to protect or restore these forests.

In other areas, it requires agencies to maintain older trees consistent with the objective of restoring fire resilient stands. It authorizes $720 million annually for hazardous fuels reduction activities. It provides grants for removal of hazardous fuels and other biomass to encourage their utilization for energy and other products. It provides for assistance to private land owners to protect and restore healthy watershed conditions.

It authorizes research projects designed to evaluate ways to treat forests to reduce their susceptibility to insects, diseases and fire. It also authorizes agreements and easements with private landowners to protect and enhance habitats for endangered and threatened species. And it encourages more effective monitoring and early warning programs for insect and disease outbreaks.

This conference report would not be possible without the active involvement of Senators on both sides of the aisle who worked hard together to develop this bill. I especially appreciate the able assistance of the distinguished Senator from Idaho, Mr. CRAPO, who chairs the Forestry Subcommittee of the Senate Agriculture Committee; the Energy Committee chairman, the distinguished Senator from New Mexico, Mr. DOMENICI, and his Forestry Subcommittee chair from Idaho, Mr. CRAIG, were also very helpful in guiding this legislation along its path passage.

The Agriculture Committee also had assistance of Senator LINCOLN of Arkansas and active involvement on her part in developing the bill, and we also had the benefit of suggestions and assistance from Senators WYDEN and FEINSTEIN who came to me early and asked to be a part of the effort to develop this bill. They were involved along with many others whose contributions were necessary to make the approval of this bill possible.

The Agriculture Committee also benefited from the assignment of an employee of the Forest Service, Doug MacCleery, who assisted our staff in the development of this legislation. We appreciate his assistance. And our committee staff did a superb job under the able direction of the Agriculture Committee staff director, Hunt Shipman.

Let's not forget, it was President Bush, the President of the United States, who recommended in the first place that Congress act on a healthy forest initiative. It was at his suggestion and his urgings that we pushed and pushed until we finally achieved success, with the adoption today by the other body of the conference report, on this bill. I must also mention the able assistance of his Secretary of Agriculture, Ann Veneman, who provided valuable insight and assistance all along the way.

I urge the Senate approve this conference report.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAPO. Mr. President, this is truly a historic day. As the Presiding Officer knows, we have worked literally for a decade or more to try to find a path forward in the area of finding a solution to the problems we face in our national forests.

In recent years, we have seen an average of 4 million acres a year burn. We have seen devastating wildfires this

year that have destroyed not only tremendous amounts of property and environment in our forests, but have also taken lives. We have seen insect infestations that have jeopardized the future of one of the most incredible environmental resources we have in America, our forests.

All of it has occurred while we have been battling in the courts, trying to find a path forward simply to allow our forest managers the ability to implement their forest management decisions, to deal with insect infestation, to deal with the threat of catastrophic wildfire, and to help preserve the great legacy we have in America, in our forests.

I stand today to thank those in our Senate conference who have worked with us to build and strengthen the bipartisan solution that has brought us to this point.

Sitting here beside me is the Senator from Mississippi, THAD COCHRAN, chairman of the Agriculture Committee. Without Senator COCHRAN's able leadership, without his patience and his wisdom in guiding us through this process, we would not be here today. I want to personally thank him. I thank him, as well, on behalf of a grateful Nation for the skill and the patience he has given us to help bring this bill forward.

Also, I thank Senator LARRY CRAIG, my colleague from Idaho, who has worked on this issue tirelessly for the better part of the last decade to try to help bring America to an understanding of the need for reform, and for helping us work through a bipartisan solution in the Senate. Senator CRAIG deserves great praise and commendation for his untiring work to help give us the possibility of being here today—just a short time away from successfully passing in both the House and the Senate this Healthy Forests legislation.

Also, Senator DOMENICI, chairman of the Energy Committee, has worked tirelessly on this issue and he deserves to be thanked for his tremendous efforts. Not many people follow it this closely, but there is forestry jurisdiction in both the Energy Committee and the Agriculture Committee. Senator COCHRAN chairs the Agriculture Committee, and Senator DOMENICI the Energy Committee. By coincidence, both of the Idaho Senators chair the respective subcommittees on forestry. Senator CRAIG chairs the subcommittee on forestry in the Energy Committee, and I chair the forestry subcommittee on the Agriculture Committee. Together, on the Republican side, we have developed a strong team to work in the Senate.

I also thank Senator BLANCHE LINCOLN, from Arkansas, for stepping forward as the ranking member on the forestry subcommittee and working with me to develop the senate bill that set the mark for improving this legislation and moving it through the Senate. We then expanded that bipartisan base and worked with Senators FEINSTEIN from California, WYDEN from Oregon, and others, including additional Republicans and Democrats, all of whom came together to bring a bipartisan solution to the Chamber.

It was not easy. There were many who wanted to use this issue to further their political efforts, to either cause further strife and conflict on the issue surrounding our forests or to simply promote some agenda that was not consistent with our efforts to move forward on a bipartisan basis to protect and preserve our forests.

We fought many battles over the last 2 or 3 months, and they were the resulting, concluding battles in a crescendo that has been developing over the last decade. When we were done, we needed to work with the House of Representatives. There was concern at that point. There was actually another filibuster to stop us from even going into conference with the House because there was concern that the bill would be changed too much in ways that would not allow us to find a common consensus-based path forward.

Yet we have gone on together, again, in that bipartisan fashion that we developed in the Senate to work in a bicameral fashion and bipartisan fashion with the House to come together with this legislation that is now before us.

As many of us said as we developed this legislation, it is not necessarily what any of us would have written had we had complete control over the issue. But it is the result of what can happen if we work across party lines, across the lines of the rotunda between the House and Senate, and across regional lines in our Nation, to try to make sure that we get past the politics, the partisanship, past the personal attacks, and focus on the principles that will allow us to move forward and develop positive legislation such as that.

I am confident this legislation will pass the Senate today. I am confident that when it goes to the President's desk, he will sign it. The United States will have taken a very big step forward in terms of preserving one of the great environmental legacies we have—our forests; we will have taken a step to protect and preserve our rural areas in America; we will have done much to protect our great firefighters, many of whom gave their lives this year, and in previous years, in trying to protect our forests and our communities; we will have put statutory protection in place for old-growth forests in our Nation; we will have worked to develop small-diameter timber and other uses of those parts of our forests that need thinning; we will have taken steps to make sure that rural communities such as Elk City, ID—literally at the end of the road—do not face the potential devastation a wildfire could cause not only to their economy but to their safety and the community at large; we will have protected the wildland urban interface, where so many of the people who now live in urban areas find their homes and lives and property threatened by the danger of uncontrolled wildfire.

All of these things will be brought together because we were successful today and, over the past few years, in bringing together the kind of politics that America wants, the kind of politics that is good and beneficial, that helps us to cross the divisions and eliminate those conflicts that so often bring us to a stalemate or a stall on the floor of the Senate or on the floor of the House.

Mr. President, again, I thank all Senators and all of the House Members who have done so much to look past their own individual concerns and to work together for the collective good of the whole as we built this strong bipartisan solution to a critical issue facing our Nation.

With that, I yield the floor.

Mr. DASCHLE. Mr. President, I am pleased to support the conference report on the Healthy Forest initiative.

The question of how we effectively and efficiently deal with the threat of wildfire is a complex one, and I have been committed to finding a solution that will provide the Forest Service with additional tools, can win approval in the Senate, and can become law. This bipartisan compromise meets that test.

As I toured the Black Hills National Forest this August, it was clear that the Forest Service needs additional tools to address the increasing fire risk to South Dakota communities. There are currently over 460,000 acres of the Black Hills National Forest that are in moderate to high fire risk. And, it is increasing. The Forest Service estimates that over 550,000 acres will fall into this category in the next 10 years if we do nothing to address it.

It is clear that we must find a way to allow Forest Service personnel to spend less time in the office planning, and more time in the forest actually clearing high fuel loads.

This legislation takes major steps to do just that. The legislation provides communities more flexibility in defining what should be considered priority areas as well as incentives to work near communities. It clarifies how much detail is needed for environmental analysis of fuel reduction projects. The conference report adopts the Senate-passed streamlined appeals process, expediting decisions for fuel-reduction projects while ensuring that the public has an opportunity to be heard early in the developmental stages forest restoration projects. And, it includes Senate-passed language encouraging speedy disposition of any projects that are challenged in court without giving undue deference to any party.

While the legislation is not exactly how I would have written it, I think it is the best shot we have to get something meaningful enacted into law this year. I am please the House has passed

this legislation and encourage my colleagues to pass it, and hope the President will quickly sign it into law.

Mr. BAUCUS. Mr. President, I rise to urge my colleagues to support the Healthy Forests Restoration Act of 2003. This bill is extremely important to the west and to my constituents as we look for ways to reduce the risk of large and dangerous wildfires that threaten our homes and communities. You just have to look at the devastating fire season Montana went through this past summer to understand why we feel so strongly about this issue.

I have said that a healthy forests bill must first allow Federal agencies and communities to address dangerous fuel loadings on a local level, quickly and efficiently. Second, it must support small, independent mills and put local people to work in the forests and the mills. Third, it must promote and protect citizen involvement and be fair to the principals underlying the federal judicial system. And finally, it must protect special and sensitive places.

We have achieved that with this legislation.

My one disappointment is that the conference committee stripped out the Rural Community Forestry Enterprise Program. I worked together with Senators CRAPO and LEAHY to include this program in the Senate bill, first in the Agriculture Committee and then as part of the Senate-passed bill.

The Rural Community Forestry Enterprise Program would bring much needed support for building and maintaining a thriving forest industry in rural communities.

Just as this industry is important to maintaining the economic vitality of these small and often remote communities, it is vital to meeting the objectives of this legislation. We cannot afford to lose more mills and highly skilled forest industry workers in Montana. We cannot accomplish needed hazardous fuel reduction work without them.

I would like to share with you concerns I heard today about the removal of the Community Enterprise Program from a friend, Jim Hurst, the owner and operator of a small family-owned mill called Owens and Hurst, in Eureka, Montana.

He said:

Small mill owners like myself and Ron Buentemeier, the General Manager of F.H. Stoltze Land and Lumber Company in Columbia Falls, told you we needed this type of help to make the Small Business Set-Aside program more responsive to the needs of small, independent and mostly family-owned mills across Montana. You responded with the Community Enterprise program.

This is an important program and should be put back into the Healthy Forests Bill. Independents have been under long-time family ownership and because of that my family and the other families who own mills know that we each have one heck of a responsibility to our communities. This Community Enterprise program would help the independents who have been impacted the hardest by reduced federal timber supply. They have shown their mettle and have been courageous. We need to keep fighting for small mill owners, operators and the rural communities who depend on these small mills for their livelihood.

While I will continue to work with my colleagues on both sides of the aisle to ensure a thriving forest industry in our rural communities, it is imperative to pass this legislation now. I believe we do have a serious problem with the buildup of hazardous forest fuels and that we need to do a better job of addressing it now.

The legislation has the elements necessary to allow local citizens and leaders to make wise decisions that address this problem efficiently and effectively and I urge my colleagues to support it. I would like to thank several Senators for their hard work on this bill, including Senators WYDEN, FEINSTEIN, CRAPO, LINCOLN and COCHRAN. Without their dedicated efforts and leadership that I was very pleased to support, we would not be the close to passing this bill today.

Ms. MURKOWSKI. Mr. President: I rise today in strong support of the conference report for the Healthy Forest Restoration Act of 2003.

I especially thank my colleagues—Senator COCHRAN, Senator DOMENICI, Senator CRAPO, Senator CRAIG, Senator LINCOLN, Senator WYDEN, and Senator FEINSTEIN for the leadership they demonstrated in addressing this national crisis that affects all Americans, particularly those who live in the urban-wildland interface.

The conference report is a major step forward toward preventing the severe wildland forest and rangeland fires that have become an annual event. What is more important is that the human tragedy associated with wildfires the heartbreak of losing one's home and possessions, the economic losses, and the dangers that wildfires pose to our devoted wildland firefighters will be reduced through the sound forest management practices provided for in this legislation.

The 2002 and 2003 fire seasons have been some of the worst on record nationally. Forest fires continue to create extensive problems for many Americans, predominantly for those living and working in the West. In 2002, Alaska alone experienced fires that burned more than one million acres.

These catastrophic wildfires caused great damage to our forested lands; many were already vulnerable as a result of unaddressed insect and disease damage.

Deteriorating forest and rangeland health now affects more than 190 million acres of public land, an area twice the size of California.

In my home State of Alaska, the damage caused by the spruce bark beetle, especially on the Kenai Peninsula has been devastating. Over 5 million acres of trees in south central and interior Alaska have been lost to insects over the last 10 years.

I am particularly enthusiastic that this legislation authorizes and expedites fuel reduction treatment on Federal land on which the existence of disease or insect infestation has occurred, such as those on the Kenai Peninsula. Federal land managers will now be able to manage these dead and dying tree stands.

The key to long-term forest management on the Kenai Peninsula is to manage the forested landscape for a variety of species compositions, structures and age classes; not simply unmanaged stands. The legislation before us will do just that, and will prevent a reoccurrence of the type of spruce bark beetle mortality we have experienced in Alaska.

I firmly believe that this conference report is a comprehensive plan focused on giving Federal land managers and their partners the tools they need to respond to a national forest health crisis. The legislation directs the timely implementation of scientifically supported management activities to protect the health and vibrancy of Federal forest ecosystems as well as the communities and private lands that surround them.

Under this legislation, the Secretaries of the Interior and Agriculture will conduct authorized hazardous fuel reduction projects in accordance with the National Environmental Policy Act with a critical, streamlined process.

Additionally, for those authorized fuel reduction projects proposed to be conducted in the wildland-urban interface, the Secretaries will be able to expedite such projects without the need to analyze and describe more than the proposed agency action and one alternative action. In other words, we can now get the work on the ground done quickly.

Still, the Secretaries must continue to provide for public comment during the preparation of any environmental assessment or EIS for these authorized hazardous fuel reduction projects. The public process is not undermined in this legislation.

I also support the proposed new administrative review process associated with these authorized fuel reduction projects. Too often we have become mired in administrative appeal gridlock in this country at the expense of communities at risk to wildland fire. We saw such devastation recently in the State of California.

This legislation will establish a fair and balanced predecisional review process. Specific, written comments must be submitted during the scoping or public comment period.

Additionally, civil actions may be brought in Federal district court only if the person has exhausted his/her administrative review process. The legislation will foreclose venue-shopping.

It encourages the courts to weigh the environmental consequences of management inaction when the potential devastation from fires could occur. This provision is important public policy and demonstrates to the American people that the risk of catastrophic

wildfire must be known, understood and respected in our judicial system and acted upon quickly.

I am also excited about title 2 of the legislation which will encourage the production of energy from biomass. Developing energy from biomass could provide a tremendous boost to the local economy on the Kenai Peninsula while reducing the dangerous wildland fire risks that exists there. That is a win-win solution. The biomass provision is innovative, environmentally sound and a good approach in achieving healthy forests.

The bipartisan legislation before us is good for the nation and good for Alaska. I will enthusiastically support its passage today.

Mrs. BOXER. Mr. President, southern California has recently experienced the devastating impacts of wildfire first-hand. More than 750,000 acres burned, and 24 people died. We have seen how important it is to take the appropriate steps to protect our vulnerable communities from the threat of wildfire, and that is why I am supporting this bill.

The bill before us invests in preventing wildfires, rather than just trying to fight them after the fact. Each year, $760 million is authorized for wildfire prevention projects, such as tree and brush removal, thinning, and prescribed burning. In total, the bill would allow treatment of 20 million acres. Priority is given to projects that protect communities and watersheds, and at least 50 percent of the funds must be used near at-risk communities. The other 50 percent will be spent on projects near municipal water supply systems and on lands infested with disease or insects. This is a good start at preventing fires.

I do, however, have to mention my deep disappointment with the House Republican conferees for removing my amendment to help firefighters who battle the biggest fires. I am almost speechless that the House Republicans would turn their backs on our brave firefighters.

My amendment, which passed the Senate 94 to 3, would have required long-term health monitoring of firefighters who fought fires in a Federal disaster area. These firefighters are exposed to several toxins known to be harmful to long-term health, including fine particulates, carbon monoxide, sulfur, formaldehyde, mercury, heavy metals, and benzene. This amendment was important to the firefighters in my State and was supported by the International Association of Firefighters.

I pledge to the firefighters, this is not over. I will be back to continue fighting on behalf of all firefighters who are put at risk in Federal disasters.

I am also disappointed that the conferees dropped another amendment of mine, which was included in the Senate-passed bill. My amendment required the EPA to provide each of its regional offices a mobile air pollution monitoring network, so that in the event of a catastrophe, toxic emissions could be monitored and the public could know the health risks.

Despite the fact that the conferees dropped my two amendments, I believe this bill will help protect communities from the threat of wildfires, which is why I am supporting it.

Mrs. FEINSTEIN. Mr. President, today's vote to pass the Healthy Forests legislation is a major bipartisan victory. This is not just because it is the first major forest bill in 27 years.

Much more significantly, we have nourished the middle ground in the forest debate that is so often lost in the partisan rhetoric.

We actually can create good rural jobs, protect our communities, and restore our forest environment at the same time.

Let me repeat this: we can create rural jobs, protect our communities, and take action to restore the health of our forests at the same time.

Ever since I cosponsored the Herger-Feinstein Quincy Library Group Act 5 years ago, I have been working to bring together the rural, forest-dependent communities—rather than unnecessarily dividing them.

This bill goes a long way to that end throughout the West and the Nation.

There are many people who deserve credit for this bill, but there are a few Senators in particular to whom I want to give special thanks. Senators PETE DOMENICI and LARRY CRAIG were the best bipartisan allies I could ever ask for in terms of how they approached this issue.

Even though they are in the majority, Senators DOMENICI and CRAIG realized that a forestry bill needed a bipartisan coalition. They worked in good faith with me and Senator WYDEN from start to finish, and I am deeply grateful for it.

I also want to thank Senator COCHRAN, the chairman of the conference on this bill, for his leadership throughout the process. Senator COCHRAN ably and skillfully represented the Senate position in the negotiations. I particularly want to emphasize that his staff conducted the conference in a fine and fair manner throughout, and it's a credit to his leadership.

There are many others Senators who played critical roles in this process, including Senators CRAPO, KYL, LINCOLN, MCCAIN, BAUCUS, and BINGAMAN.

I finally want to thank Senator WYDEN, the ranking member on the Forestry Subcommittee of the Energy Committee. He is as good a ranking member and as good a leader on forestry as the Democrats could ever have.

I also want to say that I second his views on the meaning of the different parts of the bill in his statement today. As the two principal Democratic negotiators of this bill, he and I are in complete accord as to the meaning of its contents.

This legislation H.R 1904, approved by a House-Senate conference committee today is very similar to a bill passed by the Senate last month, with priority given toward removing dead and dying trees and dangerously thick underbrush in areas nearest communities as well as targeting areas where insects have devastated forests. This is especially important in California, where hundreds of thousands of trees have been killed by the bark beetle, creating tinderbox conditions.

While the recent wildfires in Southern California have been contained, these deadly fires consumed a total of 738,158 acres, killed 23 people, and destroyed approximately 3,626 residences and 1,184 other structures. Clearly, we must do everything we can to avert such a catastrophe in the future. The National Forest Service estimates that 57 million acres of Federal land are at the highest risk of catastrophic fire, including 8.5 million in California, so it is critical that we protect our forests and nearby communities.

More than 57 million acres of Federal land at the highest risk of catastrophic fire, including 8.5 million in California. In the past 5 years alone, wildfires have raged through over 27 million acres, including nearly 3 million acres in California. It is critical that Congress acts to protect our forests and nearby communities.

The House-Senate agreement both speeds up the process for reducing hazardous fuels and provides the first legal protection for old growth in our nation's history.

Let me describe what the legislation would do.

Critically, it would establish an expedited process so the Forest Service and the Department of the Interior can get to work on brush-clearing projects to minimize the risk of catastrophic wildfire.

Up to 20 million acres of lands near communities, municipal watersheds and other high-risk areas can be treated. This includes lands that have suffered from serious wind damage or insect epidemics, such as the bark beetle.

We made an important change to the bill's language in section 102(a)(4) in the conference report. In the Senate-passed bill, the insect and disease exception was related to infestations, whereas in the conference bill, the exception has been clarified to apply only where there is a presence of an epidemic of insects or disease. By its own terms, an insect or disease-related event of ''epidemic'' proportions is different from ''endemic'' insects and disease, which are present in a naturally functioning forest ecosystem.

Under the final bill, only epidemics are given special treatment. This is an important distinction.

A total of $760 million annually for hazardous fuel reduction is authorized by the legislation, a $340 million increase over current funding.

At least 50 percent of the funds would be used for fuels reduction near communities.

The legislation also requires that large, fire-resilient, old-growth trees be protected from logging immediately.

It mandates that forest plans that are more than 10 years old and most in need of updating must be updated with old growth protection consistent with the national standard within 2 to 3 years.

Without this provision in the amendment, we would likely have to wait a decade or more to see improved old-growth protection. And even then there would be no guarantee that this protection—against the threat of both logging and catastrophic fire—would be very strong.

In California, the amendment to the Sierra Nevada Framework that is currently in progress will have to comply with the new national standard for old-growth protection.

Let me explain how the agreement improves and shortens the administrative review process and makes it more collaborative and less confrontational. It is critical that the Forest Service can spend the scarce dollars in the federal budget in doing vital work on the ground, rather than being mired in endless paperwork.

The legislation fully preserves multiple opportunities for meaningful public involvement. People can attend a public meeting on every project, and they can submit comments during both the preparation of the environmental impact statement and during the administrative review process. I guarantee you the public will have a meaningful say in these projects.

The legislation changes the environmental review process so the Forest Service still considers the effects of the proposed project in detail, but can focus its analysis on the project proposal, one reasonable alternative that meets the project's goals and the alternative of not doing the project, instead of the 5–9 alternatives now often required.

In the highest priority areas within 1½ miles of communities, the Forest Service need only study the proposed action and not alternatives. There is no relaxation from current law, however, in how closely the Forest Service must study the environmental effects of the project it is proposing to undertake.

The legislation replaces the current Forest Service administrative appeals with an administrative review process that will occur after the Forest Service finishes its environmental review of a project, but before it reaches its decision. This new approach is similar to a process adopted by the Clinton administration in 2000 for review of forest plans and amendments to those plans. The process will be speedier and less confrontational than the current administrative appeal process.

Next I want to turn to judicial review. I want to emphasize that cases will be heard more quickly under the legislation and abuses of the process will be checked, but nothing alters citizens' opportunity for fair and thorough court review.

Parties can sue in Federal court only on issues raised in the administrative review process. This is a commonsense provision that allows agencies the opportunity to correct their own mistakes before everything gets litigated.

Lawsuits must be filed in the same jurisdiction as the proposed project.

Courts are encouraged to resolve the case as soon as possible.

Preliminary injunctions are limited to 60 days, although they can be extended if appropriate. This provision sends a signal to courts not to delay important brush-clearing projects indefinitely unless there really is a good reason to do so.

The court must weigh the environmental benefit of doing a given project against its environmental risks as it reviews the case.

In closing, I want to say that my colleagues and I have been trying to come to an agreement on a forest bill for several years. We finally broke through the deadlock.

I am deeply pleased that we are enacting this legislation to give the residents of southern California and elsewhere a better chance against the fires that will come next time.

SECTION 105(C)(3)(B)

Mrs. FEINSTEIN. I have a question for the Senator from Oregon as to the meaning of one specific provision of the conference report on the Healthy Forests Restoration Act of 2003. This provision is section 105(c)(3)(B), which sets forth an exception to the general requirement that parties must participate in the administrative review process before raising claims in Federal court. I don't understand the conference report and statement of the managers as doing anything to change the parties' preexisting obligations as to environmental review except as explicitly provided in the statute. Do you agree, as the ranking member on the Subcommittee on Public Lands and Forests of the Senate Committee on Energy and Natural Resources?

Mr. WYDEN. I have the same understanding of this matter as the Senator from California.

Mr. LEAHY. Mr. President, I will oppose the conference report on H.R. 1904, the so-called Healthy Forests Act. While I have several substantive concerns about this legislation, let me first speak about the process by which this legislation has come before the Senate.

As my colleagues know, there has been a significant and growing concern about the way the other side is operating conference committees. In fact this conference was delayed several weeks because the minority has continually been excluded from conferences.

However, in good faith, I, along with interested Members and their staffs, worked out an agreement on the first six titles of the bill. Coincidentally, there were only six titles in the House version of the bill. An agreement was reached on those first six titles, and while I still had serious concerns about the substance of the agreement, I did not object to the process moving forward. I did so because I was given commitments that we would work out an agreement between the House and Senate on the remaining three titles that were passed by the Senate.

But what happened next is absolutely astounding. One half hour before the conference committee was scheduled to meet, I was informed that the conference would only consider the first six titles of the bill, and that the remaining titles that were passed by the Senate were ''off the table.''

Yet another backroom deal was cut by the other side to exclude the minority from any real conference proceedings.

These were highly important provisions that were passed by the Senate. Of particular importance to me was the Rural Community Forestry Enterprise Program, which I authored with Senators CRAPO and BAUCUS. In my State of Vermont we have a good deal of small-diameter trees for which we need help finding markets. This program would build on the existing expertise of the Forest Service by providing technical assistance, cooperative marketing and new product development to small timber-dependent communities. Whether it is producing furniture, pallets, or other creative new markets, this program would help small forest-dependent communities expand economically.

Back room deals summarily excluded this, and several other important initiatives in the Senate-passed bill, from consideration in the conference committee. That is why I declined to sign this conference report.

I will not vote for this conference report because this bill before us remains a well-camouflaged attempt to limit the right of the American people to know and to question what their Government is doing on the public's lands.

The bill before us is really a solution looking for a problem. So let's take a closer look at the ''solution'' on the table.

First, the bill would make it much more difficult for the public to have any oversight or say in what happens on public lands, undermining decades of progress in public inclusion. In this new and vague pre-decisional protest process, this bill expects the public to have intimate knowledge of aspects of the project early on, including aspects that the Forest Service might not have disclosed in its initial proposal.

The bill gives the Forest Service a real incentive to hide the ball or to withhold certain information about a project that might make it objectionable, such as endangered species habitat data, watershed analysis, or road-building information. If concerns are not raised about this possibly undisclosed information in the vaguely outlined ''predecisional'' process, the Forest Service can argue to the courts that no claims can be brought on these issues in the future when the agency, either through intent or negligence, withholds important information from the public.

Essentially, this provision penalizes citizens and rewards agency staff when the agency does not do its job in terms of basic investigation and information sharing regarding a project. This bill makes other significant changes to judicial review. It will force judges to reconsider preliminary injunctions every 60 days, whether or not circumstances warrant it.

In many ways, this provision could backfire on my colleagues' goal of expediting judicial review. It will force judges to engage in otherwise unnecessary proceedings, slowing their consideration of the very cases that proponents of H.R. 1904 want to fast track. Moreover, taking the courts' time to engage in this process will also divert scarce judicial resources away from other pending cases. It is also likely to encourage more lawsuits. Requiring that injunctions be renewed every 60 days, whether needed or not, gives lawyers another bite at the apple, something they often find hard to resist.

Instead of telling the courts when and how to conduct their business, we should instead be working to find a workable and effective approach to reducing wildfire risks.

This bill does not achieve that, but, with these provisions that minimize the public's input, it instead poses a real risk to the checks and balances that the American people and their independent judiciary now have on Government decisions affecting the public lands owned by the American people.

Sadly, this bill plays a bait-and-switch trick on communities threatened by wildfires. It is not fair to roll back environmental laws, public oversight, or judicial review under the guise of reacting toe devastating wildfires. It will do nothing to help or to prevent the kid of devastation that southern California recently faced. It is a special interest grab-bag shrouded behind a smokescreen.

We should be offering real help and real answers, instead of allowing fear to be used as a pretext for taking the public's voice out of decisions affecting the public's lands and for ceding more power to special interests.

Mr. COCHRAN. 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. COCHRAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. COCHRAN. I understand we can proceed to adopt the conference report on a voice vote since there is no objection to that. First, I am happy to yield to the assistant majority leader.

Mr. MCCONNELL. Mr. President, I will not object. I simply came to the floor to congratulate the distinguished Senator from Mississippi and the Senator from Idaho for an extraordinary job on a very difficult subject on which they have worked for years. I commend them both so much for this very important piece of legislation.

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to the conference report.

The conference report was agreed to.

Mr. COCHRAN. Mr. President, I move to reconsider the vote.

Mr. CRAPO. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. COCHRAN. 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. BAUCUS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MEDICARE PRESCRIPTION BENEFITS

Mr. BAUCUS. Mr. President, I would like to speak a few minutes about the upcoming Medicare conference report that will be before this body—I don't know when—maybe Sunday, Monday, Tuesday. Before I do so, I would like to thank and compliment many people who helped bring this legislation to this point. For many years, many of us in Congress have urged the passage of prescription drug benefits legislation for seniors. We have been close to passage many times in the last several years.

I remember last year, for example, about this time when Congress was close to adjournment. I called a meeting together in my office for one last chance—Senator KENNEDY, Senator SNOWE, myself, Senator HATCH, and other Senators who were vitally concerned about passing prescription drug legislation. We worked mightily. We worked very hard. At the very end, the talks collapsed. It didn't work, largely for political, partisan reasons, I might add, and we were not able to get a bill passed.

Here we are again. We are at the brink. We are on the verge. We are very close to getting prescription drug legislation passed. This time I very much hope that all of us—as Senators and House Members—put partisan differences aside and suspend judgment. That is, we should look at the legislation, look at the facts, and not listen to the rhetoric from various groups, to see what really makes sense.

There are a number of people I wish to thank at this time—the chairman of the committee, Senator CHUCK GRASSLEY, who has worked very hard; Senator BREAUX, also a member of the committee; Senator OLYMPIA SNOWE, a member of the committee.

In addition, Congressman BILL THOMAS, chairman of the Ways and Means Committee, has worked extremely diligently. The Speaker of the House, the majority leader of the House, TOM DELAY; the majority leader of the Senate, BILL FRIST—there are many people who have worked very hard. I thank them very much for their efforts and for their work.

One person I also wish to thank is Senator TED KENNEDY. Senator KENNEDY worked very hard to help us pass prescription drug legislation in the Senate not too many weeks ago. He worked very hard. He worked with me. He worked with the minority leader. He worked with the majority leader. He worked with various Members of the Senate who were critical to passage of the bill.

I thank Senator KENNEDY for his yeoman's work to help pass prescription drug benefits legislation in the Senate. He also worked very hard to help get a conference report put together. He spent a good deal of time with the conferees, with myself, with the Senator from South Dakota, Mr. DASCHLE, the Senator from Tennessee, Mr. FRIST, and many other people trying to help get prescription drug legislation passed. I regret at this point that he and I have a different view of this bill. He believes there are certain flaws in this bill. I think this is a good bill and should be passed. Nevertheless, Senators should know that Senator TED KENNEDY has done a great job in helping move this legislation to the point it is today. Without his efforts, this bill would be flawed in many areas. He helped make this, in my judgment, quite a good bill.

Why should we pass prescription drug benefits legislation? I suppose the main reason is that times have changed so dramatically. In 1965, when Medicare was enacted—and it was enacted by a large vote margin—prescription drugs were not necessary. Most senior citizens were more concerned with doctors, office calls, and hospital visits for their medical concerns, rather than prescription drugs.

Look what has happened in the last 38 years since the Medicare Act passed. Prescription drugs and generic drugs are so vitally important today. They replace procedures. They help prevent the onset of disease. Often times, the medications people take tend to prevent, forestall, and delay all kinds of maladies. They are really important, much more important today and getting more important every day.

In addition, prescription drugs are becoming more expensive—much more expensive—and it is putting seniors in a bind. Many low-income seniors are in a real bind.

I worked at a pharmacy during one of my work days at home. I have worked at many different jobs in Montana. I show up at 8 o'clock in the morning with a sack lunch. I have worked in sawmills, I have waited tables. One day I was working in a pharmacy in Montana. I saw senior citizens walk up to the pharmacist in a quiet voice and ask how perhaps they could change their

medication or what prescription should they cut back on because they couldn't afford to pay for them all.

Seniors couldn't afford to pay it. It was stunning, and it was sad. It was a revelation to me. You hear about it, but when you see it, it has a real effect. It happens. Many low-income seniors are having a very difficult time trying to make ends meet. Sometimes it is a tradeoff between buying prescription drugs, buying food, and paying the rent. It happens way too frequently, and it is just not right for our country, the United States of America, to let this happen.

This legislation does a good job in remedying this situation. First of all, it is $400 billion of prescription drug benefits for seniors spread out over 10 years—$400 billion. That is a lot of money, but we have a lot of seniors who have great needs.

Under this legislation, seniors will find they will not have to pay all the cost of the drug but, rather, 25 percent, and the rest will be picked up by Medicare, the Federal Government, through the mechanism that is designed in this bill. They will only pay a quarter. But if you are a low-income senior, you are in a much better position under this legislation.

One-third of United States seniors are classified as low-income. A full one-third are low-income. Under this bill, low-income citizens will find that 90 percent of their benefits are covered—90 percent. That means low-income people can get the prescription drugs they need and will not have to walk up to that pharmacist and, in a hushed, quiet tone, ask what tradeoff, what drugs that person should cut back on because he or she cannot afford them.

If you are a low-income senior—and one-third of Americans are low-income. In my State, that is about 46,000 seniors who will be affected; there are about 46,000 seniors in the State of Montana who are low-income, out of about 140,000 seniors statewide. The general rule for all seniors is 75 percent of your prescription drug costs; if you are low-income, 90 percent of your prescription drugs will be paid for.

This is good legislation. We are here at a time when people in our country are asking us, Should we help our seniors or should we not?

Let me mention a couple additional reasons why I support this bill.

First of all, it helps rural America. Mr. President, there is an extra $25 billion in this bill for rural health care. The $400 billion I mentioned earlier all goes to benefits for seniors, either directly or indirectly. But $25 billion extra goes for providers and $25 billion is for rural America.

Why is that so important? It is so important because of the cost and the strain of the practice of medicine in rural America. We run the risk of not having good, adequate health care in rural parts of our country. We have all talked to many doctors and nurses who practice in rural parts of our country. They talk about the hours. They want to serve their patients. Believe me, they want to serve their patients, but after a while there comes a time when they are just worn out.

In rural parts of America, there are often pathologists—or pulmonologists or other specialists—who have to be on call all the time or on call every second or third day. Why? Because there are fewer of them in rural America than in urban America. The costs, believe it or not, are also very high in rural America—in many cases higher than in cities. There are the transportation costs, the cost of distances, the travel costs, for patients, doctors, and suppliers.

Our State of Montana is a low-income State, unfortunately. Our per capita income in Montana is low, but we are in the middle of all the States when it comes to cost of living. We are about the bottom when it comes to family income, but we are in the middle when it comes to costs. It is because we are a rural State, and this is true for rural parts of all States.

This bill finally helps address the unlevel playing field that has existed between urban and rural America. Now rural America, finally after many years, gets its fair share.

When I first came to the Senate years ago, I realized just how hard it was for rural America to get a square deal, particularly in health care. It was stunning. Every year since I have been here, I have been working to try to get rural America a square deal compared with urban America. I was part of an organization—and I still am—called the Rural Medicare Caucus. In fact, I chaired it for a few years. Every year I am here, I have—as I know my good friend from Montana, the Presiding Officer has—worked to help to make sure that rural parts of the country are getting a fair deal. This is not rhetoric. This is real. After all of these years, finally rural America gets a fair deal.

I also support this legislation and strongly advocate for its passage because it makes sure that senior citizens, wherever they live in our country, get a universal Medicare prescription drug benefit. Now, this certainly is true in the first years after this legislation is effective, but it is also true in the future. It is also true when preferred provider organization plans are designed to come into effect. It is also true in the year 2010 when in six regions of the country, there may be demonstration projects selected to test a new system called premium support.

In all respects, all seniors in all parts of the country, in all years, will have access to the same prescription drug benefit as any other senior, in any other part of the country, in any other year. This bill does not undermine traditional Medicare fee-for-service. The drug benefit is universal and nationwide in all respects. The bill does not undermine traditional Medicare—that is, Part A and B—during the years in which it is in effect. In a few moments I will return to this and will explain in greater detail.

This bill also very much helps address an issue that is on the minds of a lot of Senators—retiree coverage. When the bill was debated in the Senate, the prediction was that companies, States, municipalities, and nonprofit organizations might drop their retiree coverage because the bill, when passed, would provide government drug benefits to seniors. The thinking was why should companies not just go ahead and drop their retiree coverage.

Well, when the Senate took up this legislation, the CBO, which is the organization we rely upon for estimates, said that the drop rate might be about 37 percent. Since then, they have revised their numbers and they have come up with other figures. In short, if one compares apples with apples, the conference report that will soon be before this body results in a retiree droppage rate that is about 50 percent less than the bill that passed this body by a vote of 76 to 21. Maybe it is 45 percent. Stop and think about that for a moment.

For Senators who voted for the Senate bill, they can be comforted and relieved that retiree droppage rate is estimated by CBO to be about half of what it was in the Senate bill.

Let's focus a little bit on the retiree provisions. Essentially, companies receive about $88 billion under this bill for their retiree benefits. The net effect is that it will discourage companies from dropping—not encourage droppage. We all are very concerned that companies across America are beginning to cut back, and have cut back, on the number of retirees who have health care benefits or on the nature of the benefits. It is happening in America. It is happening in America as the world becomes even more competitive with global competition and as companies strive to cut down on their costs to increase their profit margins. One of the ways they can do so is cut back on employee and retiree benefits. This is happening. We know it is happening.

This legislation tends to discourage companies from cutting back. It tends to help companies keep coverage. It discourages dropping retiree coverage—it does not accelerate it. Again, it is because of the additional dollars that are going to companies. The companies still get the tax deduction for their health benefit plans. That is unchanged. In addition, under this legislation, the payments to the companies for retiree coverage are tax free. One could even say perhaps there is a little double-dipping because the assistance is tax free. This is a tremendous additional financial benefit to companies, to nonprofits, to cities, and other plans to encourage them to keep their coverage. It is a bonus. It is an incentive. This is another reason passage of this legislation is important—because it helps companies keep their retiree health plans. As a result, employers

will tend less to drop retiree coverage. They will probably tend to maintain and increase it.

There is also a myth about this bill that is there is a coverage gap on prescription drug coverage that will leave seniors out in the cold. Well, the truth about this so-called donut hole gap is the majority of seniors will never reach the spending level where they would not have coverage. Even more important, seniors who are low-income get full coverage in the benefit gap.

Of course, we wish we had more money to give a complete benefit to everyone without any donut hole, but we do not have an infinite number of dollars. We only have $400 billion. It sounds like a lot, and it is a lot, but if we are going to give a universal drug benefit to seniors that is honest, that makes sense, that does something, not over the top but that makes sense for all seniors, it would cost a lot more than $400 billion. We have limited ourselves to $400 billion, and at $400 billion there are going to be some people who will not get quite the same benefit as other people, but they will all get the benefit.

I might add that if we looked at each State, the number of seniors who have coverage for prescription drugs varies. In some States it is very high. In some States it is low. Compare that with the passage of this bill, every State gets about 96.6 percent. That is virtually 100-percent coverage. That is a big improvement.

Let's take the State of Delaware, for example. I know the Senators from Delaware know their State a lot better than I. Today, about 27 percent of seniors in Delaware have no drug coverage. Only 3.4 percent will be without coverage once this bill is enacted. Let me restate this positively; 27 percent of seniors in Delaware today do not have drug coverage. When this bill passes, virtually every Delawarean will have drug coverage.

The same is true of the State of California. Now about 21 percent of California's seniors and disabled live without prescription drug benefits. This bill will reduce this number to 5 percent. Again, most seniors, in California and in every other State, would benefit as a consequence of this legislation.

I would like to address some concerns others have raised regarding this bill. The concerns are that this legislation undermines traditional fee-for-service Medicare—that this is the beginning of undermining Medicare, the camel's nose under the tent. This is the charge.

What are the facts? The bottom line: Fee-for-service Medicare, traditional fee-for-service Medicare as we know it today, is held harmless under this bill. This is the bottom line. So if you are a senior in the United States of America you can decide that you want to keep traditional Medicare and that you do not want to join a private plan—any of the plans that may or may not exist in the future. That is, it is voluntary. A senior can either join or not join. It depends on what he or she wants to do. It is an honest choice because fee-for-service traditional Medicare remain what it is today. It is held harmless. That is, the deductible doesn't change, the copay doesn't change, the benefits don't change. What exists today is what exists under this legislation. I hope Senators listen to that. I hope staffs of Senators listen to that. I hope the others who are listening, who are concerned about the bill, listen to that.

Let me explain this in greater detail. The bill finally provides a prescription drug benefit for senior citizens. We have had this opportunity many times in the past. We now have the chance to seize this opportunity. The bill also makes some changes in the general Medicare structure in terms of setting up some health care plans in the future, assuming the plans actually take shape, form, and come into existence. They don't exist today. I am referring to regional PPOs; that is, regional preferred provider organizations. They don't exist today. There are other managed care companies called HMOs in many cities. They exist in the cities primarily because they can cherry-pick counties. They can pick the counties in which they want to provide service, and if they do not want to pick one county because it is less profitable, they do not have to. If they want to serve another county because it is more profitable for them, they do. This is the way HMOs operate today. This is the system today.

This legislation says, beginning in the year 2006, our country will be divided up into various regions. Insurance companies will be allowed to offer Medicare services, including drugs, in any of the regions. The question remains, What about traditional fee-for-service? What happens to traditional fee-for-service in an area where a company sets up a plan? What if one wants to remain in traditional Medicare? The answer is, fee-for-service is held harmless. There is no change in fee-for-service.

If regional PPOs serve a region, it has to serve the entire region. It can't choose this part of this State and that part of that State. It has to serve the entire region—people in the cities, people in the rural parts of that region. Everybody has to get the same deal.

The senior living in one of these regions has a choice. The senior can stay in traditional fee-for-service Medicare or can join the plan. But fee-for-service Medicare is held harmless. There is no change to traditional Medicare.

Obviously, this does not undermine traditional Medicare as we know it. This bill builds up and strengthens Medicare. There are additional dollars here for hospitals, for doctors, for providers who will provide traditional Medicare. So this bill does not in any way undermine traditional fee for service. In fact, Medicare is held harmless under this legislation.

Some people say: That's OK, Max, we understand that, but what we are really concerned about is the so-called premium support demonstration areas. Their argument is, in those areas, traditional fee-for-service is undermined. Private plans will pull away seniors, and it will be unfair to seniors who remain in Medicare. It is the beginning of the demise of traditional fee-for-service Medicare, they argue.

That is not true. It is nonsense. Look at the facts. Look at what is in the legislation.

Let me just remind Senators that this legislation is now available for Senators to look at. Thank goodness, because when they look at it, they are going to see what is and is not included. I just ask Senators to trust me long enough to suspend judgment on it so they can go look at the legislation and make up their own minds. That is what the Senators are supposed to do—make up their own minds. I am urging Senators to suspend judgment for a little while, listen to what I am saying, because I think when they do look at the legislation, they will see that what I am saying is true. But you do not have to take it on my account. Just please do not make up your minds until you read what is actually in the legislation. You will see, even in the supposed premium support demos, and there might be up to six cities in the country, that fee-for-service Medicare is held harmless. There is no change in fee-for-service in any respect, deductibles and on—except for one. That one possible change is the Part B premium.

However, this legislation ensures that seniors who happen to live in one of the six demonstration areas can keep the same fee-for-service Medicare. If it happens that your Part B premium goes up as a result of the demonstration—it may or may not go up—but if it does, the legislation says there can be no more than a 5 percent increase on your Part B premium. This is the only possible way a senior citizen could be adversely affected in these demonstration projects.

Another point regarding these demonstrations. I have heard various figures that the demos are going to affect 10 million fee-for-service beneficiaries. We have all heard the 10 million figure. It is what some Senators suggest.

It is not true; it is untrue.

How many seniors might possibly be affected? Let's get an unbiased, objective opinion.

We asked the CBO, the Congressional Budget Office: Mr. CBO, what is the answer? How many seniors may potentially be in an area where they would be faced with a choice, stay in fee-for-service Medicare or join one of these premium support organizations? How many could be adversely affected? The answer is not 10 million. CBO says: We think it is between 670,000 and 1 million. 10 million is the figure of scare rhetoric. The actual facts are 670,000 to 1 million.

There are many other instances where there is a lot of rhetoric floating

around. But if you look at the facts, if you read the legislation that is now available, you will find it is really good legislation and all these worries and exaggerated claims about the bill are just not true.

I have a couple of additional points regarding premium support. It is a time-limited demonstration. It exists only for 6 years, starting in 2010. It would take an act of Congress to change it, an act to expand it. It cannot be extended or expanded by the Secretary or anybody else.

Fact No. 2, the demonstration will only affect limited areas of the country—up to six areas of the country only.

Fact No. 3, low-income beneficiaries are totally protected in any of these areas where premium support might occur.

Facts No. 4 and No. 5. There is no requirement for beneficiaries to enroll in the private plans. None. There is no inducement to enroll in any of these plans unless the plan happens to be a lot better than traditional fee-for-service Medicare which this bill strengthens.

How does this bill undermine traditional fee-for-service Medicare? How?

The fact is, it doesn't.

I will close by saying this is a good bill. It provides prescription drug benefits for seniors. Seniors need and deserve this help. It provides $400 billion of help. We are not going to have this opportunity again. It is true that this bill is not perfect. But I think on the whole it is a very good. This bill is much closer to the Senate bill than it is to the House bill. It is about one-quarter away from the Senate bill. It is about three-quarters away from the House bill. Seventy-six Senators voted for the Senate bill. I think that the 76 Senators who voted for the Senate bill will find that in many respects, this bill is better than the Senate bill they supported. Additionally, when my colleagues look at the facts of this bill, they are going to find that this is pretty good legislation. It is something we should pass.

I hope people will look at the actual language and look at the facts and will support this bill.

The PRESIDING OFFICER (Mr. Cornyn). The Senator from Idaho.

Mr. CRAIG. Mr. President, I will be brief. My colleague from Oregon and I wish to mention only briefly the health bill which was passed.

MORNING BUSINESS

Mr. CRAIG. Mr. President, the leadership asked that I ask unanimous consent that there now be a period of morning business, with Senators permitted to speak for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE HEALTHY FORESTS BILL

Mr. CRAIG. Mr. President, my colleague from Oregon is on the Senate floor. We thought for a few moments we would talk about something that just passed the Senate which we think is landmark forestry legislation. It has come in several forms over the last year and a half. But we here in the Senate call it Healthy Forests. The President calls it Healthy Forests.

The House and Senate have worked together over the last year to try to resolve an issue that the American public has seen in the form of devastating wildfires across our public land and forests for the last several years. Of course, we watched the tragedy of San Bernadino in southern California and the greater Los Angeles area just in the last month and a half that was truly devastating not only to 3,700 homes and human life but hundreds of thousands of acres of wildlife habitat and watershed.

Clearly, as chairman of the Forestry Subcommittee of the Energy and Natural Resources Committee, Senator WYDEN and I have been working for the last several years to resolve this issue. My colleague from Oregon is the ranking member of that Forestry Subcommittee. We have known that the team effort in a bipartisan way to resolve this issue would produce a resolution. The answer is that it has.

The Senate and the House just passed a conference report that has our fingerprints all over it. Frankly, we are mighty proud of it. It moves us in the right direction of active management of these dead and dying, bug-infested, and drought-impacted forested areas that are creating phenomenal fuel loads that the American public has seen played out in wildfires across our western public land and forests for the last good number of years. It is a clear step in the right direction. It is a cautious step. We certainly do not take away the right of appeal, but we limit it.

We don't want an effort on the part of the Forest Service to do what we asked them to do to be tied up in the courts endlessly in many instances as it has been over the last several years. We also want them to be selective. We targeted most of our efforts in what we call the wildland- urban interface which will impact most of those forested areas where there is a substantial human presence in the form of homes and, obviously, communities.

At the same time, we also recognize that the problem exists elsewhere across our forested landscape. We allow that treatment of those areas with caution.

We have designated old growth definitions for protection. We have also limited it in the next decade to 20 million acres. For those critics who would suggest that this is a ''ticket to log,'' that is purely political rhetoric to solve a political constituency problem that they have because they can't justify anymore the phenomenal loss of wildlife and watershed and habitat that we have seen over the last 4 or 5 years.

It is a cautious approach. It is certainly going to be limited in character. Why? Because we want to prove to the American people that there is a way to manage our forests in a right and reasonable fashion; that it does not do what we did historically 40 years ago—logged by clear-cut or logged with substantial problems of erosion and watershed degradation and all of that.

This is a new day. We want to treat our forests differently. But we also understand that if we don't do something, our forestry experts have told us that we could see devastating wildfires for decades to come that will destroy the watershed, the wildlife habitat, and release huge amounts of carbon into the atmosphere; and, oh, yes, by the way, destroy a very valuable resource in the form of timber that might in some areas be allowed for logging or for reasonable approaches of commercial value of the thinning and cleaning.

All of that said, we have worked hard to produce a bill. My colleague from Oregon is on the Senate floor. I will yield to him for any comments he would want to make. We have other colleagues here who I think are going to address the issue of prescription drugs and Medicare reform.

But today is an important day in the Senate in the area of forestry and forest and public land management. I am proud of the work we have done.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. WYDEN. Mr. President, before he leaves the floor, I want to commend Senator CRAIG. He and I have been working with Senator FEINSTEIN in particular on this legislation in the Energy and Natural Resources Committee. We have really been a triumvirate with respect to this issue.

I am so pleased to have a chance to be on the Senate floor today to speak on this conference report. This is the first forest management bill to pass both Houses in the U.S. Congress in 27 years. The fact is, the forestry legislation that is now on its way to the President of the United States will protect our communities. It will offer the first legal protection for old-growth trees, and it will create jobs.

As the distinguished Senator from Idaho, Mr. CRAIG, just noted, this legislation came together because at every stage of the process Senators said we want to get beyond the old rhetoric. We want to get beyond the polarization that has dominated this issue in the past, and we want to, in particular, take meaningful action to protect our communities.

That is what this legislation has been all about. The fires in the West, as the Senator from Idaho has known through his field hearings and other such sectors, have literally be infernos. We just felt it was critical to take steps to ensure that the rural West wouldn't be sacrificed.

I am proud today to rise in support of the conference report on H.R. 1904. This conference report is based upon the Senate-based wildfire bill compromise

brokered by Senators FEINSTEIN, CRAIG, COCHRAN, DOMENICI and myself passed by the Senate on October 30. With the good faith efforts of Representatives POMBO, GOODLATTE, and my friend and colleague from Oregon, Representative WALDEN, this conference report has made only minor changes to the Senate approved version. This legislation will get us back on track restoring forests, protecting the environment, and putting people back to work in rural communities.

This conference report is the first forest management bill to pass both houses of the United States Congress in 27 years. The last time Congress was able to send a forest management bill to the President of the United States, the President was Gerald Ford and it was the Nation's bicentennial. The bill was the National Forest Management Act of 1976.

The world has changed a lot in the last 27 years. Forest management and forest-related economies have changed dramatically. Americans have grown more interested in protecting the environment while using natural resources to support rural communities like those in my home state of Oregon. The conference report we passed today reflects some of those changes: it contains the first ever statutory recognition and meaningful protection of old growth forests and large trees, while streamlining a National Environmental Policy Act process that has seemed to favor paperwork over forest health.

This conference report will streamline restorative forestry in forests at risk of unnaturally catastrophic fires resulting from 100 years of fire suppression. It provides the authorities and guidelines for the Forest Service and Bureau of Land Management to treat unhealthy forests while preserving public input and protecting old growth it's a truly balanced approach to forest health.

There were times when I was not sure this day would come. After the Senate passed our version of H.R. 1904 on October 30, 2003, there was doubt and disagreement on how to proceed with the House of Representatives. As a solution to the gridlock threatening the final passage of wildfire legislation, Senator FEINSTEIN and I proposed informal meetings. The staffs of the two Houses reached the agreement on Title I, the forest health title, through these informal meetings that allowed for a formal conference on all the rest of the Titles. That conference was held Thursday, November 20. I lost a couple of provisions for Oregon that I cared deeply about. But, I am overall pleased that the forest health provisions worked out so diligently by both Houses were preserved intact.

The Senate said there were four features that were particularly important to us to maintain in the legislation.

First, we said we have to have the funding to do the job right. We are not going to get this work done without funding to get this work done on the ground. I am very pleased with the conference report in that it keeps that funding intact. I am very pleased that the conference report will authorize $760 million annually for the projects, a $340 million increase over current funding. It also ensures that we spend the money in the right place. That is in the area known as the wildland/urban interface. The Senate took one approach, the House had other ideas. With some very minor tweaking, this, too, was preserved in terms of the work done by the Senate.

On the old-growth part of the legislation, I am especially pleased because all Americans value these unique treasures, our very large old-growth trees. Professor Jerry Franklin of the University of Washington is considered the leading authority on this subject. He says our provisions with respect to old growth are a major step forward. I am particularly pleased and honored to have Dr. Franklin's comments on this. He is the authority, as Chairman CRAIG knows, on this subject. For those who have followed the environmental aspects of the forestry legislation, let the word go out that Professor Jerry Franklin from the University of Washington, one of the most distinguished scholars in this field—not just now but at any time—believes this is a significant step forward in terms of environmental protection.

We were able to protect the public involvement aspect of forestry policy. Citizens all across this country—whether in Senator DODD's part of the world in Connecticut or any other part of the country—feel passionately about their natural resources and want to be involved in the debate over this process. As Senator CRAIG has noted, we have streamlined the process but we have preserved every single opportunity for the public to comment. Every opportunity that exists today, for the public to comment on forestry legislation, has been preserved in this bipartisan compromise.

Finally, the Senate conferees did very well at defending the Senate compromise. The Senate kept the number one issue the environmental community was concerned about off the table and preserved the Senate compromise position on judicial process. In negotiating this bill, I did not accept the notion that any special deference beyond the deference that is ordinarily due should be given to any agency determinations under the Act, except where explicitly provided in the statute's text. In fact, the conference report expressly rejected the House bill's language giving special deference to agency determinations.

This section, section 106 of Title I, limits venue for these hazardous fuels reduction cases exclusively to the district court for the district in which the federal land to be treated is located. It also encourages expedited review of jurisdictional and substantive issues leading to resolution of cases as soon as practicable. In addition, this section limits the duration of any injunctions and stays pending appeal to 60 days and provides an opportunity to renew an injunction and stay pending appeal. It also requires the parties to the action to present updated information regarding the status of the authorized hazardous fuel reduction project in connection with such injunction and stay renewals. This last provision is intended to provide an incentive and opportunity for the parties to the complaint to work together to resolve their differences or explain to the judge why that is not possible over time.

This section also directs the courts to balance the impact to the ecosystem likely affected by the project of the short- and long-term effects of undertaking the agency action, against the short- and long-term effects of not undertaking the agency action. There can be environmental risks associated with both management action and inaction. America is acutely aware that the past few fire seasons have been among the worst in modern history in terms of effects on natural resources, people and private property. Air pollution problems are rising and wildland fires have forced thousands to evacuate. In 2002 in one state alone, Colorado, 77,000 residents were evacuated for periods of a few days to several weeks. Seventeen thousand people in Oregon's Illinois Valley were on half-hour evacuation notice the same year. In 2002, millions of dollars of property damage included the destruction of over 2300 homes and other buildings. It is becoming increasingly evident that while one cannot uncut a tree, similarly one cannot unburn a forest. In hazardous fuel reduction projects it is important to focus on the removal of the right vegetation to modify fire behavior—primarily surface and ladder fuels.

At the same time, there can also be adverse environmental consequences of hazardous fuel reduction projects, including but not limited to loss of wildlife habitat, increased sedimentation in streams, soil compaction, and fragmenting of unroaded areas. As documented by the General Accounting Office, poorly designed vegetation treatments in the past have contributed to increased fire risk by removing the large and fire resistant trees, while leaving highly flammable smaller trees behind.

This Act is intended to foster prompt and sound decision making rather than perfectly executed procedures and documentation. Environmental analyses should concentrate on issues that are essential to the proposed projects rather than on amassing needless detail. Section 106 is intended to reinforce Congress's desire that the totality of circumstances be assessed by the courts to assure that public interest in the environmental health of our forests will be served.

Let me be more specific about a few of the other provisions of this legislation. The Senate also prevailed in

keeping the Senate funding requirements and levels, preserving the Senate NEPA language on at-risk lands outside the wildland urban interface; preserving the Senate old growth and large tree protections, and preserving the Senate administrative appeals process.

The legislation changes the environmental review process so the Forest Service still considers the effects of the proposed project in detail, but can focus its analysis on the project proposal, one reasonable alternative that meets the project's goals and the alternative of not doing the project, instead of the 5–9 alternatives now often required. In the highest priority areas within one mile and a half of communities, the Forest Service need only study the proposed action and no alternatives. There is no relaxation from current law in any areas, however, in how closely the Forest Service must study the environmental effects of the project it is proposing to undertake.

The changes that were made to the Senate compromise on H.R. 1904 include more relief and respect for rural forested communities. This conference report allows a single action alternative to be analyzed under the National Environmental Policy Act inside the wildland urban interface defined as 1.5 miles from the community boundary. Within the area identified for protection as the wildland urban interface under a community fire plan, the agency is not required to analyze the ''no action'' alternative under NEPA, but is required to analyze two action alternatives. This conference report also limits the treatment of diseased forests to those with epidemics, whereas the Senate compromise allowed the treatment of forests with only an infestation of bugs.

This conference report preserves all current opportunities for public input and appeal, while streamlining the appeals process and eliminating some of its worst abuses. Not one current opportunity for public comment would be lost under the compromise. The compromise will require the Forest Service to rewrite their appeals process using the pre-decisional appeals and comment process that has been used by the Bureau of Land Management since 1984. It works by encouraging the public to engage in a collaborative process with the agency to improve projects before final decisions have been rendered upon them by the agency. This model places a premium on constructive public input and collaboration, and less emphasis on the litigation and confrontation of the post-decisional appeals process currently used by the Forest Service. The compromise is designed to move from the current model of confrontation, litigation and delay to one which places a premium on constructive, good faith public input. Whereas in the past, parties could ''sandbag'' the appeals process by not raising salient points in hopes of later derailing the entire proposed action in the courts, parties would not be allowed to litigate on issues they had failed to raise in the comment or appeal period unless those issues or critical information concerning them arose after the close of the appeals process—as a result of the revised agency decision.

This conference report provides the first-ever statutory recognition and meaningful protection of old growth forests. Never before has Congress recognized by statute the importance of maintaining old growth stands. Under the compromise, the Forest Service must protect these trees by preventing the agency from logging the most fire-resilient trees under the guise of fuels reduction under these new authorities.

The issue of old growth continues to be the subject of considerable scientific inquiry and debate. What is not subject to debate is the special character and ecological value of old growth. Clearly, it is the intent of Congress that in interpreting the provisions of section 102(e), federal agencies affirmatively recognize the special importance of old growth forests while maintaining the deference they are due unless their determinations are arbitrary, capricious or an abuse of discretion.

This legislation is designed to address past mismanagement of federal forests, and to protect old-growth so that we don't repeat the mistakes of the past. The majority of old-growth stands are healthy, and don't require management. In some old-growth stands in the drier parts of the west, where natural fire regimes have been disrupted by a century of fire suppression, silviculture with a minimum of disturbance can be appropriate that will restore natural forest structure and fire regimes.

Where old growth stands are healthy, as they are throughout much of the forest on the west side of the Cascade Ridge in Oregon, the compromise requires that they be ''fully maintained.'' Section 102(e) of the conference addresses the treatment by the Forest Service and Bureau of Land Management of old growth stands that may occur on authorized hazardous fuels treatment projects. Since recently issued resource management plans of the two agencies are supposed to provide guidance on the treatment of old growth Section 102(e) directs the agencies to rely on the old growth definitions contained in resource management plans that were established in the ten-year period prior to the enactment of the legislation.

Older plans must be reviewed, and if necessary, revised and updated, to take into account relevant information that was not considered in developing the existing definitions or other direction relating to old growth. Any revision or update must meet the requirements of subsection 102(e)(2), which requires the Secretary, in carrying out authorized hazardous fuels treatment projects, to fully maintain, or contribute toward the restoration of, the structure and composition of structurally complex old growth stands according to the pre-fire suppression old growth conditions characteristic of the forest type, taking into account the contribution of the stand to landscape fire adaptation and watershed health, and retaining the large trees contributing to old growth structure. Nothing in the bill is intended to prohibit or restrict establishing other standards for old growth stands where purposes other than hazardous fuel management are being pursued under other authorities.

The intent of section 102(e)(4) is to avoid disrupting resource management plan revisions that are already underway. Comprehensive revision of older resource management plans may be preferable to separate amendments or updates for old growth standards, and the bill allows additional time for operating under older plans where revisions are in progress.

In negotiating this bill, I did not agree to the imposition of any more restrictive standards than the ''substantial supporting evidence'' explicitly set forth in the statute for members of the public's identification of old growth stands during scoping in subsection 102(e)(4)(C).

The compromise makes it less likely that old growth will be harvested under current law by mandating the retention of large trees and focusing the hazardous fuels reduction projects authorized by this bill on thinning small diameter trees.

In moving this legislation, it was my intent to see that the right work get done in the right way in the right place using the right tools. In other words, to see that the risk of catastrophic fire is reduced through legitimate hazardous fuel reduction activities.

These activities are referenced in Section 101(2) of the bill and are spelled out in detail in the Implementation Plan for the Comprehensive Strategy for a Collaborative Approach for Reducing Wildland Fire Risk to Communities and the Environment, dated May 2002. That document lists the following tools as being appropriate for hazardous fuel reduction: prescribed fire, wildland fire use, and various mechanical methods such as crushing, tractor and hand piling, thinning, and pruning.

In other words, this bill does not authorize a new wave of large tree commercial timber sales. It must be noted that the bill emphasizes the avoidance of the cutting of large trees in Section 102(f), where it specifically states that protects must focus largely on small diameter trees, thinning, strategic fuelbreaks and prescribed fire to modify fire behavior and that projects maximize the retention of large trees.

Section 104(f) requires the agencies to focus on small diameter trees, thinning, fuel breaks and prescribed fire to modify unnaturally severe fire effects, and to maximize the retention of large trees. Large trees are important ecological components of most forest systems. In particular, they are often more fire and insect resistant

than smaller diameter trees, and therefore, with rare exceptions do not contribute to hazardous fuels overloads. They are also considered to be critical ecological legacies because they are essential to the desired future structure and composition of forests. However, large trees are now often underrepresented components of many forest types. In those forest types, forest health will not be restored without a diversity of age classes and types, including large trees.

Section 102(f) deals with federal agency treatment of large trees in authorized hazardous fuels treatment projects outside of the areas identified under section 102(e) and requires the Forest Service and Bureau of Land management to maximize the retention of large trees, as appropriate for the forest type, to the extent that the trees promote fire-resilient stands. From an ecological standpoint, and in regards to modifying future fire behavior, large trees are the very last ones that should be removed, if at all.

This is an appropriate limitation in that the last trees that need to be removed from an ecological sense, as well as to modify fire behavior, are the large trees. The clear intent of this legislation is to focus primarily on surface fuels such as brush and dead and down woody material and ladder fuels consisting of small diameter trees and saplings.

This direction is very important to me and I intend on remaining vigilant and responsive to concerns where projects veer from this important direction.

This conference report restores balance to healthy forests legislation by authorizing $760 million annually for these projects. This is a $340 million authorized increase over the currently appropriated level of $420 million for hazardous fuel reduction projects. The conference report maintains the requirement that at least 50 percent of funds spent on restorative projects to be spent to safeguard communities which face the greatest risks from fire.

This conference report also includes improved monitoring language that will help Congress track the successes and failures of this legislation. Section 104(g) requires the Secretaries to monitor and assess the results of authorized projects and to report on the progress of projects towards forest health objectives. This evaluation and reporting will help guide the agencies in future hazardous fuels reduction treatments in existing project areas and in other project areas with similar vegetation types.

The Senate intends that treatments authorized under this Act be directed to restoration of fire-adapted ecosystems as well as hazard reduction. The threat of uncharacteristically severe fires and insect and disease outbreaks decreases when the structure and composition of fire-adapted ecosystems are restored to historic conditions. Thus, section 104(g)(4) directs agencies to evaluate, among other things, whether authorized projects result in conditions that are closer to the relevant historical structure, composition and fire regime.

The Senate recognizes that fire ecologists have learned that fire is a landscape process and that treatments are most effective when conducted in accordance with landscape- or watershed-scale analyses. Section 104(g)(4) requires the agencies to evaluate project results in light of any existing landscape—or watershed—scale direction in resource management plans or other applicable guidance or requirements. Managers should also evaluate and use available relevant scientific studies or findings.

Section 104(g) also requires the Secretaries, in areas where significant interest is expressed, to establish a multiparty monitoring and evaluation process in order to assess the environmental and social effects of authorized hazardous fuel reduction projects and projects implemented pursuant to section 404 of this Act. Many forest-dependent communities support multiparty monitoring, which simply means that communities and individuals may participate with the Federal agencies in monitoring the projects. The Managers recognize the importance of multiparty monitoring as a way to rebuild trust between rural communities and the agencies.

In conclusion, we have a lot of work to do. We will have others raise questions about the ramifications of this legislation as it relates to the National Environmental Policy Act and other concerns. We want to get this done and implemented properly. As Chairman CRAIG and I have seen in the subcommittee on forestry, we know, for example, it will be tough to get all the funds that are going to be necessary to do these projects on the ground. Our bipartisan coalition is committed to doing that. Then we can turn our coalition to looking at other areas where we can find common ground and move forward in the natural resources area.

A lot of people never thought we would get to this day. Look at the editorials that have been written, some of the interest groups with respect to this legislation, and some of the attacks made on Members. I recall some of those to which Senator FEINSTEIN was subjected. She showed the courage to make it clear she would hang in there and work to get this legislation enacted.

We had a lot of Members of the Senate on both side of the aisle say they would put the public interests first, they would concentrate on protecting communities. That is what has brought us to this day.

I want to thank the following Senate staff for all their hard work on this important legislation: Lance Kotschwar and West Higginbothom of the Senate Agriculture Committee staff, Frank Gladics and Kira Finkler of the Senate Energy and Natural Resources staff, Calli Daly of Senator CRAIG's staff, John Watts of Senator FEINSTEIN's staff and Sarah Bittleman and Josh Kardon of my own staff. Josh Penry and Doug Crandall, staff from the House Resources Committee, did yeomen's work to get this bill to conference. These folks, and many others, put in countless and numerous evenings and weekends into this bill and they deserve our appreciation for their hard work and dedication.

This legislation will now go to the President's desk for his signature. I look forward to that happening. Just this week it snowed in Oregon—the fire season has passed for another year but it will come again next year as sure as the spring follows the winter. With this bill in place as law I am hopeful that we will be a bit better prepared.

I yield the floor.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Mr. President, are we in morning business?

The PRESIDING OFFICER. That is correct.

MEDICARE

Mr. DODD. Mr. President, I will take a few minutes and comment on the upcoming debate on Medicare. Let me begin by expressing my appreciation and my respect for those who have worked on this issue for a great deal of time. I have nothing but the highest admiration for my colleagues, Senator BAUCUS, Senator GRASSLEY, Senator BREAUX, Senator KENNEDY, and others who have spent a great deal of time over the last number of months trying to put together a proposal to provide Americans with a comprehensive prescription drug benefit while not undermining the core program of Medicare which has served millions of Americans so well for the past 38 years. Whatever other views I may have on this proposal, it does not diminish my respect for the efforts they have made to put this bill together. I begin on that note.

Let me state the obvious. I don't know of many other programs that have enjoyed as widespread and as deep and profound a degree of support in our Nation's history as the Medicare Program. I cannot think of another program which has done as much for as many people as Medicare has over the past 38 years. When you look back at the statistics of the poor in America prior to 1965, without exception, the poorest group of Americans were older Americans, our senior citizens. That was, of course, because they had left the labor force and to what extent they had any coverage at all, it was usually lost upon their retirement. As happens when people age, health problems often emerge, people become sicker and require more help. America could only watch as parents and grandparents got sicker and poorer and faced great difficulty making ends meet.

Through a very extensive and elaborate and lengthy debate, our predecessor Congress, both in this body and

in the House of Representatives, under the leadership of Lyndon Baines Johnson, in 1964, giants in this body, crafted the Medicare Program. In fact, President Johnson went to Missouri, to the home of Harry Truman, who had been such a great advocate of universal health care, to sign that historic piece of legislation into law. There have been a lot of other things we have done over the years, such as Title I of elementary and secondary education, that might come close—certainly Social Security—I suspect if we had to pick two programs this Government has fashioned in the 20th century that have meant as much to such a critical part of our society, one would certainly have to identify Social Security and Medicare.

It is with that background that I rise this afternoon to express my deep concern and worry over what we may be doing in the next few hours in a rather hasty manner. That does not mean to suggest that the conferees and others who have worked a long time on this have acted in haste; although I disagree with their product, I respect the amount of time and effort they have put into this. The Presiding Officer and this Senator are the only two Members present at this moment, and our ability to go through this and to understand what is about to happen in the coming days is rather limited.

Sometime tomorrow, Sunday, or Monday, but certainly no later than that, we will be asked to vote up or down on a conference report that does something all Members have wanted to do for years—provide a prescription drug benefit for older Americans under the Medicare program. Knowing, as we all do, that had we been writing the Medicare bill in the year 2003 for the very first time, or several years ago, we would never have considered a Medicare proposal without the inclusion of a prescription drug benefit. But those who wrote the bill in 1964 were not confronted with the terribly high cost of prescribed medicines. At that time, there simply were not that many pharmaceutical products out there, so prescription drugs were not as major a factor as they are today. The idea of providing basic healthcare services was what originally drove Congress to enact the Medicare Program.

Obviously, the world has changed. So the need for a prescription drug benefit today, given the tremendous costs our elderly face every single day across this country, where they literally, without any exception at all, are forced to make choices about whether or not to take the drugs they have been prescribed, to have a meal, or to pare back on their prescriptions so as to spread them out over a longer period of time so they will not have to go back in and pay for the drugs which they cannot afford, in which case they are not getting the full benefit of the prescriptions because they are self-medicating themselves, and in many cases can do far more harm than not taking a drug at all, as any good doctor can tell you—that is the reality today fro millions of our senior citizens.

It is my belief that if we were solely dealing with the prescription drug benefit piece of this package, it would pass 98 to 2, maybe 100 to 0. There is no doubt in my mind that would be the case. If that were the only issue before the Senate, that would clearly be the outcome. Although I would quickly tell you there are parts of this prescription drug benefit that could be drawn far more wisely and far more fairly in many ways, I could not argue over the fact that a $400 billion appropriation over the next 10 years offered a good start.

But also just as quickly I would say to my colleagues, if we were dealing with the portion of this package dealing with the structural reform of Medicare, and they were standing alone just as I suggested a moment ago if the prescription drug benefit package were standing alone, the parts of this package instituting structural changes to Medicare would not get 10 votes. I don't know of many people who would support a Medicare package that had the sections this bill does that would so dramatically alter Medicare. The only reason it is getting any consideration at all is that we have lured people into this on the prescription drug benefit aspects of this conference agreement.

So if you set that aside for a minute and begin to look at the structural side of this, and understand how many years it originally took to put together the Medicare program, what a difference it has made in people's lives—when you consider the tremendous salvation this has been to people—and then recognize the direction in which we are about to go if this conference agreement is adopted—and I suspect it may be—then it will not take long, in my view, when you will find what we saw only a few years ago, with the Congress coming back in to reverse itself in 2006 or shortly thereafter when the provisions of this bill go into place.

The more you look at the structural side of this particular proposal, then the more people are going to be concerned about what they are doing. So I applaud those who have worked on the prescription drug side of this bill. But I have great concerns about what this conference report would do to the foundation of Medicare.

In June of this year, when S. 1 was before this Senate, I based my support for that measure on the belief that it offered a strong, though not complete, first step towards ensuring prescription drug coverage for America's seniors and strengthening the overall structure of the Medicare Program.

This conference report, I say with deep regret, can now be accurately characterized, in my view, as a misguided step down the wrong path. The agreement before us today will lead us down the path towards greater privatization of Medicare, towards a greater burden on our States trying to meet the needs of their own low-income senior citizens, and towards an overall weakening of the Medicare Program.

A very simple way to describe this, as we look at the great success the Medicare program has enjoyed over the past 38 years, is to remember that this is a universal program. This program says to everybody who reaches a certain age, regardless of how healthy you are, or how wealthy you are, or how poor you are, or how sick you are, you can qualify and be a part of this Medicare Program. We are about to do something now that is going to say to those who are wealthier and healthier, you can move off into private plans, in which case the only ones who will be left within traditional Medicare are those who are less wealthy and those who are most sick.

Now, you do not have to have a Ph.D. in mathematics to understand what the outcome will be if this conference report is adopted. If Medicare becomes a program of poor, sicker people because wealthier, healthier people have left, as I believe they will under this bill, then you have just forced either a reduction of benefits or increased costs for those under traditional Medicare—those who can least afford it.

There is no other outcome you can draw from that which we are about to do. That is the eventual outcome. It fundamentally changes and alters the basic concept that was part of the plan passed in 1965—its universality.

The underlying concept of wealthy, healthy people joining with poorer, sicker people—being together—has been the cornerstone of this tremendously successful program. When you begin to pick off those who are wealthier and healthier, for all the obvious reasons, into private plans, the sicker and poorer people will be left with either Medicare benefits getting cut or premium costs going up. That is the sadly predictable outcome of this legislation, Mr. President.

Medicare is first and foremost a program to protect our Nation's seniors from the often insurmountable costs associated with securing quality health care services. Prior to its inception in 1965, as I mentioned, many seniors—the overwhelming majority, in fact—faced abject poverty as a result of skyrocketing health care costs. The creation of the Medicare Program provided a critical safety net for those seniors and allowed them to retain both their access to quality health care, as well as their financial security.

Earlier this year, and prior to the Senate's consideration of the underlying legislation, I had the opportunity to convene a series of forums in my home State of Connecticut on health care issues in an attempt to frame the scope of this debate for them. At those forums, I heard from my constituents on many matters regarding health care. I heard from seniors who literally could not afford to fill prescriptions—and I know my colleagues have heard

the same stories—called for by their doctors. I heard from elderly Medicare beneficiaries forced to choose between purchasing groceries or filling their prescriptions. I heard from seniors who were forced to skip dosages of their medicines in an attempt to stretch their limited supplies of these needed medicines. I heard from Medicare beneficiaries requiring more than 10 prescribed medicines a day unable to afford even half of those prescriptions.

Clearly, what I heard from hundreds of my own constituents is their grave concern over the present lack of a prescription drug benefit under the Medicare Program.

When Medicare was first enacted, few could have envisioned the tremendous costs associated with prescription medicines. However, it is the great need for prescription drug coverage under Medicare that was firmly behind my initial support for S. 1. Sadly, however, the conference report before us simply does not go anywhere near far enough to provide sufficient coverage for prescription medicines for the great majority of Medicare beneficiaries. That said, we cannot turn our backs on what this bill would do for Medicare beneficiaries with severely limited incomes. This bill says, if you make under $13,470, representing 150 percent of the federal poverty level, then you will get real help under this bill. But if you make anything more than $13,470, which is what two-thirds of our seniors citizens do, then you are going to be offered little in the way of help under ths bill. That is why it is my belief the prescription drug benefit aspect of this bill should be greatly strengthened.

But I believe for most seniors that it is terribly unrealistic to suggest that someone making more than $13,470 can somehow manage to afford the cost of their prescription medicines, particularly if they have costs that would push their spending into the bill's gap in coverage, or donut hole, as it is often described. But, nonetheless, that is the direction we are going with this conference agreement.

The emerging bill contains a gap, as I mentioned, of more than $2,800, twice the size, by the way, contained in the Senate-passed legislation. Under this conference agreement, Medicare beneficiaries with costs within this so-called donut hole will be forced to pay for the full cost of their prescribed medicines as well as the monthly premium of an estimated $35—and I stress the word ''estimated''; I will get to that in a minute—and receive absolutely no financial assistance whatsoever.

Only 4 percent of seniors in the country make over $80,000 a year. Two-thirds of seniors make somewhere above $13,470. The idea that somehow people are going to have enough money, as a senior, trying to pay a home mortgage or pay whatever obligations they have, not to mention food and other things, and also be able to pick up as much as $2,800 a year for prescription drugs, is, I think, terribly unrealistic.

This bill would require Medicare to move dangerously toward privatization, which is what I want to get back to, because it is the side of this bill calling for structural change to the Medicare program that causes me the greatest concern and greatest worry, and undermines this incredibly fine program. I can't tell you how disappointed I am in the AARP for endorsing this conference agreement. I truly wish that AARP's affiliates across the country had been heard on this issue before their national leadership decided that they would support this bill and disregard the 38 years of history when it comes to Medicare and the millions of people who have greatly benefitted from its coverage.

As one who has witnessed firsthand the tumult and confusion created by Medicare+Choice organizations entering and then quickly withdrawing from communities in my home State of Connecticut, I can say assuredly to my colleagues here today that this would establish a dangerous precedent that may very well lead to the devolution of the Medicare Program as we know it.

Also of great concern to me is the effect this legislation will have on employers that have already provided their retirees with prescription drug coverage. In my State of Connecticut, more than 225,000 Medicare beneficiaries, fully one-third of my State's senior citizens, receive coverage for their prescribed medicines from their former employers. Under this bill, about 40,000 of those elderly will lose this coverage as a result of employers dropping their prescription drug plans.

I don't know the numbers in every other State, but if 40,000 of my 225,000 beneficiaries presently with prescription drug plans from their former employers are going to be dropped from their prescription drug programs, how many in other States are going to be? Where do the States of other Senators fall in this category?

I additionally have another 74,000 people in my State—and I represent a small State with a little more than 3.5 million people—who qualify for both Medicare and Medicaid. These beneficiaries—and there are 6.4 million of them across the country that are eligible for both Medicare and Medicaid—will face increased prescription drug costs under the underlying bill. There will be a significant cost increase for those people who fall within both Medicare and Medicaid if this conference report is adopted. So even before we start talking about what will happen in the year 2010 and down the road under this bill, Mr. President, we are going to witness significant numbers of people lose their present coverage or be forced to withstand both higher costs and diminished benefits.

Also very troubling to this Senator in the underlying conference agreement is its unqualified support for private for-profit insurers at the expense of traditional fee-for-service programs. Particularly disturbing are the provisions securing $12 billion to be solely reserved for these private insurers in order to entice them to enter the Medicare market. Twelve billion dollars is going to the private companies, just so they can compete against the traditional Medicare program. They are calling this competition. Back in the Roman Empire, they had a competition like that. You would go to the forum and on one side were the lions. Under this bill is a similar situation, private insurers will get $12 billion to compete, but Medicare will not get anything. Under this bill, we are going to cap Medicare spending and then say: Go out and compete against enriched private plans.

I was born at night, Mr. President, but not last night. I know and most other people know, without a great deal more knowledge about this, that if you provide $12 billion, as this bill does, to private companies to go out and compete against a company that doesn't get that kind of help, do you know who is going to win that competition? I wonder. I wonder what the outcome will be there. Yet that is what this bill does. Twelve billion dollars reserved for private insurers in order to entice them to enter the Medicare market. The inclusion of this provision truly represents a solution in need of a problem, Mr. President. Traditional Medicare already serves 89 percent of all Medicare beneficiaries and the addition of $12 billion to entice private plan participation is wholly unwarranted and unnecessary.

In fact, this bill will also prohibit the Medicare program from going out and forming a consortium to drive down the cost of prescription drugs. Under this bill, you are violating the law if you go out and do that. While we are going to provide $12 billion instead to others to allow them to compete with Medicare, we will not allow Medicare itself to go out and lobby or negotiate to lower the costs of prescription medicines. The traditional Medicare Program is a proven success and would be better served if this valuable funding of $12 billion were directed toward further strengthening its foundation.

Lastly, the conference agreement before us today establishes the dangerous precedent of instituting so-called cost containment measures that could directly lead to severe cuts in what Medicare covers and just as severe increases in the costs Medicare beneficiaries will be forced to bear. Very specifically, the conference report calls on the Congress and the administration to address Medicare's costs when general revenue spending on Medicare reaches 45 percent of the program's total cost.

Can anyone cite for me any other Federal agency where that kind of provision has been imposed? There is not one—not one. Yet this bill goes out and places this kind of a restraint on Medicare, and on no other part of our Government do we do it, only on Medicare.

It is my belief that the adoption of this purely arbitrary cap, which you will find nowhere else, will lead to almost certain erosion of critical programs, scope of coverage, and affordability.

Today, nearly 40 years after Medicare's inception, we find ourselves at a crossroads. I can truly say that I am somewhat stunned that we are about to make a decision on a program that has worked so well for so long within a matter of hours here, without any of us fully understanding—at least most don't seem to understand—the implications of what we are about to do. How could you take a program that has worked so well for so many people and, in the waning days of a session, with just a few hours remaining, get up and ask the Congress to do what we are about to do here? I don't understand how we could allow this to happen. We are on the cusp of fundamentally altering a program that has worked so well for this nation's elderly and most frail citizens.

Again, Mr. President, we find ourselves at a crossroads. The opportunity is before us to move Medicare toward the future without threatening its proven availability to provide for the health and well-being of our Nation's senior citizens. Sadly, however, this conference agreement before us represents an opportunity lost, an opportunity not only to add comprehensive coverage for prescribed medicines under the Medicare Program, which would have been a great success story, but also an opportunity to strengthen the Medicare Program for future generations.

So it is with great sadness that I find myself, only months after originally supporting the underlying legislation when it was first considered by the Senate earlier this year, now having to oppose this conference agreement in its current form. Under the guise of providing needed prescription drug coverage under the Medicare Program, this conference agreement falls far short of addressing this need for the great majority of our Nation's nearly 41 million Medicare beneficiaries.

Forty-one million Americans take note. Over the weekend, in the next 72 hours, a program that has served you for 40 years, serving more than 40 million people presently, is going to be fundamentally altered unless this body, and only this body, stands up and says: Stop. Go back. Let's rethink this before we go out and make the kind of changes that are being proposed in this legislation.

While there have been numerous articles and commentaries written about this plan over the last number of days, people trying to attract attention, numerous editorial comments that I have found tremendously compelling, I come back to the basic point that this is dangerous policy. I put my colleagues on notice; I tell you this will happen.

In the Senate passed bill, which, again, I supported, in order to receive prescription drug coverage, there had to be two drug-only providers available. However, this conference agreement calls for only one of these plans and an HMO. This is a fundamental change. Let me describe what this can mean in the clearest terms I have seen written about this.

Under the conference report, we have now learned that the Medicare guaranteed fallback is only triggered if a senior does not have a choice of two private plans, one of which can be an HMO. Again, that was not in the Senate bill and it is in the conference report before us.

In order to receive prescription drug coverage under this bill you have two choices: One, you can choose traditional Medicare and receive no prescription drug coverage. Two, you can choose to keep traditional Medicare and purchase a drug-only plan. The problem is that there is no limit on the monthly premiums these drug-only plans can charge. When you hear about the $35 cost of premiums for these plans, you must remember that this is only an estimate. If there is only one provider of the drug-only plan in your area—and that is all there has to be under this bill the monthly premium could be $100 or more. Nothing in this bill caps what the premium should be on a monthly basis for the drug coverage. That is what the offer is under this bill.

In other words, it will be permissible for only one insurer to offer the new Medicare drug benefit and charge whatever premium they desire, as long as there is also an HMO option in the area. This type of arrangement strategically avoids the protection of a traditional Medicare fallback benefit from being made available to seniors. As a result, seniors in these regions, many of which will be rural areas, will be financially forced into HMOs just to obtain an affordable drug benefit. In the meantime, they will lose their choice of doctors.

Does this sound familiar? Earlier this year, President Bush and his administration made clear that he wanted to reform Medicare by providing a prescription drug benefit, but only to those seniors who were willing to go into a private insurance plan and HMOs. This compromise has been designed to help achieve that goal.

So that it is further understood, it is important to note that the Senate required that there be at least two private stand-alone options for Medicare beneficiaries. This would have ensured that there would at least be competition for premiums for the new stand-alone drug benefit. Some have argued that the competition between the drug-only plan and an HMO or PPO will force down the premium of the drug-only plan. The fact is, drug-only plans cannot compete on an even playing field with PPOs or HMOs. This is because HMOs and PPOs are provided additional subsidies under this bill and, by definition, offer a wide variety of services that give these plans a competitive advantage over the stand-alone drug plans. Any losses on the drug side can be offset by gains on the medical side, in a sense.

This is yet another example of how all financial incentives are designed to advantage the private HMOs and PPOs over traditional Medicare. People need to understand the fundamental changes in this bill that will greatly alter the very structure of the Medicare program.

I have taken a lot of time this afternoon, Mr. President, and I apologize to my colleagues. But I feel very strongly about this critically important issue. Last week in this body we had a filibuster that went on for 4 days because people were upset over the nomination of 4 judges. I contend that perhaps there ought to be a filibuster on this legislation as nearly 41 million Medicare beneficiaries are going to be adversely affected if this legislation is adopted by this body.

Here we are toady, Mr. President, down to the waning few hours of the session, and we are about to consider fundamentally altering and setting back Medicare for years to come. When the roll is called on this, I will vote no. I will seek other options between now and then to see if there is a way to delay consideration of this until we have more time to examine more fully the implications of this bill. Under the guise of providing needed prescription drug coverage under Medicare, the conference agreement before us today offers far too little coverage for the great majority of Medicare beneficiaries, while at the same time institutes structural reforms to the underlying Medicare program that will significantly weaken its ability to provide for the health and well being of our nation's senior citizens. It should be soundly rejected. I thank my colleagues and I yield the floor.

The PRESIDING OFFICER (Mrs. DOLE). The Senator from Iowa is recognized.

Mr. GRASSLEY. Madam President, I didn't interrupt the Senator from Connecticut, so I hope my colleagues will let me give my remarks in rebuttal unhindered by any other obstacles.

It is about time that we pass a prescription drug bill for Medicare. It is about time that we strengthen and improve Medicare, as we have been telling the voters for three elections.

In the 2000 election, it was an issue. It was an issue on the floor of the Senate last summer. It didn't pass last summer because the other party in this body wanted an issue for the election coming up last fall. The leader of the other party took it away from his own chairman of the committee, so there could not be a bipartisan bill put together.

In the Senate, nothing gets done that is not done in a bipartisan way. Maybe a lot of people don't like that about the Senate, but it has been that way for 214 years, and our country has functioned well. This is the only body in our political system where minority interests

are protected. We are going to have broad, bipartisan support for this bill, and we are going to pass it because when Republicans won the last election, we won it because there were a lot of things buried in this body by the leadership of the other party because they wanted issues for that election and because they thought they would increase their strength in this body and get more of what they wanted this year than last year.

But they miscalculated. The people of this country put the Republicans in charge of this body. But they didn't put the Republicans in charge of this body to do things just in a partisan way because we in the majority party know that nothing gets done here that doesn't have some bipartisanship with it.

As chairman of the committee of jurisdiction over Medicare, taxes, international trade, and a lot of other social programs, I have the privilege of having a good working relationship with the former chairman of this committee, now the ranking Democrat, Senator BAUCUS. We started out on Medicare prescription drugs, like we did on some other issues this year, to put together a bipartisan approach so that we could deliver on the promises of the last several elections—not just the last election, but the last several elections. Both political parties have been saying that we are going to strengthen and improve Medicare, and one of those strengthenings and improvements is going to be a universal and comprehensive and voluntary prescription drug program.

We are about to deliver on it, and people on the other side don't like it because they had an opportunity and they lost that opportunity because they wanted to do something in a partisan way. Previous speakers on the other side have raised this point about the AARP backing this plan. They are saying they are caving in to political pressure.

It seems as though, as far as the other side is concerned, the only time the AARP is political, in the eyes of the Democratic Party, is when AARP agrees with the Republican Party.

Senator BAUCUS and I have been working together, and we will bring to the Senate, after the House passes it tonight, a bipartisan, bicameral compromise out of conference, which will deliver on the promises of the last three elections. We are even going to deliver on the promise of the Democratic Party, where they were going to provide prescription drugs for seniors. The only thing I can think is that they regret it. They had an opportunity a year ago, when they were in the majority and when our President wanted to work with them, to do it, and they didn't take advantage of it.

I want to speak about this product that we have before us. It was just yesterday, after 4 months of conferencing, that the conferees agreed to a bipartisan breakthrough on a conference report that will make comprehensive prescription drug coverage a reality for our 40 million Medicare beneficiaries, both seniors and disabled. After 4 months of hard work, the conferees approved a sweeping package of new prescription drug benefits and other program improvements that makes good on our commitment to our seniors.

I am urging all my colleagues to support it. Since 1965, seniors have had health insurance without prescription drugs. By reaching agreement yesterday, the conferees came one step closer to changing that. The Senate can make history by improving this compromise report.

This important breakthrough came because of the tireless work of our committee members, both Democrats and Republicans, over the last 5 years. Senators FRIST and BREAUX led the way on prescription drugs before any of us were listening. Senators SNOWE, HATCH, and JEFFORDS, along with Senator BREAUX and this Senator, carried the torch as members of the Finance Committee, but also because we wanted to do things in a bipartisan way. We even called that a ''tripartisan way'' because Senator JEFFORDS lists himself not as a Republican or Democrat but as an Independent. That is an effort we have exceeded in the bill, but it was an effort that somewhat blazed the trail to where we are today, and I am glad to have been a part of it.

Finally, this breakthrough came because of the President's unyielding commitment to getting something done for seniors once and for all. Last December 10, I had an opportunity to meet with the President, as he knew I was going to be the new chairman of the Senate Finance Committee after the Republicans had won control of the Senate. We, in fact, had that meeting, anticipating all this time we had to work to get ready, a long time before Congress even convened. At that meeting, the President said two things that I remember. I did not take notes, but I remember very well that he was willing to commit political capital to this effort and that he was willing to put money in his budget for that effort.

The President delivered on both of those statements because his budget put $400 billion in over 10 years for this bill. That is exactly what we in the Senate wanted. We approved that last March. By June, the Senate Finance Committee had reported out a strong bipartisan bill by a vote of 15 to 6, building upon the agreement with the President and the agreement of the Senate for $400 billion for the budget.

The Senate, as you know, passed S. 1 on strong bipartisan grounds in June. The other body passed a similar bill, H.R. 1, that same night. I believe the committee report is measurably better than either S. 1 or the House bill, H.R. 1. It contains improvements, refinements, and changes that are better for seniors and better for the doctors and the hospitals that serve them.

We have come a very long way in getting to this point, and I am proud of where we have ended up. I will do everything I can to ensure successful passage of this conference report over the next few days.

Of course, the conference report can't and won't be all things to all people. Like any compromise, no one is left perfectly happy. That probably means that the conference committee came out just about at the right place. I urge all my colleagues to go beyond the perfect and to focus on the good that the conference agreement accomplishes.

The greatest good at the heart of this conference report is a comprehensive prescription drug benefit that will give immediate assistance starting next year and continuing as a permanent part of Medicare to every senior. Not only is it comprehensive, it is universal, and if nobody wants to participate in it, they don't have to. It is voluntary as well.

The conference report provides affordable comprehensive prescription drug coverage on a voluntary basis to every senior in America. The coverage is stable, it is predictable, and it is secure. Most importantly, the value of the coverage does not vary based on where you live and whether you have decided to join a private health plan. For Iowans and others in rural America who have been left behind by most Medicare private health plans, this is an important accomplishment that I insisted on way back as early as January of this year. I haven't budged on that commitment and that protection is in this conference agreement.

Overall, the conference agreement relies on the best of the private sector to deliver drug coverage, supported by the best of the public sector to secure consumer protection and important patient rights. This combination of public and private resources is what stabilizes the benefit and helps keep costs down.

Keeping costs down is essential not just for seniors but for the program as a whole. Throughout this bill, we have targeted our resources very carefully, giving additional help to the poorest of our seniors. Consistent with the policy of targeted policymaking, we have worked hard to keep existing sources of prescription drug coverage, such as employer-sponsored benefits, and to do it in a viable way.

This conference agreement goes great distances to keep employers in the game providing drug coverage, as they do now, to their retirees under those plans that were promised to people after retiring from their employment.

We all worried very much when we passed this bill in June that, as CBO scored our Senate bill, it might cause 37 percent of the corporations to drop their employees on the Government plan. The House bill had a 32-percent drop rate, according to the Congressional Budget Office. As a result of the conference activity and what we have done to shore up existing retiree plans, that percentage is now much less than

20 percent due to the substantial investment made by conferees to ensure that employers can continue offering the good coverage they have for a long period of time.

The conference report includes additional subsidies. It also includes regulatory flexibility that will do much more to help, rather than threaten, employer-sponsored coverage for those who currently receive it.

Still, we all must acknowledge that decisions about scaling back coverage or dropping it altogether are bound to be made regardless of whether we pass this conference report. But I am confident that the balanced policies before us are a very good deal for employers and their retirees.

I want to make it very clear to people listening who might be worrying about corporation retirees losing their health coverage because of something we are doing here, we are doing our darndest to supplement these plans and to give regulatory flexibility so these plans are not dropped. But Congress cannot pass a law that says corporation X, Y, or Z, some day, if they decide they want to dump them, might be dumped. That could be happening in some corporation in America today. This law is not even on the books. That happened in my State earlier this year and last year and the year before, not because Congress was talking but just because that was the policy of that corporation. It is something they felt they couldn't afford any longer, and they did it.

That could happen even after we pass this legislation, but where would we be if we didn't pass this legislation? The 35 percent of the seniors today who have no coverage whatsoever, and probably never have had it in retirement, will still not have drug coverage. Also, the corporations that dump their plans might not have anything either. By passing this legislation, even considering all the resources—about 20 percent of this legislation contains resources for these corporations to keep their plans—if they would drop them, at least these people have something on which to fall back.

I would think that is a better situation than the uncertainty of, Is my corporation going to dump me or are they not going to dump me?

If they are dumped, then they have zilch, unless they want to buy an expensive Medigap policy or something like that. So we are trying to have a safety net for all seniors, and we are trying to do it in a way that is very helpful. So I want to make that very clear. We cannot force corporations—never could and never will be able to—to say they have to provide health care coverage and prescription drug coverage for their retirees. But we do have a plan that is very good for people who do not have prescription drugs or people who might have prescription drugs today but tomorrow might not have it. This is a safety net and a darn good safety net.

Beyond just prescription drugs, the conference report is a milestone accomplishment for improving traditional Medicare, especially in rural America. The conference report includes the best rural improvement in the Medicare equity package that Congress has ever passed. The rural health care safety net is coming apart in rural areas. It is difficult to recruit doctors to rural areas because of low reimbursement. The conference report begins to mend that safety net.

As many in this Chamber know, hospitals, home health agencies, and ambulance companies in rural America lose money on every Medicare patient they see. Rural physicians are penalized by bureaucratic formulas that reduce payments below those of their urban counterparts for the same service. The conference report takes historic steps toward correcting geographic disparities that penalize rural health care providers. Providers in rural States such as Iowa practice some of the lowest cost, highest quality medicine in America. This is widely understood by researchers, academics, and citizens of those States, but not by Medicare.

Medicare instead rewards providers in high-cost, inefficient States with bigger payments that have the perverse effect of incentivizing overutilization of services and poor quality. This is very noted in my State.

The Des Moines Register has been very clear in informing the people of my State that Iowa is 50th in reimbursement in Medicare on a per beneficiary basis over a year, 50th of the 50 States, but yet under indices we are fifth or sixth in quality of care.

Over at the other end, there is Louisiana, No. 1 in reimbursement, about $7,000 per beneficiary per year compared to about $3,400 for Iowa, the lowest of the 50 States. More money to be spent on Medicare for seniors' medical care does not guarantee quality of care because Louisiana is listed 50th in quality of care. So we want to make sure that where one is getting high-quality delivery of health care, there is reimbursement that takes that into consideration. So the conference report begins to reverse that trend.

It also includes long overdue pilot programs that will test the concept of paying for performance and making bonus payments for high-quality health care. This benefits taxpayers and, most of all, patients.

Beyond prescription drugs and beyond rural health care, the conference report goes at great length to give better benefits and more choices—the right to choose is very basic in this bill—available to our seniors. It specifically authorizes preferred provider organizations—we call them PPOs—to participate in Medicare, something the current law does not fully allow. The idea is that these kinds of lightly managed care plans more closely resemble the kinds of plans that we in the Federal Government have and close to 50 percent of working Americans have. Baby boomers then, when they go into retirement, will be able to compare fee-for-service 1965 model Medicare with these new PPOs. I think they are going to find new PPOs closer to what they had in the workplace than traditional Medicare, but they have the right to choose. We think they ought to have that right, too, because traditional Medicare has not kept up with changes in the practice of medicine like the private health plans employees have in the workplace.

PPOs have the advantage of offering the same benefits of traditional Medicare, including prescription drugs, but they do that on an integrated, coordinated basis. So this creates new opportunities for chronic disease management and access to innovative new therapies. Unlike Medicare+Choice, we set up a regional system where plans will bid in a way that does not allow them to choose the most profitable cities and towns. They cannot do cherry-picking. Systems like this work well for Federal employees such as the postmaster in my hometown of New Hartford, IA. He has a choice of several plans. We want to give that same choice to his parents, who today have only Medicare and nothing else.

Are PPOs right for everyone? It is the right to choose that is important about this bill. Let the seniors decide. Our bill sets up a playing field for PPOs to compete for beneficiaries. We believe PPOs can be competitive and offer a stronger, more enhanced benefit than traditional Medicare. But let me be clear, no senior has to choose PPOs. My policy has been to let seniors keep what they have, if they like it, with no change. All seniors, regardless of whether they choose a PPO, can still get prescription drugs. They do not have to choose that, but they can choose that as an add-on to traditional Medicare if they want.

So I hope I have protected all of my colleagues, and maybe my colleagues do not need any protection, insisting on the voluntariness of this and the right to choose. I think it is pretty essential for people who are older, who do not want change in their life, not to have to make a change in their life.

I fear maybe, as the Senator from Iowa, that somebody is going to come up to me someday and say: GRASSLEY, just leave my Medicare alone.

They do not follow Congress closely, but they read here and there and they get nervous: What Senator is taking away their Medicare? I can say to Mary Smith in Columbus Junction, IA: You do not have to worry about anything. If you are satisfied with the Medicare you have, you can keep it. If you want to join a prescription drug program to add to it, you can do that, but you do not have to worry about Medicare. If you like it the way it has been all your life, we are leaving it alone.

I think that sounds like protection for Senator GRASSLEY, but I am concerned about the cynicism my seniors

have about Government, maybe because they do not study it as much as we do or understand it as much as we do. I want to reduce that cynicism, but I want them to have confidence in their Medicare as well. I think this right to choose gives them that confidence.

The conference report also includes other important policies that I believe make a much stronger, better bill. First, we make wealthier people pay a slightly higher premium. Why should someone who makes $80,000 a year or more pay exactly the same price for coverage as someone who makes $30,000 a year? The conference report makes wealthy seniors pay slightly more, and this is a very important and rational step toward stabilizing Medicare's growth.

The conference report also injects new and transparent accountancy rules into Medicare, making the trustees show in a comprehensive way what all of Medicare's assets and liabilities truly are. There are also expedited procedures for committee consideration of legislation that addresses any future Medicare funding crisis without changing the Senate rules.

Finally, and in my view most importantly, the conference agreement authorizes health savings accounts. I have been a long-time supporter of medical savings accounts. Now they are going to be called health savings accounts. Such tax-favored accounts encourage responsible utilization of health care services. They offer low-cost insurance to farmers and other self-employed people. For too long, medical savings accounts have languished under regulatory inflexibility. The provisions in the conference report go to great length to make medical savings accounts a stronger, more accessible option for more Americans, and I think that is very appropriate because it adds to the right to choose.

We are in a unique moment in our history as far as health insurance legislation is concerned. We have a limited opportunity to deliver on our promises to get this done once and for all.

Let me remind everyone, there is $400 billion sitting in front of America's seniors. If we let partisan disagreement prevent us from snatching it up for them, shame on us because, what do you think the chances are next March of this Senate adopting a budget with $400 billion set aside for Medicare? I think the chances of that happening are not very good.

Let's not allow the perfect to be the enemy of the good. I urge my colleagues to continue in the bipartisan tradition of the Finance Committee and deliver a balanced bipartisan product that does right by our seniors.

I yield the floor. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Ms. COLLINS. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mrs. DOLE). Without objection, it is so ordered.

VISION 100—CENTURY OF AVIATION REAUTHORIZATION ACT—CONFERENCE REPORT

Ms. COLLINS. Madam President, I ask unanimous consent that the Senate now proceed to the conference report to accompany H.R. 2115, the FAA authorization bill.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The legislative clerk read as follows:

The Committee of Conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2115), to amend title 49, United States Code, to reauthorize programs for the Federal Aviation Administration, and for other purposes, having met, have agreed that the House recede from its disagreement to the amendment of the Senate, and agree to the same with an amendment, signed by a majority of the conferees on the part of both Houses.

The PRESIDING OFFICER. The Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of July 25, 2003.)

Ms. COLLINS. Madam President, I ask that the conference report be agreed to, the motion to reconsider be laid upon the table, and any statements relating to the conference report be printed in the RECORD.

Mr. REID. Reserving the right to object, I would like to extend the appreciation of the entire Senate, especially on this side, to those who worked to allow us to be at this point: Senators LAUTENBERG, DORGAN, and ROCKEFELLER, and the ranking member of the committee, Senator HOLLINGS, and the cooperation of Senator LOTT, and others. This is a very important piece of legislation for the State of Nevada but also for the entire country. I underscore the very good work of the individuals I mentioned.

This is not perfect, but it goes a long way to protecting working men and women who make it possible for everyone to fly safely in America today.

Madam President, I ask unanimous consent that copies of a letter from Marion C. Blakey, the Administrator of the Federal Aviation Administration, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

DEPT. OF TRANSPORTATION,
FEDERAL AVIATION ADMINISTRATION,
Washington, DC., November 21, 2003.

Hon. ERNEST HOLLINGS,
Russell Senate Office Building,
Washington, DC.

DEAR SENATOR HOLLINGS: I have received your November 13, 2003 letter regarding the issue of contracting out functions performed by Federal Aviation Administration (FAA) employees. Your letter requested clarification on the status of ''contracting out'' of FAA functions related to flight services and the certification or maintenance of air traffic control equipment used in the national airspace system. I understand that you are not advocating that the FAA in-source any functions currently performed by contractors or cease work and analysis already underway. As you know, several months ago the FAA initiated a competitive sourcing process with respect to the FAA's Automated Flight Service Stations (AFSS). Under the FAA's current schedule, the final source selection decision with respect to the AFSS competition will occur early in fiscal year 2005.

During this fiscal year we have no plans to initiate additional competitive sourcing studies, nor will we displace FAA employees by entering into binding contracts to convert to private entities any existing FAA position directly related to our air traffic control system.

I look forward to working with the Committee on the important challenges facing the Federal Aviation Administration. The Conference Report contains many provisions which will provide us with important tools to enhance aviation safety, security, and capacity. Thank you for your efforts on this important piece of legislation.

Sincerely,

MARION C. BLAKEY,
Administrator.

DEPT. OF TRANSPORTATION,
FEDERAL AVIATION ADMINISTRATION,
Washington, DC, November 21, 2003.

Hon. JOHN MCCAIN,
Chairman, Committee on Commerce, Science and Transportation, Russell Senate Office Building, Washington, DC.

DEAR MR. CHAIRMAN: I have received your November 13, 2003 letter regarding the issue of contracting out functions performed by Federal Aviation Administration (FAA) employees. Your letter requested clarification on the status of ''contracting out'' of FAA functions related to flight services and the certification or maintenance of air traffic control equipment used in the national airspace system. I understand that you are not advocating that the FAA in-source any functions currently performed by contractors or cease work and analysis already underway. As you know, several months ago the FAA initiated a competitive sourcing process with respect to the FAA's Automated Flight Service Stations (AFSS). Under the FAA's current schedule, the final source selection decision with respect to the AFSS competition will occur early in fiscal year 2005.

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I look forward to working with the Committee on the important challenges facing the Federal Aviation Administration. The Conference Report contains many provisions which will provide us with important tools to enhance aviation safety, security, and capacity. Thank you for our efforts on this important piece of legislation.

Sincerely,

MARION C. BLAKEY,
Administrator.

Mr. MCCAIN. Mr. President, I am pleased that the Senate is about to vote on the Conference Report to H.R. 2115, the FAA reauthorization bill. This legislation is critical to our Nation's air transportation system, providing necessary funding for aviation safety and security for fiscal years 2004 to 2007.

CIvil aviation generates more than $900 billion in GDP every year, and we all know that it has faced very difficult economic times. Since September 11, 2001, Congress has passed a number of bipartisan aviation bills to aid the industry and, more importantly, to assure that the air traveling public could continue to rely on this vital transportation mode. Among the many bills enacted, we established the Transportation Security Administration (TSA) to oversee aviation security; we provided grants and loans to help the airline industry through their difficult economic times; and we extended terrorism insurance to the aviation industry. Without these important measures, the aviation industry would be in far worse condition.

The Conference Report pending before us is as important to the health of our aviation system as any of the other bills I just mentioned. This multi-year FAA authorization legislation is needed by airports, so that airport construction projects don't come to a halt and cause layoffs in the construction sector. It is needed by aviation manufacturers and by the airline industry. Above all, it is needed by our air travelers, who rely on a safe and security air transportation system.

The Conference Report on H.R. 2115 authorizes over $60 billion in aviation spending over the next four years to improve our Nation's aviation system. It includes: $14.2 billion for security, safety and capacity projects for the Airport Improvement Program (AIP)—over 50 percent of this funding is likely to be spent on safety projects. In fiscal year 2004 alone, this funding will create approximately 162,000 direct and indirect jobs. However, the AIP funding ONLY becomes available if this Conference Report is signed into law—the passage of the transportation appropriations bill is NOT sufficient to make the funds available; $13.3 billion to modernize the air traffic control system; $31 billion to operate the FAA's air traffic control system and to support the FAA's safety programs; $1.6 billion for aviation research and development; $2 billion for airport security projects, and, $500 million for the Essential Air Service program. The majority of this funding will come from the Aviation Trust Fund, which is supported by taxes paid by the users of the system.

Although this Conference Report provides a great boost for the modernization of the aviation system and for increasing capacity and efficiency, there are also numerous provisions in the Conference Report that will improve aviation safety and security.

In support of improving safety, the Conference Report strengthens FAA enforcement against the users of fraudulent aircraft parts; increases penalties that the FAA may impose for safety violations—fines have not been adjusted since 1947, and as such, are sometimes simply treated as the cost of doing business by the entity being fined; and requires the FAA to update and improve its airline safety oversight program.

In support of improved aviation security, the Conference Report includes $500 million per year to finance security capital improvements at airports—including the installation of explosive detection systems. After September 11, almost $500 million per year in AIP funds were diverted to security projects from safety and capacity projects. Although this may have been justifiable immediately after September 11, in the long run, a continuation of such diversion could be detrimental to the aviation system; extends the Secretary of Transportation's authority to provide War Risk insurance to airlines against terrorism; expands the armed pilot program to include cargo pilots; requires the TSA to improve the security at foreign repair stations that conduct work on U.S. aircraft; authorizes compensation to general aviation entities for losses resulting from security mandates; and provides for certification and better security training for flight attendants.

In order to improve air transportation service, especially to smaller and rural communities, the Conference Report contains a number of provisions. The report reauthorizes the Essential Air Service (EAS) at current funding levels; establishes a number of EAS pilot programs to give communities flexibility in how they receive EAS service; makes permanent the Small Community Air Development program; establishes a National Commission on Small Community Air Service to make recommendations on how to improve air service to such communities; and includes a Sense of Congress that airlines should provide the lowest possible fare for all active duty members of the Armed Forces.

Further, for large airports in Western States and smaller airports in the East, it frees up more takeoff and landing slots at Reagan National Airport.

The Conference Report addresses numerous environmental issues. It streamlines environmental review of projects to increase airport capacity and improve aviation safety and security; authorizes grants to airports to permit them to purchase or retrofit low emission vehicles at airports; and authorizes projects that improve air quality and give airports emission credits for undertaking such projects.

I want to recognize all the hard work that Senator LOTT, as Chairman of the Aviation Subcommittee, has put into the bill this year. Last winter, many in the aviation community predicted that Congress would not enact an aviation reauthorization bill this year. Senator LOTT would not even consider such a scenario and kept us on a schedule where the Conference Report was actually completed before the August recess. This was only possible, as always, due to the work and cooperation on this bill from the ranking Democratic members of the Commerce Committee and its Aviation Subcommittee, Senators HOLLINGS and ROCKEFELLER.

I also wish to thank Senator DORGAN for his work in brokering the compromise that allowed us to move forward with this Conference Report today. And I want to thank the administration, especially Secretary Mineta and FAA Administrator Blakey, in working long and hard with us to get a final compromise on the issue of privatization.

I urge my colleagues to support final passage of the Conference Report and send it to the President.

Mr. HOLLINGS. Mr. President, I rise today to express my support for passage of H.R. 2115, Vision 100—Century of Aviation Reauthorization Act. I am pleased that we have finally reached agreement on this important legislation and can now move forward on enacting this bill into law. This comprehensive reauthorization bill will provide $60 billion in funding for FAA operations, including some $14.2 billion for airport grants that will create an estimated 600,000 jobs and support for key aviation projects in communities across the country.

Achieving consensus on the conference report has not been easy, and while I think all of us should be encouraged by the results of these efforts, we should take this opportunity to fully consider and appreciate the critical role that compromise has played in achieving this positive result. Colleagues on both sides of the aisle have expressed their concerns about the process by which the FAA Conference Report was deliberated and produced. FAA reauthorization bills have always been moved out of Congress with little controversy, but after passing a bill on the Senate floor with unanimous support and cooperating on developing the bulk on the FAA Reauthorization bill, Democrats were cut out of the process. This was an unacceptable development that violated the spirit of this body, and ultimately it led to the creation of flawed legislation.

For three months after it was filed, there was a lack of will in Congress to pass the FAA Conference Report in the form that the Republican leadership demanded. As a result, FAA projects went unauthorized after the fiscal year ended, and in an effort to end the stalemate they had created the House Leadership was forced to recommit the legislation on October 28, 2003. At this time, they stripped out the most troubling provision in the bill—language that allowed for the immediate privatization of 69 of FAA's air traffic control (ATC) towers and the entire ATC system in 2007. However, the Senate remained unsatisfied with the bill's lack of protection for the Nation's ATC system after it was recommitted, and we voted against cloture 45-43 on November 17, 2003.

Prior to the vote, I worked with Senators MCCAIN, ROCKEFELLER, and LOTT

to seek commitment from the Bush administration to impose a 1-year moratorium on the contracting out or privatization of any ATC functions so that the Senate Commerce Committee can properly conduct its oversight responsibilities of this matter. The Committee plans to hold hearings on this subject next year, and we will also request detailed analyses from the Government Accounting Office and the Department of Transportation Inspector General (DOT IG) in an effort to determine how to best enhance safety, the steps that should be taken to keep pace with future growth, and the best way for the Federal Government to get there.

Today, we have received the proper commitment from the Bush administration to proceed in this manner. Under the arrangement, the FAA has agreed not to proceed with the privatization or outsourcing of any FAA air traffic separation and control functions in fiscal year 2004. The written agreement includes a prohibition on contracting out the maintenance and certification of the systems and equipment in the air traffic control system in the National Airspace System. In addition, the Administration has committed to maintaining the existing Federal relationship with the Nation's Flight Service Stations, with the understanding that they will be allowed to continue on-going evaluations of how best to revamp the entire program. The DOT IG's office has estimated that consolidation of the FSSs, combined with a new computer system, could provide a better arrangement and save $500 million over 7 years.

With this understanding in place, I am pleased that we can now move forward with broad support for a multi-year reauthorization of FAA programs. Indeed, H.R. 2115 has many good provisions in it that will go a long way towards improving and enhancing our aviation system as we move into the 21st Century. I would like to add that conservative estimates by the FAA show that the formula funding in this legislation will provide more than $112 million and at least 5,325 jobs in my home State of South Carolina over the next 4 years. I look forward to passing the bill.

Finally, I want to thank Chairman MCCAIN, Senator LOTT, the Aviation Subcommittee Chairman, and Ranking Member ROCKFELLER for all of their hard work over the last several days and for the long months that they put in prior to that. We came together with a common purpose—to pass this Conference Report—and with bipartisan cooperation have developed comprehensive legislation that provides the American people the proper level of safety, security and financial support.

Mr. ROCKEFELLER. Mr. President, I am pleased to finally be able to support the adoption of the Federal Aviation Administration conference report.

The process that allowed us to get to this point has been unlike any other that I have ever experienced in my 19 years in the Senate, but we have secured a commitment from the administration that they will not move forward with contracting out any air traffic control functions, which has prevented the Senate from passing this report. I am pleased that my colleagues have confirmed this commitment.

Over the last year, I have worked closely with Senators MCCAIN, HOLLINGS, and LOTT on developing this important legislation. I thank them for all of their efforts on getting this bill done. It has not gone as easy as any of us would have liked, but the debate on privatization is important as it is fundamentally a debate on safety and security. Senator LAUTENBERG should be commended for his unrelenting commitment to making sure the United States has the safest and most secure air traffic control system in the world.

We have secured an agreement on this issue that all parties can accept, but it does not mean that this debate is over. I know my colleagues have committed to holding hearings on this issue, and we will be closely monitoring the administration's actions in this area.

The reauthorization of the FAA is a vitally important piece of legislation. It would be the first genuine economic stimulus bill that the Senate has passed this year.

No question exists that since the tragedy of September 11, aviation in this country has been permanently changed. Over the last 2 years, we have seen a decrease in the demand for air travel, hundreds of thousands of aerospace and aviation employees have lost their jobs and the economic pain has rippled through the economy. We cannot have a sustained economic recovery in this country until we have a healthy and vibrant aviation industry.

This bill provides the foundation for the resurgence of an essential sector of our economy.

I cannot emphasize the importance of a vibrant and strong aviation industry. It is fundamental to our nation's long-term economic growth. It is also vital to the economic future of countless small and local communities that are linked to the rest of the nation and world through aviation.

Just as the aviation industry is a catalyst of growth for the national economy, airports are a catalyst of growth for their local communities. In my State of West Virginia, aviation represents $3.4 billion of the state's gross domestic product and directly and indirectly employs over 51,000 people.

Aviation also links our Nation's small and rural citizens and communities to the national and world marketplace. My home State of West Virginia has been able to attract firms from Asia and Europe because of reliable access to their West Virginia investments.

Without access to an integrated air transportation network, small communities can not attract the investment necessary to grow or allow home grown businesses to expands. A modern and adequately funded aviation network is fundamental to making sure that all Americans can participate in the global economy. This bill makes sure the United States will continue to have the best aviation system in the world.

This legislation builds upon our commitment to improving the aviation infrastructure of the nation that started with the landmark Aviation Investment and Reform Act for the 21st Century. I believe that this legislation meets the challenges facing the FAA and the aviation industry in the years ahead.

This $60 billion bill focuses on improving our Nation's aviation safety and air service development, and aeronautical research. While my distinguished colleagues have provided an excellent overview of the bill, I would like to highlight some areas for the bill that I believe are particularly important.

No higher goal exists than the safety and security of the Nation's airports and airspace. Over the past 24 months, we have worked every day to improve security in our airports and on our airplanes. However, until this bill, we had fallen short on providing funding to make sure our Nation's airports have the resources available to make the required improvements.

Airports estimate that they have $3 billion in unmet security infrastructure needs. Airports have been forced to tap their expansion and development funds to pay for security. It makes no sense to raid funds for safety improvements for security improvements. The security of our Nation is a Federal responsibility and the Federal Government must pay for it.

One of the most important provisions in this bill is the establishment of a $500 million fund to assist airports with capital security costs. This new fund is intended to stop the diversion of airport development funds meant for safety and capacity enhancements. We will be able to pay for new security requirements while simultaneously improving safety and expanding capacity.

Even in these difficult budgetary times, we were able to modestly increase the Airport Improvement Program funding, which will provide the economy a real stimulus through direct and indirect job creation. Airport development is economic development as airports are economic development for their local communities. It is estimated that U.S. Airports are responsible for nearly $507 billion each year in total economic activity nationwide. Investment in airport infrastructure is a real economic stimulus that creates both immediate jobs and long-term economic development.

In order to facilitate airport development, I am pleased that this bill includes much of the text of the legislation that Senator HUTCHINSON and I worked on last Congress to streamline and expedite the airport development

process. This country needs to expand its airport infrastructure. Without a substantial increase in this area, aviation delays would increase resulting in billions of dollars of costs to the economy.

Finally, we have authorized a significant increase in aeronautical and aviation research in order to preserve America's leadership in these industries.

Today, we also meet the challenge of making sure our small and rural communities have access to the nation's air transportation network. I continue to be very concerned that air carriers are abandoning small and rural markets. We cannot let these communities go without adequate and affordable air service—their future depends upon it.

I am enormously pleased that the bill extends and expands the Small Community Air Service Development Program, which I fought for in AIR 21. In West Virginia, Charleston used funding from this program to attract new service to Houston, which has been a hugh success. Parkersburg was recently awarded a grant and already working on implementing its initiatives to improve air service to new hubs. This program has proven an innovative and flexible tool for communities to address air service needs.

Many of our most isolated and vulnerable communities whose only service is through the Essential Air Service Program have indicated that they would like to develop innovative and flexible programs similar to those communities who received Small Community Air Service Development grants to improve the quality of their air service.

It is for this reason that I, along with Senator LOTT, developed the Small Community and Rural Air Service Revitalization Act of 2003. The FAA conference report incorporates the basic provisions of this legislation. The FAA Bill reauthorizes the Essential Air Service, EAS, program and creates a series of new innovative pilot programs for EAS communities to participate in to stimulate passenger demand for air service in their communities.

By providing communities the ability to design their own air service proposals, a community has the ability to develop a plan that meets its locally determined needs, improves air service choices, and gives the community a greater stake in the EAS program.

Small and rural communities are the first to bear the brunt of bad economic times and the last to see the benefits of good times. The general economic downturn and the dire straits of the aviation industry have placed exceptional burdens on air service to our most isolated communities. The Federal Government must provide additional resources and tools for small communities to help themselves attract adequate air service. The Federal Government must make sure that our most vulnerable towns and cities are linked to the rest of nation. This legislation authorizes the tools and resources necessary to attract air service, related economic development, and most importantly expand their connections to the national and global economy.

This bill meets the challenges facing our aviation system—increasing security, expanding airport safety and capacity, and making sure our smallest communities have access to the network. We can all be proud of this bill.

Again, I thank Senator MCCAIN, Senator LOTT, and Senator HOLLINGS for all their hard work to improve aviation in this country.

Mr. ROCKEFELLER. I have a question for the subcommittee chairman about section 808 of the conference report concerning international air cargo shipped through Alaska.

Mr. LOTT. I am happy to answer the Senator's question. This provision was adopted in the Senate after being offered by the Senator from Alaska.

Mr. ROCKEFELLER. I thank the Chairman. Is it the Chairman's understanding that section 808 only addresses international cargo and does not address the carriage of cargo which first originates in Alaska?

Mr. LOTT. That is correct. Section 808 will allow carriers to interline cargo in Alaska so long as the cargo has an ultimate origin and/or destination outside of the United States. It does not allow foreign carriers to carry or transfer cargo with an ultimate origin and destination both in the United States.

Mr. STEVENS. I thank my colleagues for explaining that this important provision allows carriers to interline cargo in Alaska, with an ultimate origin and/or destination outside of the United States, but does not allow foreign carriers to carry or transfer cargo with an ultimate origin and destination both in the United States.

Mr. BURNS. Mr. President, I come to the floor today in support of the conference report accompanying H.R. 2115, which reauthorizes the Federal Aviation Administration (FAA).

Vision 100—Century of Aviation Reauthorization Act would provide just under $60 billion over the next 4 years for FAA activities. These are much needed funding improvements because we find ourselves in one of the greatest transition periods as a country, and as proponents of the aviation industry, in the history of our nation. With the slow recovery of the industry and the economy since the attacks of 9/11 it is important we pass this legislation immediately.

As a member of the conference, my colleagues and I addressed several important issues and challenges. One of the most important achievements is the progress made in funding the Airport Improvement Program, which is funded at $3.4 billion in 2004 and increases $100 million each year ending at $3.7 billion in 2007. This is a necessary increase, as we need to constantly improve our Nations' airport infrastructure especially in rural and underserved areas.

Mr. President, as you know, several provisions in or absent from the bill have bogged down its passage. As a member of the conference, even I do not support all provisions in this bill, but I understand the importance of the bill as a whole and the potential pitfalls our infrastructure will take if not enacted.

I do not intend to discuss the entire report, but there are several critical provisions I would like to briefly address which greatly affect my State of Montana and my constituents.

The first provision is intended to make additional slots available to improve access to the Nation's Capital for cities located beyond the 1,250 mile service perimeter at Ronald Reagan Washington National Airport, DCA. I am particularly concerned that small and midsized communities in the west, especially in Montana and neighboring states, continue to have far fewer service options to reach DCA than communities located in any other area of the country. This is due to the fact that the most important hub airport serving the northern tier and intermountain region, Salt Lake City, is located outside the DCA perimeter.

Network benefits are critical to improving this situation, and it is very important that the Department of Transportation consider and award these limited opportunities to western hubs that connect the largest number of cities to the national transportation network. Salt Lake City is a prime example. That airport serves as a primary transportation hub for the intermountain west. I was very disappointed that Salt Lake City received only a single flight from the prior AIR–21 allocation, while other hubs servicing the southwest region received two, or even three daily flights. Increased service at Salt Lake City should be a priority, because of the many critically underserved communities in the northern tier and intermountain west that will receive significant network benefits from additional flights at that hub.

The second issue is the Essential Air Service Program, EAS. As you know, the EAS program provides subsidies to carriers for providing service between small communities and hub airports and is, no pun intended, essential to my state. This report authorizes approximately $500 million for EAS, and I am extremely supportive of that level.

Unfortunately, the conference report also contains a provision, which directs the DOT to establish a pilot program for up to 10 EAS communities located within 100 miles of a large hub, and those communities will be required to pay 10 percent match of the EAS subsidy. While this provision does not affect my Montana EAS communities, I am still extremely unsupportive of this provision. If any Montana communities were asked to pay this match, there is no way they could come up with the funds. I want this body to know I will

fight expansion of this pilot program in future authorizations. While we need to work on possible alternatives to EAS, we cannot ask small communities across the Nation to fork out funds they do not have for a service they deserve and need.

Finally, this report contains language based on two amendments I offered on the Senate floor during debate earlier this year. The first asks for a report from the Secretary of Transportation on any actions that should be taken with respect to recommendations made by the National Commission to Ensure Consumer Information and Choice in the Airline Industry. The second amendment authorizes compensation to General aviation businesses for losses incurred after the attacks of 9/11. General aviation is an extremely important piece of this country's aviation backbone and we need to keep their perspective in mind whenever any aviation legislation is addressed whether it deals with security or overall aviation policy.

In summation, we have crafted a fair and necessary piece of legislation that needs immediate passage. I ask my colleagues to support final passage of this critical piece of legislation that will aide all aviation sectors across this Nation.

Mr. JEFFORDS. Mr. President, I have serious concerns about several provisions found in the FAA reauthorization conference report. Before the Senate passed S. 824, the FAA reauthorization bill, we expressly prohibited additional privatization of air traffic controllers. We also eliminated a proposed cost-sharing requirement for local communities that participate in the essential air service program. This requirement would have placed an insurmountable burden on many remote communities struggling to maintain commercial air service. While I understand that Administrator Blakey today has promised our Senate colleagues to forestall privatization until the next fiscal year, I am concerned that the window is nevertheless open for eventual privatization and would not support such a result.

I remain concerned about the provisions in this bill affecting the National Environmental Policy Act, NEPA. As I discussed in my statement of November 17, 2003, the legal obligations of Federal agencies to evaluate aviation projects under Federal environmental laws have not been repealed by the language in this bill, nor should they be. If better coordination is the intent of this legislation, there is ample authority contained in the existing NEPA statute and regulations for coordination among Federal agencies in performing required environmental reviews of these projects. The confusing statutory directions contained in this bill are both unnecessary and counterproductive if the desired result is efficient project completion.

I am disappointed that this conference report contains these provisions, and I will work to ensure that the FAA scrutinizes the potential consequences of privatization of air traffic controllers if that issue arises next year. In addition, as the ranking member of the Environment and Public Works Committee, I will continue to conduct oversight pertaining to the implementation of environmental laws for these and other Federal projects.

Mr. THOMAS. Mr. President, as the Senate considers the final conference report to the FAA reauthorization bill, I would like to take a moment to thank Chairman MCCAIN and subcommittee Chairman TRENT LOTT, for their assistance regarding a provision that is very important to my home State.

For years, I have been working with the FAA and the Jackson Hole Airport to reduce the noise that is produced by older private jets. As some of my colleagues know, the Jackson Hole Airport is the only commercial airport that is located in a national park. Since 1983, the Jackson Hole Airport has operated under a ''land use agreement'' with the Secretary of the Interior. This agreement requires the airport to implement technological advances to reduce aircraft noise.

However, the FAA has prevented the airport from instituting a Stage 2 restriction on older ''noisy'' private jets even though the Air Noise Capacity Act of 1990 includes a provision that allows folks to enforce pre-existing noise control measures. Currently, only a small portion, 2.6 percent, of the airport's operations are conducted by older noisy jet aircraft. However, these old noisy jets have a disproportionately high noise impact on Grand Teton National Park and the National Elk Refuge. Because the FAA has failed to recognize the grandfathered status of the Jackson airport, I offered an amendment to the Senate version of the FAA reauthorization bill.

On June 12 the Senate unanimously agreed to my amendment. I am thankful for Senator MCCAIN's and House Chairman DON YOUNG's understanding regarding the need to protect Grand Teton National Park and the National Elk Refuge from the high levels of noise that older private jets produce. The provision is supported by the Jackson Airport Board, Grand Teton National Park, the Town of Jackson, Teton County, and U.S. Department of the Interior.

Mr. President, the Jackson Hole Airport is a commercial service airport located on Federal land within Grand Teton National Park. It operates under a long-term lease agreement with the Department of the Interior. That agreement contains noise control measures, including cumulative and single event noise limits, and requirements for an airport-adopted noise control plan.

Section 825 of the conference report authorizes a commercial service airport that does not own the airport land and is a party to a long-term lease with a Federal agency, such as the Department of the Interior, to restrict or prohibit Stage 2 aircraft weighing less than 75,000 pounds, to help meet the noise control plan contained in its lease.

It is my understanding that the conferees did not intend to limit application of section 825 to only those noise control measures that are expressly referred to as ''plans,'' but intended the term to refer to the range of noise control requirements and standards imposed by these Federal lease agreements.

Mr. MCCAIN. The Senator from Wyoming is correct. The conferees intended ''plan'' to refer to the range of requirements and standards contained in a Federal lease, which together constitute its plan to limit airport-generated noise. Section 523 of the Senate bill, introduced by the Senator from Wyoming, would have given similar authority to the Jackson Hole Airport Board. The conference substitute will permit the Jackson Hole Airport, and others if subject to similar Federal lease requirements, to adopt these measures.

Mrs. MURRAY. Mr. President, I rise in strong support of the Vision 100–Century of Aviation Reauthorization Act. This bill authorizes critical aviation infrastructure and operations spending for the fiscal years 2004 through 2007. The bill also makes important legislative adjustments for our aviation security program at the Transportation Security Administration.

I represent a State with tens of thousands of aviation workers. I appreciate fully the essential contribution that our Nation's aviation industry makes to our national economic prosperity. As the former chairman and now ranking member of the Transportation Appropriations Subcommittee, I spend a considerable amount of my time seeing to it that the needs of our national aviation enterprise are adequately funded.

As my colleagues are aware, consideration of this FAA authorization bill has been delayed for an extraordinary period of time over the issues surrounding the Bush administration's stated desire to privatize certain aspects of our Nation's air traffic control system.

At one time, this legislation included language that specifically authorized the FAA Administrator to privatize the controller workforce at scores of air traffic control towers, including the air traffic control tower at Boeing Field in Seattle. Senators who are not familiar with the geography of the greater Seattle area may not be aware that Boeing Field sits right between Seattle-Tacoma International Airport and downtown Seattle. It is extraordinarily close to our port, our central business district, our major sporting venues—Safeco Field and the Seahawks Stadium. It is also a major installation for the Boeing Company and a busy general aviation airport.

In the wake of the events of September 11, 2001, I cannot support a proposal to contract out the air traffic control function to the lowest bidder in the heart of this critically important corridor.

Immediately after September 11, this Congress passed legislation to take the air passenger screening function out of the hands of private bidders and place it in the hands of a federalized screening force. For the life of me, I do not understand why the Bush administration wants to take the exact opposite approach when it comes to the highly skilled personnel that actually control the movement of our aircraft.

The administration has also cited an interest in privatizing other aspects of our Nation's national air traffic control enterprise, including the employees at our Nation's flight service stations and the technicians that maintain our Nation's air traffic control equipment.

These privatization ideas have not been adequately explained or adequately justified to the Congress or to the public. It has not been determined that such contracting out activities would actually improve upon the exemplary safety record that we currently enjoy with our air traffic control system. I, along with many of my colleagues, have deep-seated doubts about the safety ramifications, the security ramifications and whether there will be any real financial benefit to the taxpayer as a result of such a privatization scheme. It was for these reasons that I and 42 of my Senate colleagues, both Democrats and Republicans, were required to vote against bringing debate on this bill to a close on November 17, and why I joined 55 of my colleagues in support of a measure to explicitly exclude privatization of our air traffic control towers during the initial debate on the Senate bill. At that time, we did not have what I considered to be adequate assurances from the FAA that they would not be launching into these privatization schemes in the very near future.

I am pleased that we have now overcome this hurdle and the administration has given us assurances that they will not engage in any competition studies or outsourcing activities for air traffic controllers or for maintenance and technician personnel during fiscal year 2004. This will give the Congress some time to review the administration's plans in detail, which I intend to do during next year's appropriations' hearings process. Also, with the written assurance now in hand that no outsourcing activities related to our air traffic control system will take place in 2004, we can, if need be, work on putting sufficient safeguards in the 2005 Transportation Appropriations Act if we feel that the administration is heading in the wrong direction when it comes to protecting safety and security.

It is for these reasons that I am relieved by the administration's new letter on this topic which I understand has already been put into the RECORD. I am glad that we have overcome this hurdle.

This bill will provide investments in critical infrastructure and operations at our Nation's airports. Furthermore, it will allocate needed funding to continue our efforts to improve the security of aviation system.

For these reasons, I support this important conference report today.

The PRESIDING OFFICER. Without objection, the request of the Senator from Maine is so ordered.

The conference report was agreed to.

Ms. COLLINS. Madam President, I see the Senator from North Dakota. If the Senator has a very brief comment to make, I yield to him.

Mr. DORGAN. Madam President, I appreciate the courtesy of the Senator from Maine. Let me say with respect to the unanimous consent she just offered to pass the FAA conference report, I would like to say that Senator LAUTENBERG has led the fight in this Chamber to try to prevent the privatization during this coming fiscal year of those who work for the FAA. That fight required us to go through one cloture vote and the majority did not invoke cloture. As a result, the FAA conference report was not passed.

Since that time, I and Senators LAUTENBERG, HOLLINGS, LOTT, ROCKEFELLER and others have engaged in discussions with the administration. I want to point out that the letter just printed in the RECORD by unanimous consent is from Marion Blakey. She says:

> During this fiscal year we have no plans to initiate additional competitive sourcing studies, nor will we displace FAA employees by entering into binding contracts to convert to private entities any existing FAA position directly related to our air traffic control system.

I point out that the reason we were able to move this conference report tonight was because the administration has agreed they will not, during this fiscal year, privatize those positions in the FAA. That is a very important position, one that my colleague, Senator LAUTENBERG, from New Jersey, fought very hard for. We have achieved that commitment from the administration.

For that reason, we were able to move that FAA reauthorization. Let me say how pleased I am because it is so important to virtually every region of this country. The investment in the Airport Improvement Program and the other things that provide strength to the FAA system is very important to our country.

Let me thank my colleague from Maine. I wanted to explain the circumstances that have led to this point and especially say I have been pleased to work with Senator LOTT, in many contacts over recent days, to try to accomplish this and again say that my colleague from New Jersey, Senator LAUTENBERG, deserves a pat on the back for forcing this result.

I yield the floor.

The PRESIDING OFFICER. The Senator from Maine.

NATIONAL WOMEN'S HISTORY MUSEUM ACT OF 2003

Ms. COLLINS. Madam President, I ask unanimous consent the Senate now proceed to consideration of Calendar No. 404, S. 1741, a bill to provide a site for the National Women's History Museum in the District of Columbia.

The PRESIDING OFFICER. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

> A bill (S. 1741) to provide a site for the National Women's History Museum in the District of Columbia.

There being no objection, the Senate proceeded to consider the bill.

Ms. COLLINS. Madam President, I ask unanimous consent the bill be read the third time and passed, the motion to reconsider be laid upon the table, and any statements related to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (S. 1741) was read the third time and passed, as follows:

S. 1741

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 Women's History Museum Act of 2003''.

SEC. 2. FINDINGS.

Congress finds that—

(1) the National Women's History Museum, Inc., is a nonprofit, nonpartisan, educational institution incorporated in the District of Columbia;

(2) the National Women's History Museum was established—

(A) to research and present the historic contributions that women have made to all aspects of human endeavor; and

(B) to explore and present in a fair and balanced way the contributions that women have made to the Nation in their various roles in family and society;

(3) the National Women's History Museum will collect and disseminate information concerning women, including through the establishment of a national reference center for the collection and preservation of documents, publications, and research relating to women;

(4) the National Women's History Museum will foster educational programs relating to the history and contribution to society by women, including promotion of imaginative educational approaches to enhance understanding and appreciation of historic contributions by women;

(5) the National Women's History Museum will publicly display temporary and permanent exhibits that illustrate, interpret, and demonstrate the contributions of women;

(6) the National Women's History Museum requires a museum site near the National Mall to accomplish the objectives and fulfill the ongoing educational mission of the museum;

(7) the 3-story glass enclosed structure known as the ''Pavilion Annex'' is a retail shopping mall built next to the Old Post Office in 1992 by private developers using no Federal funds on public land in the Federal

Triangle south of Pennsylvania Avenue, N.W.;

(8) the Pavilion Annex came into the possession of the General Services Administration following bankruptcy and default by the private developer of the Old Post Office Pavilion;

(9) the Pavilion Annex has been vacant for 10 years and is in a state of disrepair;

(10) the Pavilion Annex is located near an area that has been identified as an ideal location for museums and memorials in the Memorials and Museums Master Plan developed by the National Capital Planning Commission;

(11) the National Women's History Museum will provide a vibrant, cultural activity in a building currently controlled by the General Services Administration but unused by any Federal agency or activity;

(12) the General Accounting Office has determined that vacant or underutilized properties present significant potential risks to Federal agencies, including—

(A) lost dollars because of the difficulty of maintaining the properties; and

(B) lost opportunities because the properties could be put to more cost-beneficial uses, exchanged for other needed property, or sold to generate revenue for the Government;

(13) the National Women's History Museum will use Government property for which there is no Government use as of the date of enactment of this Act, in order to—

(A) promote utilization, economy, and efficiency of Government-owned assets; and

(B) create an income producing activity;

(14) the National Women's History Museum will attract an estimated 1,500,000 visitors annually to the District of Columbia; and

(15) the National Women's History Museum will promote economic activity in the District of Columbia by—

(A) creating jobs;

(B) increasing visitor spending on hotels, meals, and transportation; and

(C) generating tax revenue for the District of Columbia.

SEC. 3. DEFINITIONS.

In this Act:

(1) ADMINISTRATOR.—The term ''Administrator'' means the Administrator of General Services.

(2) MUSEUM SPONSOR.—The term ''Museum Sponsor'' means the National Women's History Museum, Inc., a nonprofit organization incorporated in the District of Columbia.

(3) PAVILION ANNEX.—The term ''Pavilion Annex'' means the building (and immediate surroundings, including any land unoccupied as of the date of enactment of this Act) in Washington, District of Columbia that is—

(A) known as the ''Pavilion Annex'';

(B) adjacent to the Old Post Office Building;

(C) located on Pennsylvania Avenue, N.W., to the east of 11th Street N.W.; and

(D) located on land bounded on 3 sides by the Internal Revenue Service buildings.

SEC. 4. OCCUPANCY AGREEMENT.

(a) IN GENERAL.—Notwithstanding any other provision of law, the Administrator shall enter into an occupancy agreement to make the Pavilion Annex available to the Museum Sponsor for use as a National Women's History Museum in accordance with this section.

(b) APPRAISAL.—

(1) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, a fair market value for the purpose of determining rent shall be determined by not more than 3 appraisers, operating under a common set of instructions, of whom—

(A) 1 shall be retained by the Administrator;

(B) 1 shall be retained by the Museum Sponsor; and

(C) 1 shall be selected by the first 2 appraisers only if—

(i) the first 2 appraisals are irreconcilable; and

(ii) the difference in value between the first 2 appraisals is greater than 10 percent.

(2) DIFFERENCE OF NOT MORE THAN 10 PERCENT.—If the 2 appraisals differ by not more than 10 percent, the fair market value shall be the average of the 2 appraisals.

(3) IRRECONCILABLE APPRAISALS.—If a third appraiser is selected—

(A) the fee of the third appraiser shall be paid in equal shares by the Administrator and the Museum Sponsor; and

(B) the fair market value determined by the third appraiser shall bind both parties.

(c) TERM OF OCCUPANCY AGREEMENT.—

(1) IN GENERAL.—The term of the occupancy agreement shall be at least 99 years, or any lesser term agreed to by the Museum Sponsor.

(2) FIRST PAYMENT.—The first payment shall be due on the date that is 5 years after the date of execution of the occupancy agreement.

(d) PRIVATE FUNDS.—The terms and conditions of the occupancy agreement shall facilitate raising of private funds for the modification, development, maintenance, security, information, janitorial, and other services that are necessary to assure the preservation and operation of the museum.

(e) SHARED FACILITIES.—The occupancy agreement may include reasonable terms and conditions pertaining to shared facilities to permit continued operations and enable development of adjacent buildings.

(f) RENOVATION AND MODIFICATION.—

(1) IN GENERAL.—The renovation and modification of the Pavilion Annex—

(A) shall be carried out by the Museum Sponsor, in consultation with the Administrator; and

(B) shall—

(i) be commenced as soon as practicable but not later than 5 years after the date of execution of the occupancy agreement;

(ii) sever the walkway to the Old Post Office Building; and

(iii) enhance and improve the Pavilion Annex consistent with the needs of the National Women's History Museum and the adjacent structures.

(2) EXPENSE CREDIT.—Any expenses incurred by the Museum Sponsor under this subsection shall be credited against the payment under subsection (c)(2).

(g) REPORT.—If the Administrator is unable to fully execute an occupancy agreement within 120 days of the date of enactment of this Act, not later than 150 days after the date of enactment of this Act, the Administrator shall submit to the Committee on Governmental Affairs in the Senate and the Committee on Government Reform in the House of Representatives a report summarizing the issues that remain unresolved.

SEC. 5. EFFECT ON OTHER LAW.

Nothing in this Act limits the authority of the National Capital Planning Commission.

Ms. COLLINS. Madam President, I now ask unanimous consent to engage in a colloquy with the Senator from Alaska, and I yield to the Senator from Alaska for that purpose.

The PRESIDING OFFICER. Without objection, it is so ordered.

Ms. MURKOWSKI. Madam President, I appreciate the opportunity to speak today and engage in this colloquy with the Senator from Maine. I thank the Presiding Officer for the opportunity to speak about opening a National Women's History Museum near the National Mall.

Currently, the National Women's History Museum is without a home. It is accessible online, but Americans need a physical location for the National Women's History Museum so a history from every State can be collected, viewed, and analyzed.

Recognizing the Senator from Maine and this Senator from Alaska have a connection, both of us coming from Northern States, both of us coming from States with populations that are relatively small, both States have a history that demonstrates a history of pioneering women. Alaska and Maine have historically afforded opportunities that might not be available to women in other States.

Throughout Alaska's and Maine's history, women have had perhaps more opportunities because our populations are isolated, and you are forced to be a little more self-reliant.

Women of Alaska and Maine, as their male counterparts, are ingrained with the ability to make do with what we have. I ask the Senator from Maine if she would agree with some of my statements?

Ms. COLLINS. Madam President, I certainly do agree with the distinguished Senator from Alaska. Both of us have had the opportunity to serve in public office. Both of us come from States that are small in population but large in the impact that women have had on our Nation's history. We are from States with rich histories of accomplishments by women of all backgrounds and cultures.

For example, the legendary Senator Margaret Chase Smith was the first woman in history to serve in both the U.S. House and the Senate.

Pauline Elizabeth Hopkins, who has been called the dean of African-American Women Writers, and who has been considered one of the most prolific black female writers in the beginning of the 1900s, was born in Portland, ME.

Mary Gabriel, of the Passamaquoddy Tribe, was a famous Native-American basket weaver, largely credited with reviving the art in the State of Maine.

Brenda Commander is the first woman to be elected as chief of Maine's Maliseet Indian Tribe.

Is the Senator from Alaska aware of similar accomplishments by Alaskan women?

Ms. MURKOWSKI. We have a history, as I have said, of pioneering women, women who perhaps have done the unexpected, who have reached out into areas that we would not anticipate, at a time we would not anticipate, women such as Kate Carmack, who is especially important in Alaska's history. Kate was an Athabascan woman who married an American trader. She is actually credited with discovering the first gold in Bonanza Creek, which started the Alaska gold rush in 1896.

As the story is told, when Kate first discovered the gold, it was frozen in

the mud. Kate and her husband did not have the grub stake, if you will. They did not have the cash necessary to do the digout that winter. So they literally were sitting on the largest gold discovery in history. Kate's resourcefulness as a skin sower and her skill as an outdoorsman earned enough cash for the family to pull together that grub stake to hit ''pay dirt'' when the ground thawed the next spring.

When we think of women like Kate Carmack in Alaska, who braved some pretty tough, some pretty difficult conditions, I ask the Senator from Maine if she has any similar stories from her State?

Ms. COLLINS. I certainly do. That is a wonderful story of a truly courageous woman.

We have many women such as that throughout Maine's history. Josephine Peary was one such woman. She was married to the great explorer, Robert E. Peary, who was the first to reach the North Pole, not that far from Alaska. They lived together on Eagle Island in Casco Bay, ME. Josephine began exploring when she accompanied her husband to Greenland on a journey sponsored by the Academy of Natural Sciences that would last for a year and a half. That travel, in 1892, made Josephine the first woman in history to be a member of an Arctic exploration team.

I understand that women in Alaska also have been pioneers in expanding opportunities for women to work outside of the home. I wonder if the Senator from Alaska might expand on that.

Ms. MURKOWSKI. We have a lot of firsts that, again, when we look at Alaska's history and recognize we did not become a State until 1959, it is a very recent history, but yet women's involvement in some very important firsts have gone back so many years prior to statehood it really gets your attention.

Historically, Alaskan women were employed in jobs that women in other areas of the country could only dream about. In 1915, Anchorage employed its first female principal in the Anchorage School District, our largest community now, 3 years before World War I and 5 years before women's suffrage was ratified.

A year later, 1916, and still 4 years before national women's suffrage passed, Lena Morrow Lewis is believed to be the first woman to campaign for Alaska's territorial seat in the U.S. Congress. She did not win, but she was certainly followed by other pioneering women in the workforce.

Marvel Crosson was the first female licensed pilot in Alaska in 1927. Mildred Herman became the first woman admitted to the Alaska Bar Association in 1934. And Barbara Washburn was the first woman to climb Mount McKinley, the tallest mountain in North America.

This is all long before Alaska became a State. Other opportunities for women, as we flip through the history books, become very apparent. A woman by the name of Nell Scott became the first woman to serve in the Alaska State legislature in 1937. This was a year before the National Fair Labor Standards Act of 1938 was passed, which established a minimum wage.

Blanche McSmith was the first Black woman to serve in the Alaska State legislature. Sadie Neakok was the first Native Alaskan woman to serve as a magistrate in Alaska in 1960, during the same time period when the struggle for civil rights was raging in the South. Blanche and Sadie began serving in Alaska in very prominent roles 4 years before the Civil Rights Act was passed.

Could the Senator from Maine describe for me some of the pioneering women in her State.

Ms. COLLINS. I would love to share that information with the Senator from Alaska. It is just fascinating to hear the many firsts that women from her State have established.

The Senator from Alaska obviously has a great deal of pride in the history of women in her State.

In Maine, too, we have women who have played influential roles throughout history, but especially in the field of literature.

I am sure all of my colleagues know well the story of Harriet Beecher. She wrote ''Uncle Tom's Cabin'' in 1850 while pregnant with her seventh child. She began writing the book while residing in Brunswick, ME. Her deep religious faith and dedication to bringing to light the problems with slavery encouraged ''Hattie'' to write with such passion that she quickly finished and continued to write an average of a book a year to support her family.

Another famous Mainer, Martha Ballard, also made important contributions. She lived in Hallowell, ME, and was a midwife and a healer. She faithfully maintained a diary from 1785 to 1812, and her meticulous records have provided us with a rare glimpse into the daily life in Maine in the late 1700s and the early 1800s. Her contributions and life were only recently highlighted when Laurel Ulrich documented her work in a Pulitzer Prize winning book ''The Midwife's Tale.''

America's first female novelist, Sally Sayward Barrell, also known as Madam Wood, was born in York, ME, in the southern tip of our State. She wrote five gothic novels, first under the signature of ''A Lady of Massachusetts,'' and then, later, under the signature of ''A Lady of Maine'' when Maine was granted statehood in 1820.

Another pioneering woman was Dorothea Dix. She was born in Hampden, ME, in 1802, and is considered a groundbreaking reformer in the area of treatment for individuals suffering from mental illness. She traveled the Nation advocating for a more compassionate, holistic approach to the treatment of those suffering from mental illness. She was truly ahead of her time. She also successfully lobbied Congress to establish the first and only national Federal mental health facility which would become a world premiere mental health and research center.

I ask my colleague to further expand on how Alaska has supported women and their accomplishments.

Ms. MURKOWSKI. Well, as the Senator has noted, her home State of Maine and Alaska both have a very rich history of groundbreaking women, women who have been pioneers, women who have reached out. I think our States have demonstrated the very supportive nature of moving women forward in their prosperity.

In Alaska, as a for instance, since we are talking about ''for instances and firsts,'' the very first bill ever passed by the Territory of Alaska was the Shoup women's suffrage bill in 1913.

That was our first bill as it related to women's rights. Seven years before women's suffrage was ratified in the rest of the country and 46 years before Alaska became a State, our territorial legislature's first bill was related to women's rights.

I ask the Senator from Maine, in terms of your role model throughout your political career, who would you cite as that role model, that individual?

Ms. COLLINS. I would reply to my friend and colleague from Alaska that my role model and inspiration was the great Senator Margaret Chase Smith. She served as Senator from Maine the entire time I was growing up. She served in the Senate from 1949 to 1972. I realize how fortunate I was to have as a role model this courageous, smart, and brave woman who did so much and set so many firsts for America. I have often thought that the path for my colleague OLYMPIA SNOWE and myself to the Senate was paved by the remarkable Senator Margaret Chase Smith.

I remember well my very first meeting with Senator Smith. I was a senior in high school. I was in Washington for a special program, and she spent nearly 2 hours talking with me. She talked about national defense, her service on the Armed Services Committee and, most of all, about her decision to speak out against the excesses of Joseph McCarthy. That was an extraordinarily brave thing to do, but it was typical of Senator Smith, who had a courageous and independent spirit.

She was the first to do so many things. She was the first Republican Senator elected to the Senate. I would note that when I was elected to the Senate, Maine became the first State to send two Republican women to the Senate to serve at the same time. She was the first woman to serve in both the House and the Senate. She was the first woman to be backed by a major political party in a Presidential election. Long after it became commonplace for women to serve in the highest ranks of our Government, Senator Smith will always be acknowledged and remembered and honored in Maine for her dignity and her courage.

Although I didn't realize it at the time, when I look back at her meeting with me, I realize that that was the first step in a journey that led me to run for her seat 25 years later. I am so proud to hold the seat once held by the legendary Senator Margaret Chase Smith.

Women such as those the Senator from Alaska has spoken of and whom I have talked about today are the reason we are so proud to sponsor a bill that, at no cost to the taxpayers, directs that the Old Post Office Annex be made available to house the National Women's History Museum. We need a place for our country to honor the contributions of women, particularly for young girls who are coming to Washington to be able to go to this museum and learn about some of the remarkable women who have changed American history, about whom the Senator from Alaska and I have talked today. Women's history needs a place in our capital and in our collective American history.

I ask my colleague from Alaska if she would agree with that sentiment. She has been such a leader in getting this bill through.

Ms. MURKOWSKI. I couldn't agree more with the Senator from Maine. Just in the discussion we have had this evening about some of the women from my State and their pioneering enterprises and hearing the stories about the women of Maine, I would love to be able to go somewhere and spend the time to do more research, to find out more about these pioneering women, not only in Alaska and Maine but all of the States in between. By having the women's history museum here in Washington, DC, we will be able to do that.

Women have played such a crucial role in the development of my State, as you have heard, and certainly in the development of yours. By encouraging women's history of all of our respective States, we can see and celebrate this common history from as far apart as Maine to the east and Alaska in the west.

Those frontier women, women of independent spirit, demonstrated self-reliance, themes that embody all American women and the American spirit. I, too, am most proud to be a cosponsor of this bill and thank the Senator from Maine for her leadership in moving this forward so that we do have a place to house these great collections.

Ms. COLLINS. Madam President, I thank the Senator from Alaska for participating in this discussion tonight. She certainly continues that proud tradition in Alaska of women who have made a real difference. I am honored to serve with her. She does an extraordinary job. I also think we would be remiss in not recognizing the contributions of our Presiding Officer today, the Senator from North Carolina, Mrs. DOLE, who also has established so many firsts in American history. I know that she, too, will be prominently featured in this museum once it comes about.

I think we can take great pride in being here tonight and knowing we have passed this legislation unanimously.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. LAUTENBERG. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Ms. MURKOWSKI.) Without objection, it is so ordered.

AIR TRAFFIC CONTROL

Mr. LAUTENBERG. Madam President, tonight we got some good news. I want to just say a few words about the FAA bill because we have resolved the issue on air traffic control. The good news is that tonight we scored a victory, a victory for safety and a victory for homeland security.

As many of my colleagues know, I held up the FAA traffic control bill in order to get some assurance that the safety and security of the flying public would not be jeopardized by the privatization of the air traffic control system. I am pleased to announce that we have now received an assurance from the administration regarding fiscal year 2004. Until the end of this fiscal year, the administration has agreed not to privatize any components of our air traffic control system. The controllers are protected, the technicians are protected, the flight service station controllers—all of those units that make up the air traffic control system—are protected. We have a letter stating the administration's assurance.

Some of my colleagues have asked why I was doing this: Why do you feel so strongly about it? I put it in personal terms. I told them: Because I don't want my grandchildren or your grandchildren or the grandchildren of our constituents put in danger by a risky privatization scheme. That is what was at stake here.

I extend my thanks to many of my colleagues for their support in this fight, specifically our Commerce Committee ranking member, Senator HOLLINGS, and the subcommittee ranking member, Senator ROCKEFELLER, Senator DORGAN, and the leader and assistant leader of our caucus, Senators DASCHLE and REID. They always stayed strong and said ''safety first.''

Senator LOTT has been an honest broker throughout this process. He kept the discussions alive.

It was a tough fight. But at the heart of this fight was the reality that it was a bipartisan decision. In June of this year, 11 Republicans voted to prevent privatization, to stand up for safety. I know we often get pressured to vote with our caucus or vote with our party's President, but sometimes you just have to stand up for your constituents' safety, and that is what my Republican friends did here.

Within days of returning to the Senate earlier this year, I learned that the administration intended, through this A–76 process, to privatize air traffic control. In my previous 18 years, I had an active interest in aviation and the air traffic control system. But the moment I learned of the administration's actions, I knew I would spend much of this year fighting to prevent that action from taking place. We won a Senate vote to prevent privatization. We fought off the terrible first conference report. We fought the pending conference report until we received the assurances that we got tonight.

But the fight is not over, and I will continue to push for a permanent prohibition. In the words of California's current Governor, I'll be back. We are going to fight this again, and we will keep fighting it until it goes away for good.

I am reminded, 700 million people fly in our skies every year, roughly 2 million a day. Our system is going to be pushed to the limits of capacity in these next couple of weeks in what will be the busiest travel day of the year. I hope travelers will rest assured knowing that control of the skies will be in the hands of professionals, the Government employees who make up the air traffic control system.

This is the greatest air traffic control system in the world, most safe, most efficient. There are 15,000 Federal air traffic controllers and thousands of professional systems specialists and flight service station controllers. These are the men and women who keep our skies safe and secure.

But there are some obvious lessons we need to heed, those of September 11, when the air traffic control system worked flawlessly to bring home safely some 5,000 airplanes in just a couple of hours. These are the lessons from other countries that have tried this. They were left with just what could be expected: Less safety, more delays, and more cost in the end.

There are lessons from the space program.

I look forward to examining these issues during the policy debate to which our chairman is committed. I hope there can be an adequate discussion for the American people so they can learn how, after next year, the White House proposes to put their safety and security at risk—if they do, all for the benefit of the profit motive.

I would like to mention one other item in this bill that is of particular importance to the State of New Jersey. Our great State has a proud history of aviation with a number of public use airports. Certainly the occupant of the chair understands since aviation in Alaska is the lifeblood of that beautiful State. Our great State has a proud history with a number of public use airports, and now some of these airports are disappearing, giving way to urban sprawl and development. To help stem this problem, a key provision in this bill establishes a pilot program

which offers additional tools to States to enable them to preserve these public use airports. I am hopeful this program will be used to keep these important facilities for general aviation, corporate, and agricultural uses, and the medevac and firefighting uses which depend on sufficient airport facilities to continue to operate.

I commend the chairman of the Commerce Committee, Chairman MCCAIN, for working with me on this provision.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. FRIST. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. ENSIGN). Without objection, it is so ordered.

OFFICE OF COMPLIANCE MEETING CANCELLATION

Mr. STEVENS. Mr. President, I ask unanimous consent that the attached statement from the Office of Compliance be printed in the RECORD today pursuant to section 303(b) of the Congressional Accountability Act of 1995 (2 U.S.C. 1383(b)).

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. CONGRESS,
OFFICE OF COMPLIANCE,
Washington, DC, November 20, 2003.

Hon. TED STEVENS,
Speaker of the House, House of Representatives, Washington, DC.

DEAR MR. PRESIDENT: A Notice of Proposed Rulemaking (NPR) for amendments to the Procedural Rules of the Office of Compliance was published in the Congressional Record dated September 4, 2003. Subsequent to the publication of this notice, this office announced a hearing for public comment on the proposed amendments in the Congressional Record on October 15, 2003.

The Board of Directors of the Office of Compliance cancels the hearing regarding the proposed amendments to the Procedural Rules of the Office of Compliance which had been scheduled for December 2, 2003, at 10 a.m. in room SD–342 of the Dirksen Senate Office Building.

We request that this notice of cancellation be published in the Congressional Record. Any inquiries regarding this notice should be addressed to the Office of Compliance at our address below, or by telephone at 202–724–9250, TTY 202–426–1665.

Sincerely,

SUSAN S. ROBFOGEL,
Chair.

TRIBUTE TO CPL RODNEY ''JIMMY'' ESTES II

Mr. MCCONNELL. Mr. President, I rise today to pay tribute to a brave young man who just returned from a tour of duty in Iraq. Rodney ''Jimmy'' Estes II is from my hometown of Louisville, KY. A few months ago, Jimmy was dressed in fatigues fighting the war on terror in the Iraqi desert. But today, you can find him wearing red and white and playing football for the University of Louisville Cardinals—my favorite team.

Jimmy Estes, a 1998 graduate of St. Xavier High School, turned down a football scholarship to Georgetown College to follow in his grandfather's footsteps—to serve in the U.S. Marine Corps. The day after graduation, he left Kentucky for boot camp at Parris Island. And on January 7, 2003, Jimmy was called to active duty.

As a member of the Alpha Company, 8th Tank Battalion, Jimmy was on the front lines in An Nasiriyah, Iraq. During his time in the country, he experienced some of the war's most intense fighting. In his tank, he worked as the loader and operated the 240-millimeter gun on top of the vehicle. Jimmy and his comrades are unsung heroes in one of our troops' finest hours. They were the lead tank in the rescue mission of PVT Jessica Lynch.

To pass the hours in Iraq, Jimmy played football with his fellow soldiers, reminding him of his lifelong dream—to play football for the University of Louisville Cardinals. Following his tour of duty, which ended this past May, Jimmy returned home and enrolled at U of L. Determined to play football, Jimmy spent his summer preparing to try out for one of four walk-on positions. And just like on the battlefield, Jimmy succeeded. Not only is he a wide receiver on his university's football team, he also continues to serve his Nation as a Marine reservist.

Jimmy's bravery, humility, and determination should be commended. On behalf of this grateful Nation, I ask my colleagues to join me in thanking Corporal Estes for his dedicated service. As a proud U of L alum and most importantly, a football fan, I wish Jimmy and his teammates a winning season. Go Cards!

I ask unanimous consent that the article, ''For Jimmy Estes, that was war; this is football'' from my hometown paper, The Courier-Journal, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Louisville Courier-Journal, Oct. 10, 2003]

FOR JIMMY ESTES, THAT WAS WAR; THIS IS FOOTBALL

(By Pat Forde)

The war wasn't so bad until bedtime.

Jimmy Estes spent the dusty desert days in the company of his M1A1 Abrams tank crew or with the other members of Alpha Company, 8th Tank Battalion. On the dull days the Marines opened care packages or talked about family, sports and what they'd give for cold water and hot showers. On the deadly days they went out and killed Iraqis because it was their job, and when the battles around An Nasiriyah were done, the soldiers rehashed them in detached terms.

But at the end of the day, when Cpl. Rodney J. Estes II would lie down and stare up at the inky Arabian night, he was alone with the whole thing. It was just him and the horror: the dead women and children, the dogs tugging at corpses, the Iraqis he personally shot in combat, the bullets they shot at him that pinged off the tank's armor.

It was just him and the heroism: Estes and his mates rode the lead tank on the famous Jessica Lynch rescue mission, laying down fire and securing the perimeter before Army Rangers and Navy SEALs went into Saddam Hussein General Hospital to retrieve America's most famous POW.

He took all of it to bed with him.

''Those were some lonely nights,'' Estes said.

It was during those lonely nights that he made a vow: ''If I get out of here and make it home alive, I'm going to do it. ''

Go to college. And play football. For his hometown team, the University of Louisville.

Today Jimmy Estes is alive and well and a 23-year-old walk-on wide receiver for the Cardinals.

He saw enough death in the desert to learn that dreams can come with an expiration date—probably not one of your choosing. A young man who had drifted along without plan or purpose since graduating from St.Xavier High School in 1998 had an epiphany in Iraq.

''Absolutely, it changed me,'' said Estes, who hadn't played organized football in six years. ''I kind of piddled around at jobs here and there, not anything I'd call a career. If I hadn't gotten deployed, to be honest, I don't know where I'd be right now.

''I don't take things for granted like I used to. I realize how lucky I am. I realize life can end.''

Now his life is just restarting. He is a justice administration major in the classroom, with designs on becoming a football coach. On the field he is a humble freshman who hasn't even dressed out for a game.

Yet there is no bigger hero in the U of L football program.

Said offensive lineman Will Rabatin, Estes' friend since grade school: ''I'm proud to know him.''

No more proud than Estes is to have this long-shot college football experience. Think of all the coddled athletes out there, complaining that a full ride isn't enough. Then listen to Estes, who's been through more than those guys can ever imagine and now cherishes the chance to pay his way through college and play on the scout team.

''He's just a great kid to have around,'' said offensive coordinator and wide receivers coach Paul Petrino. ''Every day when we start out doing ball drills, he has a lot of enthusiasm, a lot of fire. You can tell he loves being here.''

''I look forward to going out there every day,'' Estes said. ''I really appreciate the opportunity. It's just so great to be a part of it.''

In the weeks before the invasion of Iraq, the Marines played touch football in Kuwait all the time. Tankers against tank maintenance. In combat boots. In the desert.

Talk about your sandlot games.

For Estes, this was a continuation of his life long love of sports. When he played flag football in grade school, all the kids on the sidelines were squirting each other with water bottles, oblivious to the game. Jimmy was running the sidelines, keeping pace with the action and imploring his coaches to put him in.

When he was 6 he persuaded his father, Rodney, a retired Louisville police officer, to get him out of school early for the first two days of the NCAA basketball tournament. Jimmy sat in front of the television from noon until midnight each day, transfixed.

At age 7 he was reading Sports Illustrated cover to cover.

Later on he played at St. Martha for Rabatin's father, once catching the winning

touchdown pass in the Toy Bowl. Then it was on to St. X, where he played little his final year after a disagreement with the coaches.

''He just didn't have a positive experience,'' his father said. ''Part of that was his fault.''

Estes' only football option was a partial scholarship to Georgetown College. He turned it down to follow in his grandfather's footsteps—into the Marine Corps and into a tank.

''That broke my heart when he didn't take that scholarship to Georgetown,'' Rodney Estes said. ''You know how you envision going down there on Saturdays to watch your son and walk around campus?''

Instead, a day after graduation from St. X, Estes was off to Parris Island for boot camp as a Marine reservist. Higher education—and football—flickered out of sight.

In 1999 he had talked to UofL assistant Greg Nord and then-coach John L. Smith about walking on, but he never followed through. He worked a job here and a job there and performed his duties with the reserves. Life was standing still.

''He kind of had his head up his—in other words,'' said Lance Cpl. Nick Rassano, a 2000 Trinity graduate who was in the same tank in the Middle East with Estes.

Then last Jan. 7, the phone rang at Ruby Tuesday, where Estes was bartending. The order was expected but still jarring: Report for active duty.

He told his family the news at dinner that night. Two days later he was gone—but not without some prescient final words from his father.

''Remember,'' Rodney Estes told his oldest son, ''the way you handle yourself out there probably says a lot about how you'll handle the rest of your life.''

First stop was Camp Lejeune, N.C. Then he was on a ship 30 days to Kuwait, for a month of preparation, some touch football and the last decent meals for a long time.

Finally, after a month in Kuwait, Estes and the rest of the American military force invaded Iraq.

''I was a policeman 25 years, and I'm not the kind of guy who gets overly worried,'' Rodney Estes said. ''But I tell you, that night he left I thought, 'This could be the last night I ever see him.' When your own kid goes off, that puts you through some changes.

''I'd wake up in the middle of the night and watch CNN. I watched so much TV I was about to drive myself crazy.''

Over in Iraq, the A–8 Marines were pushing hard toward An Nasiriyah and what ultimately would be some of the most intense fighting of the war. The first day of combat was the worst, as Estes watched a rocket-propelled grenade blow up an American vehicle and kill several soldiers.

He said they arrived in the area to find the streets flooded with sewage that stalled half of Alpha Company's 14 tanks—including his, christened the ''Think Tank'' because of the crew's propensity for making maintenance errors.

When the tanks bogged down, the Iraqis lit up. They were firing on foot, from orange-and-white taxis and from SUVs.

Estes was the loader in his tank but also was charged with manning the 240-millimeter gun on top of the vehicle. With the upper half of his body in view, he exchanged fire with the enemy.

Welcome to the terror and exhilaration of warfare, Cpl. Estes.

''It was a heck of an adrenaline rush,'' he said. ''I was scared, excited, all those things. I think of it like going into a big game, only times 100. Obviously, the stakes are much higher.

''You get a sick feeling in the pit of your stomach. I didn't freeze or tense up, but I definitely had butterflies.''

Asked if he personally shot anyone, Estes looked down briefly and answered yes. There was no bravado in his voice.

''The first time you see somebody get hit with a round is a crazy feeling,'' he said. ''It's a sick feeling. But when you sign up to be a Marine, that's something you obviously know can be part of the job.

''I can't sit here and describe the feelings you get. I can tell you what I saw, but in no way does it simulate what it was like.''

There is no simulation. Just late-night assimilation—alone, lying on your back and staring at the sky in a strange and dangerous land.

One day the Think Tank crewmen got the call to be part of a hush-hush mission. They were to be the lead among three tanks escorting a group of Special Ops forces into town. It had the potential to be dangerous. Estes' tank commander had him clear out space inside the tank, in case they needed it to transport bodies.

They originally were told that the target was a Saddam look-alike. They had no idea that they were going to play a part in the most dramatic—and later controversial—event in the war.

In the early hours of April 1, their tank led a group of other vehicles carrying Special Operation Unit Task Force 20 into Nasiriyah, storming into position around the hospital. Night-vision goggles on, Estes laid down suppression fire with the 240-mm gun for a few minutes and set up a perimeter before the Rangers and SEALs went in.

Lynch was rushed out and loaded onto a helicopter, though most involved in the rescue still didn't know the particulars of what happened. Estes' tank remained in position for hours afterward.

At one point he was told to hand some Special Ops soldiers a tank shovel. They used it to dig up a shallow grave outside the hospital, locating the bodies of several Americans from Lynch's 507th Maintenance Company.

It wasn't until days later that the Think Tank crew was able to piece together the story and realize that their mission was the rescue dominating news coverage at home.

''We didn't realize how big a deal it was until we saw it on the cover of Newsweek,'' Rassano said.

To Estes the mission was important for one other reason: He never again discharged his weapon. A series of moves to other cities resulted in nothing more noteworthy than a couple of utterly uneventful weeks guarding a bridge.

With the action centralizing on Baghdad, there wasn't much to do other than reading the Sports Illustrateds and eating the beef jerky sent from home. Finally, Alpha Company pulled out and returned to Kuwait on May 5.

The war was over for Cpl. Estes. It was time to act on his vow.

During the interminable 38-day voyage back to America, Estes e-mailed his father and told him his plans: He was going to enroll at U of L and walk on to the football team. Rodney Estes was thrilled.

Jimmy returned to Kentucky on July 2, and he and the rest of his battalion were feted at Fort Knox. He obviously was thrilled to see his family—his father, mother, stepmother, stepsister and two half-siblings.

Especially his 11-year-old half-sister, Jennifer Estes. He thought of her often when he saw children her age caught in the calamity of war.

''He's crazy about her,'' Jimmy's dad said. ''He's not exactly a sensitive kid by any stretch of the imagination, but I think some of the things he saw over there affected him.''

To help put the war behind, Estes plunged into his future plans. After about a week of acclimation, he began working out six days a week toward his goal of becoming a Cardinal.

A depressing and debilitating diet of MREs—the scarcely edible Meals Ready to Eat—had killed his appetite. By the end of the war Estes could eat barely half an MRE a day, and he lost a significant amount of weight and muscle mass.

But that could be overcome with work, and he was driven. His first couple of calls to U of L graduate assistant Sam Adams, in charge of the walk-on program, went unreturned. Finally, Adams called back.

He said that Estes couldn't walk on until classes started, but in the meantime the coaches wanted to look at some videotape of him. He had nothing significant to show since his days on the St. X junior varsity. Nevertheless, Adams told him to report for a one-day group tryout.

Estes arrived in excellent physical condition, performed well in the fitness tests and was one of four walk-ons chosen for the team. After U of L upset Kentucky to open the season Aug. 31, he reported for his first practice as a Louisville Cardinal.

''It was awesome that first day, just putting on the equipment again,'' he said. ''I was looking around saying, 'I'm playing with a Division I football program. Four months ago I was shooting at Iraqis running around with AK–47s.' ''

Today life is easy. The 18-hour days don't pile up for weeks on end. The food is edible. There are no tank repairs, no missions, no imminent danger.

The load so many student-athletes find so difficult is like vacation to Jimmy Estes.

''All you've got to do is go to class and play football,'' Rassano said. ''That's got to be the easiest thing he's done all year. After going through there, everything's easier.

''The whole experience kind of straightened him out. I'm real proud of Jimmy.''

A good many Cardinals have no idea what Estes was going through while they were in spring practice. But a few have seen the USMC tattoo on the 5-foot-11, 200-pound receiver's left shoulder and inquired, and a few others have heard a story or two about the walk-on soldier.

He doesn't hide his history, but he doesn't broadcast it, either. He's not looking for hero status in the locker room.

''The coaches can't give me any special treatment, and I don't want it,'' he said. ''I'd always heard stories of people coming back (from a war) and thinking the world owed them something, or they were messed up mentally. I didn't want that. I just wanted to make that experience a positive.''

U of L will play Army tomorrow. Estes has been where none of the celebrated West Pointers has gone yet: into combat for his country.

He is a Cardinal worthy of a salute from the Cadets.

Yet he wasn't even supposed to be at the stadium. Instead, he was scheduled for real military work: a reunion with Alpha Company at Fort Knox for their first weekend of reservist training since the war.

But at practice yesterday head coach Bobby Petrino informed Estes that he will be dressing out and joining the squad if he can get a furlough from Marine drills.

Estes plans to wear two uniforms tomorrow; he'll be in Papa John's Cardinal Stadium in the afternoon after meeting up with his mates in the morning. He's looking forward to seeing the men with whom he shared a life-altering experience—and telling them about his college football career.

''I don't think a whole lot of them really believed me,'' he said with a smile.

But it's true. A desert dream that materialized on lonely nights under an inky Arabian sky has come true.

MILITARY SNIPER WEAPON REGULATION ACT

Mr. LEVIN. Mr. President, in the November 3, 2003 edition of Air Safety Week a connection was drawn between airline safety and gun safety. And, while some people may think there is no connection between airline safety and gun safety, the connection is serious. Attention has been paid to potential vulnerabilities of commercial aircraft to terrorists armed with shoulder-fired missiles. A more pedestrian but an equally deadly potential threat looms from terrorists armed with .50 caliber sniper rifles.

The .50 caliber sniper rifle is among the most powerful weapons legally available. These weapons are not only powerful, but they're accurate. According to the House Government Reform staff report, the most common .50 caliber weapon can accurately hit targets a mile away and can inflict damage to targets more than four miles away. The thumb-size bullets, which come in armor-piercing and incendiary variants, can easily punch through aircraft fuselages, fuel tanks, and engines.

These weapons pose a serious threat to planes both in the air and on the ground. According to a recent Violence Policy Center report, aircraft landing are particularly vulnerable, as illustrated by the testimony of Ronnie G. Barrett, President of Barrett Firearms Manufacturing. As an expert witness during a 1999 criminal trial, Barrett was asked about the relative difficulty of hitting a stationary target and a moving target, such as a motorcycle or an airplane. He was asked about shooting at an airplane ''coming in to land . . . descending over 120 miles an hour.'' He testified: ''If it is coming directly at you, it is almost as easy. Just like bird hunting. But yes, it is more difficult if it is horizontally, or moving from left to right . . . '' In other words, according to Barrett, shooting at a moving object coming directly at one is ''almost as easy'' as a stationary target, an answer that is consistent with detailed instructions given in a variety of U.S. Army manuals about engaging aircraft with small arms.

Despite these facts, long-range .50 caliber weapons are less regulated than handguns. Buyers must simply be 18 years old and submit to a Federal background check. In addition, there is no Federal minimum age requirement for possessing a .50 caliber weapon and no regulation on second-hand sales.

I believe the easy availability and the increased popularity of the .50 caliber sniper rifle poses a danger to airline safety, as well as homeland security. That's why last year I cosponsored Senator FEINSTEIN's Military Sniper Weapon Regulation Act. This bill would change the way .50 caliber guns are regulated by placing them under the requirements of the National Firearms Act. This would subject these weapons to the same registration and background check requirements as other weapons of war, such as machine guns. This is a necessary step to protecting the safety of airline travelers.

The .50 caliber sniper rifle is among the most powerful and least regulated firearms legally available. Tighter regulation is needed. I urge my colleagues to support Senator FEINSTEIN's bill.

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 in our society.

In San Antonio, TX, on October 26, 2003, Allen Everton, age 74, was beaten to within inches of his life. His assailant believed that Everton was gay, and while hitting the elderly man with a baseball bat, called him a ''freaking faggot.'' Mr. Everton died 11 days later of natural causes, but I can only imagine how scarred he must have felt after being the victim of a senseless attack.

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.

HONORING OUR ARMED FORCES

Mr. GRASSLEY. Mr. President, I rise today in honor of a fellow Iowan and a true American hero PVT Kurt R. Frosheiser. Private Frosheiser was killed while serving our country in Operation Iraqi Freedom on November 8, 2003, when his humvee was struck by an improvised explosive device in Baghdad. Private Frosheiser was only 22 years old at the time of his death.

I ask my colleagues in the Senate, my fellow Iowans, and all Americans to join me today in paying tribute to Private Frosheiser for his bravery and for his dedication to the cause of freedom. Private Frosheiser had a deep desire to serve his country, and we are all indebted to him for his service and for his sacrifice.

In an interview with the Des Moines Register, Private Frosheiser's mother, Jeanie Hudson, said the following about her son: ''He loved this land and its principles. He loved Iowa. It's an honor to give my son to preserve our way of life.''

Throughout our history, we have found extraordinary men and women who are willing to give their lives to defend our country and families willing sacrifice those who they love most to the cause of freedom. It is with great sadness, but also great pride, that I honor one such patriot today on the floor of the Senate, PVT Kurt Frosheiser.

Today we honor a fallen patriot, but we must also remember to pay tribute to the loved ones whose grief we share. My deepest sympathy goes out to the members of Private Frosheiser's family, to his friends, and to all those who have been touched by his untimely passing. May his mother, Jeanie, his father, Chris, his step-father, Daniel, his sister, Erin, and his twin brother, Joel, be comforted with the knowledge that they are in the thoughts and prayers of many Americans, and that they have the eternal gratitude of an entire nation.

Kurt Frosheiser did not die in vain. He died defending the country he loved. May he always be remembered as a true American hero.

SGT ROSS A. PENNANEN

Mr. INHOFE. Mr. President, I rise to pay homage to Sergeant Ross Pennanen, who, in the words of his father, ''gave the ultimate sacrifice for his country—his life.'' Sergeant Pennanen, or ''Penn'', as his friends called him, was a dedicated defender of America who learned the value of serving his country from his father's example in the United States Air Force. For his service and his sacrifice, I am proud to honor him on the Senate floor today.

Sergeant Pennanen was assigned to C Battery, 2nd Battalion, 5th Field Artillery Regiment, III Corps Artillery at Fort Sill, OK. A native Oklahoman whose mother and father live in Ada and Midwest City, respectively, Sergeant Pennanen grew up in McLoud and joined the Army 2 years ago at the age of 34 in hopes of improving himself and emulating his father. He was himself a good father who spent a lot of time with his 7-year-old son, Gage.

Sergeant Pennanen died tragically on November 2 when a CH–47 Chinook helicopter in which he was riding crashed in Fallujah, Iraq. He was a good soldier: he received the Army Commendation Medal two days before his death. Despite questions about his age, Sergeant Pennanen proved a ''gung-ho'' example for his fellow soldiers. According to his stepmother, ''He didn't keep up with them. He set the pace out in front of them.''

On behalf of the U.S. Senate, I ask that we pay tribute to Sergeant Pennanen and the men and women like him, who know the true meaning of service and sacrifice. These men and women have tasted freedom, and wish to ensure that freedom for those who have never experienced it. I honor the memory of our sons and daughters who have died for this noble cause.

We could not have asked for a better soldier or diplomat of humanity than Sergeant Ross Pennanen. I am proud of him, and proud of the commitment he showed to winning the freedom of those he did not know. My prayers are with his family for the loss of such a special man.

PVT JASON M. WARD

Mr. INHOFE. Mr. President, I rise today to honor the memory of a courageous young Oklahoman who died

while defending his Nation. Private Jason M. Ward grew up in the great State of Oklahoma, and was a 1997 graduate of Broken Arrow High School.

Private Ward joined the military in April 2002, although he had been seriously considering military service for years. He married his high school sweetheart after graduating, and when Jason and Jordan welcomed their first son shortly thereafter, the duties of fatherhood took priority. After having another son 4 years later, Jason and Jordan began discussing Jason's longtime military aspirations and decided that it would be a good time for him to pursue a lifelong career in the military.

Private Ward was a member of the 1st Armored Division, stationed at Fort Riley, KS. His unit was sent to the Middle East in March to protect the freedom of this fellow Americans, and he was highly involved in the outstanding and courageous work of that unit. Unfortunately, Private Ward fell ill, and was scheduled to return to the U.S. for treatment when he unexpectedly passed away. His sudden death has left his young family with questions that none of us can answer, but we can tell them with confidence that Private Ward was serving his Nation with honor until this tragedy took his life.

Private Ward was only 25 years old when he died. I hope his friends and family know that he died a true hero, worthy of the respect and gratitude of every American because of his contribution to defending his country. His loved ones will miss him dearly, and our thoughts and prayers are with them today. And though we are all grieved by the loss of this man, we will never cease to be proud of him—Oklahoma's son and America's hero—Private Jason M. Ward.

SPEC DUSTIN K. MCGAUGH

Mr. INHOFE. Mr. President, I stand today to honor the memory of a brave young American who gave his life defending the Nation. He felt a call to serve his country, to be part of something bigger than himself, and ultimately, paid the highest price.

SPEC Dustin K. McGaugh, of Derby, KS, was a firing specialist assigned to the Army's 17th Field Artillery Brigade stationed in Fort Sill, OK. His mother, Marina Hayes, lives in Tulsa, OK, where he graduated from high school in 2001.

On September 30 in Balad, Iraq, he died tragically from a non-hostile gunshot wound. He gave his life for the freedom of millions of Americans, and also for the peace and prosperity of the Iraqi people crippled by a totalitarian regime.

Specialist McGaugh had a heart for the less fortunate. According to his fellow soldiers, he would leave the safety of his Jeep and give candy to the Iraqi children. Imagine an American soldier who truly cared for the least among us, and performed simple acts of kindness to his fellow humans. Imagine an American soldier who represented America with a noble heart, and reminded us all of the freedoms we take for granted. Specialist McGaugh was that soldier.

His compassion is a microcosm of the American spirit, the spirit that drives us to fight oppression around the world. The Iraqi people are an oppressed people, and Specialist McGaugh showed us how our inherent humanity can overcome even the broadest of differences. He refused to sit idly and watch the tyranny in Iraq take place any longer. It is for the sake of these broken, defeated people that Specialist McGaugh risked his life on a daily basis. It is for these people that he gave his life in the end. He was a true American hero.

His twin sister Windy said that her ''kid brother'' became her hero. Specialist McGaugh should not only be his sister's hero, but the Nation's hero as well. He set a high example of what it means to be an American and what it means to be human. It is for men like Specialist McGaugh that I am proud to be a part of this great country. He was a special soldier, but more importantly, a special man.

BUDGET SCOREKEEPING REPORT

Mr. NICKLES. Mr. President, I hereby submit to the Senate the budget scorekeeping report prepared by the Congressional Budget Office under section 308(b) and in aid of section 311 of the Congressional Budget Act of 1974, as amended. This report meets the requirements for Senate scorekeeping of section 5 of S. Con. Res. 32, the First Concurrent Resolution on the Budget for 1986.

This report shows the effects of congressional action on the 2004 budget through November 19, 2003. The estimates of budget authority, outlays, and revenues are consistent with the technical and economic assumptions of the 2004 Concurrent Resolution on the Budget, H. Con. Res. 95, as adjusted.

The estimates show that current level spending is below the budget resolution by $7.0 billion in budget authority and by $11.1 billion in outlays in 2004. Current level for revenues is $57 million below the budget resolution in 2004.

Since my last report, dated November 11, 2003, the Congress has cleared for the President's signature the following acts that changed budget authority, outlays, or revenues for 2004: the National Defense Authorization Act for 2004, H.R. 1588; the Military Construction Appropriations Act, 2004, H.R. 2559; the Energy and Water Development Appropriations Act, 2004, H.R. 2754; and, the District of Columbia Military Retirement Equity Act of 2003, H.R. 3054.

I ask unanimous consent that the budget scorekeeping report be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, November 20, 2003.

Hon. DON NICKLES,
Chairman, Committee on the Budget,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The enclosed tables show the effects of Congressional action on the 2004 budget and are current through November 19, 2003. This report is submitted under section 308(b) and in aid of section 311 of the Congressional Budget Act, as amended.

The estimates of budget authority, outlays, and revenues are consistent with the technical and economic assumptions of H. Con. Res. 95, the Concurrent Resolution on the Budget for Fiscal Year 2004, as adjusted.

Since my last letter dated November 10, 2003, the Congress has cleared for the President's signature the following acts that changed budget authority, outlays, or revenues for 2004: The National Defense Authorization Act for Fiscal Year 2004 (H.R. 1588); the Military Construction Appropriations Act, 2004 (H.R. 2559); the Energy and Water Development Appropriations Act, 2004 (H.R. 2754); and the District of Columbia Military Retirement Equity Act of 2003 (H.R. 3054).

The effects of these actions are detailed on Table 2.

Sincerely,

DOUGLAS HOLTZ-EAKIN
Director.

TABLE 1.—SENATE CURRENT-LEVEL REPORT FOR SPENDING AND REVENUES FOR FISCAL YEAR 2004, AS OF NOVEMBER 19, 2003

[In billions of dollars]

	Budget resolution	Current level [1]	Current level over/under (−) resolution
On-Budget:			
Budget Authority	1,873.5	1,866.4	−7.0
Outlays	1,897.0	1,885.9	−11.1
Revenues	1,331.0	1,330.9	−0.1
Off-Budget:			
Social Security Outlays	380.4	380.4	0
Social Security Revenues	557.8	557.8	0

[1] Current level is the estimated effect on revenue and spending of all legislation that the Congress has enacted or sent to the President for his approval. In addition, full-year funding estimates under current law are included for entitlement and mandatory programs requiring annual appropriations even if the appropriations have not been made.

Source: Congressional Budget Office.

TABLE 2.—SUPPORTING DETAIL FOR THE SENATE CURRENT-LEVEL REPORT FOR ON-BUDGET SPENDING AND REVENUES FOR FISCAL YEAR 2004, AS OF NOVEMBER 19, 2003

[In millions of dollars]

	Budget authority	Outlays	Revenues
Enacted in previous sessions:			
Revenues	n.a.	n.a.	1,466,370
Permanents and other spending legislation [1]	1,081,649	1,054,550	n.a.
Appropriation legislation	0	345,754	n.a.

TABLE 2.—SUPPORTING DETAIL FOR THE SENATE CURRENT-LEVEL REPORT FOR ON-BUDGET SPENDING AND REVENUES FOR FISCAL YEAR 2004, AS OF NOVEMBER 19, 2003—Continued

[In millions of dollars]

	Budget authority	Outlays	Revenues
Offsetting receipts	−366,436	−366,436	n.a.
Total, enacted in previous sessions	715,213	1,033,868	1,466,370
Enacted this session:			
Authoriziang Legislation:			
American 5-Cent Coin Design Continuity Act of 2003 (P.L. 108–15)	−1	−1	0
Postal Civil Service Retirement System Funding Reform Act of 2003 (P.L. 108–18)	2,746	2,746	0
Clean Diamond Trade Act (P.L. 108–19)	0	0	*
Prosecutorial Remedies and Other Tools to End Exploitation of Children Today Act (P.L. 108–21)	0	0	*
Unemployment Compensation Amendments of 2003 (P.L. 108–26)	4,730	4,730	145
Jobs and Growth Tax Relief Reconciliation Act of 2003 (P.L. 108–27)	13,312	13,312	−135,370
Veterans' Memorial Preservation and Recognition Act of 2003 (P.L. 108–29)	0	0	*
Welfare Reform Extension Act of 2003 (P.L. 108–40)	99	108	0
Burmese Freedom and Democracy Act (P.L. 108–61)	0	0	−10
Smithsonian Facilities Authorization Act (P.L. 108–72)	1	1	0
Family Farmer Bankruptcy Relief Act of 2003 (P.L. 108–73)	0	0	*
An act to amend Title XXI of the Social Security Act (P.L. 108–74)	1,325	100	0
Chile Free Trade Agreement Implementation Act (P.L. 108–77)	0	0	−5
Singapore Free Trade Agreement Implementation Act (P.L. 108–78)	0	0	−55
First Continuing Resolution, 2004 (P.L. 108–84)	−2,222	1	−2
Surface Transportation Extension Act of 2003 (P.L. 108–88)	6,405	0	0
An act to extend the Temporary Assistance for Needy Families block grant program (P.L. 108–89)	15	−36	33
An act to amend chapter 84 of title 5 of the United States Code (P.L. 108–92)	1	1	0
An act to amend the Immigration and Nationality Act (P.L. 108–99)	0	0	2
The Check Clearing Act for the 21st Century (P.L. 108–100)	0	0	*
An act to amend Title 44 of the United States Code (P.L. 108–102)	0	0	*
Second Continuing Resolution, 2004 (P.L. 108–104)	1	0	*
Partial-Birth Abortion Act of 2003 (P.L. 108–105)	0	0	*
Third Continuing Resolution, 2004 (P.L. 108–107)	0	0	−1
Military Family Tax Relief Act of 2003 (P.L. 108–121)	−599	−599	−169
An act to amend Title XXI of the Social Security Act (P.L. 108–127)	0	9	0
Total, authorizing legislation	25,813	20,372	−135,432
Appropriations Acts:			
Emergency Wartime Supplemental Appropriations Act, 2003 (P.L. 108–11)	215	27,349	0
Legislative Branch Appropriations (P.L. 108–83)	3,539	3,066	0
Defense Appropriations (P.L. 108–87)	368,694	251,486	0
Homeland Security Appropriations (P.L. 108–90)	30,216	18,192	0
Emergency Supplemental Appropriations Act for Defense and Reconstruction of Iraq and Afghanistan (P.L. 108–106)	3,555	1,133	0
Interior Appropriations (P.L. 108–108)	19,673	13,202	0
Total, appropriation acts	425,892	314,428	0
Passed Pending Signature:			
National Defense Authorization Act for Fiscal Year 2004 (H.R. 1588)	4,418	960	4
Military Construction Appropriations (H.R. 2559)	9,316	2,567	0
Energy and Water Appropriations (H.R. 2754)	27,328	18,143	0
District of Columbia Military Retirement Equity Act of 2003 (H.R. 3054)	1	1	1
An act to reauthorize certain school lunch and child nutrition programs (H.R. 3232)	7	7	0
Total, passed pending signature	41,070	21,678	5
Continuing Resolution Authority: Continuing Resolution, 2004 (P.L. 108–107)	300,025	157,423	0
Entitlements and mandatories: Difference between enacted levels and budget resolution estimates for appropriated entitlements and other mandatory programs	358,395	338,102	n.a.
Total Current Level [1 2]	1,866,408	1,885,871	1,330,943
Total Budget Resolution	1,873,459	1,896,973	1,331,000
Current Level Over Budget Resolution	n.a.	n.a.	n.a.
Current Level Under Budget Resolution	7,051	11,102	57

[1] Per section 502 of H. Con. Res. 95, the concurrent Resolution on the Budget for Fiscal Year 2004, provisions designated as emergency requirements are exempt from enforcement of the budget resolution. As a result, the current level excludes the following items: outlays of $262 million from funds provided in the Emergency Supplemental Appropriations for Disaster Relief Act of 2003 (P.L. 108–69); outlays of $456 million from funds provided in the Legislative Branch Appropriations Act, 2004 (P.L. 108–83); budget authority of $400 million and outlays of $67 million provided in the Interior Appropriations Act, 2004 (P.L. 108–108); and budget authority of $83,992 million and outlays of $35,970 million provided in the Emergency Supplemental Appropriations Act for Defense and for the Reconstruction of Iraq and Afghanistan, 2004 (P.L. 108–106).

[2] Excludes administrative expenses of the Social Security Administration, which are off-budget.

Source: Congressional Budget Office.

Notes: n.a. = not applicable; P.L. = Public Law; * = less than $500,000.

TERRORIST APPREHENSION ACT

Mr. LEVIN. Mr. President, earlier this week, an article in the Washington Post highlighted concerns about limits on the Federal Bureau of Investigation's ability to pursue terrorists who try to buy guns. After September 11, 2001, the FBI launched an initiative to notify Federal law enforcement officials and other national security officials when suspects on the FBI's terrorist watch list attempt to purchase a firearm. However, according to the Washington Post article, an interpretation of current law by the Attorney General has precluded Federal agents from obtaining any details about gun purchase transactions unless the purchaser is identified by the National Instant Criminal Background Check System as a prohibited buyer.

The Post article cited situations in which law enforcement officials have not been able to pursue known terrorists armed with a firearm. According to the Washington Post, as many as 21 suspects on the FBI's terrorist watch list have attempted to buy guns since the spring of 2003. According to Justice Department officials cited in the Post article, the rules established by the Attorney General prevent Federal officials from sharing information with investigators about legal gun buyers, even if these gun buyers are suspected terrorists.

Law enforcement officials told the Post that the FBI frequently does not know the whereabouts of suspected terrorists on its watch lists. In such cases, learning where a suspected terrorist bought a firearm and what address they provided could be extremely helpful to counterterrorism investigators.

To assist the FBI in monitoring and apprehending suspected terrorists, Senator LAUTENBERG introduced the Terrorist Apprehension Act. This bill would require NICS to alert the FBI, Department of Homeland Security, and local law enforcement officials anytime an individual on a terrorist watch list attempts to buy a firearm.

I believe this is common sense homeland security legislation, and I hope the Congress will enact it quicky.

S. 1896, THE TAX RELIEF EXTENSION ACT, AND H.R. 1664, THE ARMED FORCES TAX FAIRNESS ACT

Mr. WYDEN. Mr. President, consistent with my policy of publishing in the RECORD a statement whenever I place a hold on legislation, I am announcing my intention to object to any unanimous consent request on S. 1896, the Tax Relief Extension Act, and to H.R. 1664, the Armed Forces Tax Fairness Act. I am doing so because these bills are the only relevant amendable legislation expected to be taken up in the Senate before the end of the current session and, therefore, they provide the only opportunity to extend unemployment benefits before they expire at the end of the year.

Oregon currently has the highest unemployment rate in the Nation with an

unemployment rate of 8 percent. Extension of unemployment benefits is critical for many Oregonians who are in jeopardy of running out of benefits if they are not extended before the end of the year. In order to ensure unemployed workers in Oregon and many other states will not be left without benefits, I am objecting to unanimous consent on S. 1896 or H.R. 1664, unless extension of unemployment benefits and reform of a lookback rule that affects Oregon and other high unemployment states is included as part of the legislation.

REPEALING THE MEDICARE PHYSICIAN FEE CUT

Mr. GRAHAM of South Carolina. Mr. President, I express my support for repealing the Medicare physician fee cut. The issue of reimbursements for physicians who treat Medicare patients has been an ongoing battle. Currently, these reimbursements are inadequate and inefficiently paid through a bureaucratic system. Some physicians have been even been forced to refuse Medicare recipients due to these inappropriate reimbursement levels. With so many Medicare recipients who need medical services in South Carolina, the situation with low reimbursements poses a challenge to both physicians and patients.

I have supported updating and increasing the reimbursements physicians receive under the Medicare program. The schedule of fee cuts for these reimbursements has been temporarily suspended due to the actions of Congress. I supported legislation to repeal physician fee cuts for both fiscal year 2002 and 2003. However, in October 2003, the Centers for Medicare and Medicaid Services, CMS, reported that the physician fee cut for 2004 would be 4.5 percent. This necessitates a further repeal to ensure this fee cut does not move forward.

While annual repeals of the physician fee cuts are vital, I also support a substantive change to the reimbursement calculations so physicians are not held in limbo each year regarding their fee updates. I am hopeful that Congress will address this issue in a comprehensive manner.

Since I support legislative action to make sure this cut is repealed and to ensure future repeals are dealt with effectively, I am exceedingly concerned that the most current repeal in the Medicare physician fee cut is contained within the mammoth Medicare prescription drug bill. This blocks me voting solely on the merit of the repeal.

I have many reasons a to why I plan to oppose the Medicare prescription drug bill conference report. None of my reasons are concerns with the Medicare physician fee cut repeal. Rather, my opposition stems from the lack of real cost containment of the program, exclusion of true Medicare reform, the weakening of the premium support issue, the treatment of ''dual eligibles'' coverage, and other issues related to oncology drugs, durable medical equipment, DME, and local pharmacies.

It frustrates me that this latest repeal is in a bill with literally dozens of other Medicare provisions in a $400 billion dollar bill. While I cannot support the Medicare prescription drug bill, I will continue to support the repeal of next year's Medicare physician fee cut and addressing the ongoing issue of fee cuts in a comprehensive manner. I am hopeful that our leadership will give us a vehicle for a straight up or down vote on this issue.

A TRIBUTE TO RALPH BUNCHE

Mr. SARBANES. Mr. President, it is difficult to know exactly how to pay tribute to Ralph J. Bunche for his extraordinary contributions to scholarship, diplomacy, civil rights, social justice and international cooperation and development. The Senate has approved H. Con. Res 71, ''Recognizing the importance of Ralph Bunche as one of the great leaders of the United States . . . The year-long centennial commemoration of his birth, which is now well underway, involves many more professional societies, educational institutions and public-policy organizations than it is possible to list; among them are the American Political Science Association, the Association of Black American Ambassadors, the American Library Association, the Council on Foreign Relations, Facing History and Ourselves, national foundation, the NAACP, the National Urban League, the New York Public Library, numerous United Nations Associations and dozens of colleges and universities in this country and abroad. At UCLA, Ralph Bunche's alma mater, the African American Studies center has been renamed in his honor. I am especially pleased to note that the American Academy of Diplomacy has chosen to honor Ralph Bunche by sponsoring the two-year Philip Merrill Fellowship for the two-year M.A. program at the Paul H. Nitze School of Advanced International Studies of Johns Hopkins University.

Among his many accomplishments, Ralph Bunche received the first doctoral degree in government and international relations ever awarded by Harvard University, thereby earning the title ''Dr. Bunche.'' But Benjamin Rivlin, who is Co-Chair of the Ralph Bunche Centenary Committee, has told us that he was specifically instructed to ''cut out this doctor business'' when as a young soldier he was assigned to work for Ralph Bunche in the OSS sixty years ago.

The vast array of tributes now being paid to Ralph Bunche reflects just how extraordinary a person he was. Born in Detroit and orphaned at eleven, he went to live with his grandmother, Lucy Johnson, in what is today the Watts neighborhood of Los Angeles.

By all accounts, Lucy Johnson was as extraordinary as her illustrious grandson. Writing in the Reader's Digest many years after her death, Dr. Bunche called her ''My Most Unforgettable Character . . . Caucasian 'on the outside' and 'all black fervor inside.' '' One of his teachers said of her, ''I have never forgotten the emanation of power from that tiny figure.'' Ms. Johnson's remark to the principal of Jefferson High School, where Dr. Johnson was valedictorian of his class and a varsity athlete, is especially memorable. In a disastrously misguided effort at flattery, the principal is reported to have said, ''We never thought of Ralph as a Negro,'' to which Ms. Johnson replied: ''Why haven't you thought of him as a Negro? He is a Negro and he is proud of it. So am I.''

From his grandmother Ralph Bunche learned the fundamental lessons of self-respect and respect for others. He also took from her a passion for education. It was she who insisted that he go to UCLA, where he majored in international relations and was valedictorian of the Class of 1927. Upon his graduation from UCLA, Bunche received a fellowship for graduate study in political science at Harvard. Shortly after enrolling he received what was to be his grandmother's last letter. Writing just a week before her death, she asked, ''Will you finish at Harvard this year?''

Ralph Bunche did indeed receive his Master's degree at the end of that year, but he did much more. In the small African American community at Harvard at that time he made lifelong friendships with, among others, the future Judge William Hastie and the future cabinet member Robert Weaver. He completed his Ph.D. in 1934, receiving the government department's annual award for the best dissertation. And while working toward his degree he also taught at Howard University—America's ''black Athens'' —where he helped organize the political science department at a time when, according to Kenneth Clark, the distinguished psychologist who was a student at the time, ''the seeds of a legal and constitutional attack on racial segregation were being sown in the intellectual soil of Howard University.''

Although bent on an academic career, Ralph Bunche postponed research in South Africa to work closely with Gunnar Myrdal on Myrdal's historic and highly influential study of race in this country, ''An American Dilemma.'' With the outbreak of World War II he was brought into the newly-established OSS for his expertise on Africa, and in 1944 he moved on to the State Department. The following year he served as an advisor to the American delegation at the San Francisco Conference, where the Charter establishing the United Nations was signed, and in 1946 he joined the U.N. Secretariat, where he remained until shortly before his death. As Brian Urquhart, who first went to work for Ralph Bunche in the U.N. Secretariat in 1954, later observed, ''Public service had

called him, and he responded with all of his ability and strength.''

Ralph Bunche went on to become the U.N. Undersecretary-General, but he is probably best remembered as the recipient of the 1950 Nobel Peace Prize, which he was awarded for negotiating the armistice that ended military hostilities between the new State of Israel and its enemies. He was not only the first African American to receive the prize, he was also the first person of color; as an American, he joined the distinguished community of U.S. laureates that included Presidents Theodore Roosevelt and Woodrow Wilson, Jane Adams and Nicholas Murray Butler.

In his own view, however, the Nobel Prize was not at all his most significant accomplishment, and his initial reaction upon being informed of the award was to decline it: ''Peacemaking at the U.N. was not done for prizes,'' he explained. He agreed to accept only when the argument was put to him that it would be good for the United Nations. Rather, Ralph Bunche gave a quarter-century of dedicated service to the United Nations, working day in and day out to build and secure harmonious relations among free and prosperous nations.

Ralph Bunche touched the life of everyone who knew him. He is remembered as ''brilliant,'' with ''an uncanny ability to produce stupendous amounts of work over long sustained periods of application;'' as someone who ''play(ed) to win, but always played fair;'' as ''a man of extraordinary kindness and compassion (who) never turned his back on those in trouble;'' as a person. Kenneth Clark has paid him an eloquent and enduring tribute as ''above all the model of a human being who by his total personality demonstrated that disciplined human intelligence and courage were most effective instruments in the struggle for social justice.''

CBO SUMMARY OF S. 1522

Ms. COLLINS. I ask unanimous consent that the following CBO summary of the cost estimate regarding S. 1522 be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

S. 1522—GAO Human Capital Reform Act of 2003

Summary: S. 1522 would authorize the General Accounting Office (GAO) to modify its personnel and workforce practices to allow greater flexibility in determining pay increases, pay retention rules, and other compensation matters. The bill also would permanently extend GAO's authority to offer separation (buyout) payments and early retirement to employees who voluntarily leave GAO. Finally, S. 1522 would rename GAO as the Government Accountability Office.

CBO estimates that enacting S. 1522 would increase direct spending for retirement annuities and related health benefits by about $1 million in fiscal year 2004, by $19 million over the 2004–2008 period, and by $40 million over the 2004–2013 period. Several provisions of S. 1522 could affect GAO employee compensation costs, but the net budgetary effect of such provisions would depend on how GAO exercises its new authorities and on whether future agency appropriations are adjusted to reflect any savings or costs. Finally, we expect that any additional discretionary costs associated with changing the agency's name would not be significant.

S. 1522 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandate Reform Act (UMRA) and would not affect the budgets of state, local, or tribal governments.

Estimated costs to the Federal Government: The estimated impact of S. 1522 on direct spending is shown in the following table. The costs of this legislation fall within budget function 800 (general government).

	By fiscal year, in millions of dollars—									
	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013
CHANGES IN DIRECT SPENDING										
Estimated budget authority	1	3	5	5	5	5	4	4	4	4
Estimated outlays	1	3	5	5	5	5	4	4	4	4

Basis of estimate

Direct spending

S. 1522 would give GAO permanent authority to offer retirement to employees who voluntarily leave the agency early. GAO's existing buyout authority, which will expire on December 31, 2003, allows the agency to offer certain employees a lump sum payment of up to $25,000 to voluntarily leave the agency. In addition, certain qualified employees who leave (whether they collect a separation payment or not) are entitled to receive immediate retirement annuities earlier than they would have otherwise. CBO estimates that extending this authority would increase direct spending by $1 million in 2004, by $19 million over the 2004–2008 period, and by $40 million over the 2004–2013 period.

Based on information provided by GAO about use of its early retirement authority over the past several years, CBO estimates that each year about 35 agency employees would begin receiving retirement benefits three years earlier than they would have under current law. Inducing some employees to retire early results in higher-than-expected benefits from the Civil Service Retirement and Disability Fund (CSRDF). CBO estimates that the additional retirement benefits would increase direct spending by $1 million in 2004, by $16 million over the 2004–2008 period, and by $32 million over the 2004–2013 period.

Extending GAO's buyout and early retirement authority also would increase direct spending for federal retiree health benefits. Many employees who retire early would continue to be eligible for coverage under the Federal Employees' Health Benefits (FEHB) program. The government's share of the premium for retirees is classified as mandatory spending. Because many of those accepting the buyouts under the bill would have retired later under current law, mandatory spending on FEHB premiums would increase. CBO estimates these additional benefits would increase direct spending by less than $500,000 in 2004, by $3 million over the 2004–2008 period, and by $8 million over the 2004–2013 period.

Spending subject to appropriation

The authorities provided by S. 1522 would allow GAO to create a performance-based employee compensation system to govern basic pay adjustments, pay retention for employees affected by reductions in force, relocation reimbursements, and annual leave accruals beginning in fiscal year 2006. (Under existing law, GAO is required to follow personnel management policies determined by the Office of Personnel Management.) Implementing the new authorities that would be provided by S. 1522 could affect GAO's total costs of providing employee compensation, but CBO cannot predict any cost or saving associated with these new authorities, or the net effect of all such changes on the Federal budget. Ultimately, the net budgetary effect of the proposed authorities would depend on the features of the compensation system adopted by GAO and on how the agency applies that new system to individual employees. Moreover, any resulting savings or costs would only be realized if the agency's annual appropriations are adjusted accordingly.

Providing GAO with the option of providing voluntary separation payments could also increase GAO's costs, but CBO estimates that any new costs would average less than $500,000 annually over the 2004–2013 period. Section 2 of the bill would allow GAO to offer certain employees payments of up to $25,000 to voluntarily leave the agency. The bill also requires that GAO make a deposit amounting to 45 percent of each buyout recipient's basic salary toward the CSRDF. Unlike an increase in retirement benefits, these two payments would be from the agency's discretionary budget and are thus subject to appropriation. Since GAO's current buyout authority was first authorized in October 2000, no one at the agency has received a buyout payment. As such, CBO expects that relatively few employees would receive a buyout payment over the next 10 years and that the cost of any buyout payments and required deposits toward the CSRDF would be negligible in any given year.

Intergovernmental and private-sector impact: S. 1522 contains no intergovernmental or private-sector mandates as defined in UMRA and would not affect the budgets of State, local, or tribal governments.

Estimate prepared by: Federal Costs: Ellen Hays, Geoffrey Gerhardt, and Deborah Reis. Impact on State, Local, and Tribal Governments: Sarah Puro. Impact on the Private Sector: Paige Piper/Bach.

Estimate approved by: Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

GROUP OF EIGHT

Mr. LIEBERMAN. Mr. President, I rise today to discuss a matter of great importance related to Russia's continued participation in the Group of Eight, or G–8. Senator MCCAIN and I submitted today a resolution calling on the President of the United States and the Secretary of State to work with our partners in the G–8 to condition Russia's continued involvement on its meetings the basic norms and standards of a democratic government.

The G–8 is a gathering of the world's wealthiest industrial democracies. It is

important that we do not lose sight of this world. It is well and good that all of the G–8 members are wealthy industrialized nations, but the real thing that binds us, the real thing that makes it a club worth joining is the fact that all of the participants are democracies. It is for this reason that China is not a member.

When President Clinton discussed Russia's joining the G–8 back in 1997 when Russia participated in the summit in Denver, he attributed Russia's participation to ''President Yeltsin's leadership and to the commitment of the Russian people to democracy and reform.''

But the actions of President Yeltsin's successor, President Putin, over the past 3 years raise serious concerns about Russia's continued commitment to democracy. This drift away from democratic practices cannot and should not be ignored. The list of offending actions is long and disturbing. Since 2000, President Putin has seized control of national television networks and otherwise limited the freedom of expression to the point that the group ''Reporters without Borders'' ranks Russia 121st out of 139 countries in its worldwide press freedom index. The recent arrest of Mikhail Khodorkovsky set off alarm bells because of its blatant political motives, despite claims otherwise. President Putim's government has attempted to control the activities of nongovernmental organizations, religious organizations, and other pluralistic elements of Russian society in an attempt to mute criticism of the government. Russian troops in Chechnya have been allowed to suppress the rights of Russian citizens with impunity, including in the conduct of recent elections that fell far short of minimal international standards of freedom and fairness. And the list could go on.

Continued membership in the G–8 is very important to Russia and to President Putin personally. We should use this leverage to get Russia back on the democratic track. Allowing Russia to continue its involvement in the G–8 and to host the 2006 G–8 Summit while continuing to undermine democracy makes mockery of the very principles that bind the G–8 countries together. We need to take steps not to ensure that Russia lives up to the commitments it made when it joined this club of industrialized democracies. To do otherwise would be to shirk our responsibilities as a leader of the democratic world. I urge my fellow Senators to support this resolution.

NATIONAL RETIREMENT PLANNING WEEK

Mr. AKAKA. Mr. President, I rise today to illuminate the merits of National Retirement Planning Week, which is currently underway. National Retirement Planning Week is organized by a coalition of financial industry and advocacy organizations to raise the awareness of the importance of retirement planning. I applaud the coalition for its efforts to increase public awareness of this critical topic.

The need to adequately prepare for retirement has significantly increased due to the growth in life expectancy and reduction in employer-provided retirement health benefits. In addition, increasing debt burdens confronting many families will make a comfortable retirement more difficult to achieve.

Americans are living longer. According to the U.S. National Center for Health Statistics, in 1950, an individual 65 years of age was expected to live an additional 13.9 years. This grew to 17.9 years by 2000. These additional years, many or most in retirement, will require Americans to have saved and invested additional financial resources to help meet their living expenses in retirement. Furthermore, the fastest growing segment of the population is made up of those 85 years and older, according to the Bureau of Labor Statistics.

While Americans have been living longer, employers have been reducing the health benefits provided to retirees. According to the Kaiser Family Foundation and Health Research and Education Trust, 38 percent of all large firms offer retirement benefits in 2003. This is a significant reduction from the 66 percent that offered retiree coverage in 1988. As employers continue to stop providing coverage and as health care costs continue to increase, proper planning is imperative for individuals to pay for healthcare expenses that may not be covered by Medicare.

In addition, another important component of preparing for retirement is to effectively manage and pay down debt. According to the Federal Reserve, consumer borrowing through auto loans, credit cards, and other debt increased by $15.1 billion in September, which brings the total consumer debt to $1.97 trillion. Substantial consumer debt will likely result in individuals having to work additional years beyond their preferred retirement age in order to pay off their credit cards and other consumer debts.

Obtaining home equity loans and refinancing mortgages to take cash out of homes may make it harder for working Americans to retire at the age and with quality of life they desire. Thirty-two percent of all mortgage refinancings in the third quarter of this year involved cash-outs of additional money beyond the existing loan balance, according to Freddie Mac. Although this is significantly lower than the record 93 percent in 1989, the additional debt brought on by these refinancings can significantly extend the time and cost of paying off a mortgage.

There is a greater need for larger nest eggs and better debt management. Unfortunately, defined benefit pension plans have become much less common and are not available for most working Americans to help meet these increasing costs. According to the Congressional Research Service, 72 percent of pension plan assets were held by defined benefit plans in 1975. Unfortunately, by 1998, this percentage fell to 48 percent. Changes in the contributions to pension plans and benefit payments between 1975 and 1998 also reflect the significant shift towards defined contribution retirement plans. Defined contribution plans require that employees be much more involved in their preparation for retirement. Employees must be aware of their alternatives in participating in their employer's plan. The matching contributions made by employers can provide employees with an immediate return on their investment. Employees must fully understand the importance of planning for retirement and the significance of participating in tax-advantaged employer plans and investment options that can be used, such as Individual Retirement Accounts, IRAs, to ensure that they will have sufficient resources for retirement. In addition, defined contribution plans require employees to manage their investments and make important asset allocation decisions. If employees do not have a sufficient level of financial literacy they will not be able to adequately manage their retirement portfolio.

Despite the need to ensure that employees have adequate resources for retirement, fewer employers are sponsoring plans and fewer employees are participating in employer-sponsored plans. According to a Congressional Research Service analysis of the Census Bureau's Current Population survey, the number of 25-to 64-year old, full-time employees in the private sector whose employer sponsored a retirement plan fell from 45.1 million in 2001 to 42.8 million in 2002. The survey also indicated that, among this population, participation in an employer sponsored retirement plan fell from 55.8 percent in 2001 to 53.5 percent in 2002. More employers must sponsor retirement plans and more employees need to participate in them. Working Americans will be in a better position to retire on their terms by starting to prepare for retirement early and utilizing investment vehicles that have preferential tax treatment such as 401(k) plans and Individual Retirement Accounts. A long-term time horizon allows investors to reap greater benefit from the compounding of their returns.

An important component of retirement security is financial and economic literacy, which should be at higher levels in our country. We must do more throughout the lives of individuals to ensure that they are financially and economically literate and can make informed financial decisions and participate effectively in the modern economy. Without a sufficient understanding of economics and personal finance, individuals will not be able to appropriately manage their finances, evaluate their credit opportunities, and successfully invest for their long-term financial goals.

Starting with our youth, it is necessary to fund the Excellence in Economic Education, EEE, Act, which provides resources for teacher training, evaluations, research, and other activities in K–12 education. There is no better time to instill in individuals the knowledge and skills that they need to make good decisions throughout their lives than during their years in elementary and secondary education.

I have also introduced S. 1800, the College LIFE, or Literacy in Finance and Economics Act, to address needs in this area for the college population. We must give students access to the tools that they need to make sound economic and financial decisions once they are on campus. Without an understanding of finance and economics, college students are not able to effectively evaluate credit alternatives, manage their debt, and prepare for long-term financial goals, such as saving for a home or retirement. I am working with my colleagues on both sides of the aisle to come up with a package based on S. 1800 that can be included in the Higher Education Act.

I also appreciate the work done by my colleague from New Jersey, Senator CORZINE, in developing and introducing S. 386, the Education for Retirement Security Act of 2003. The legislation authorizes grants for financial education programs targeted towards mid-life and older Americans to increase financial and retirement knowledge and reduce their vulnerability to financial abuse and fraud. I am a cosponsor of this legislation which will help Americans prepare for retirement.

I look forward to continuing to work with my colleagues to improve economic and financial literacy. I also want to express my appreciation for the significant efforts made by Senators SARBANES, ENZI, CORZINE, ALLEN, STABENOW, and FITZGERALD to improve economic and financial literacy. Our efforts need to continue so that individuals will be able to make informed decisions and be able to pursue their long-term financial goals, particularly into their golden years of retirement.

NATIONAL ADOPTION MONTH

Mr. JOHNSON. Mr. President. As we approach this holiday season of Thanksgiving, I want to draw attention to National Adoption Month as we celebrate it this month.

I am joining my colleagues on the Congressional Coalition for Adoption this month to increase awareness and knowledge of the obstacles that children in foster care face while waiting to be adopted and to encourage more families to consider adopting.

Currently, there are 580,000 children in the foster care system in America, 126,000 of whom are waiting to be adopted. Yet, only 20 to 25 percent of foster children waiting for adoption will ever find an adoptive family before aging out of government care. The foster care system has been extremely important in rescuing abused and neglected children. However, the foster care system was designed to be a temporary situation, but it is increasingly becoming a permanent guardian for many children. This is particularly true for children who are not adopted in their early years or who find themselves in foster care at an older age. Of the 126,000 children waiting to be adopted approximately half are 9 years of age or older.

Every year an average of 100 children in South Dakota, and 25,000 children nationally, age out of the foster care system at the age of 18, often with very little if any support system in pace. These children often face the challenges of homelessness, college noncompletion, unemployment, and a lack of health care. Transitional living and mentoring program can alleviate some of these concerns but programs face the strains of staff shortages and underfunding. I must commend the South Dakota Coalition for Children for working to secure Medicaid coverage for children that age out of the foster care system until they reach the age of 22. This eliminates one serious concern many former foster care youths face with they are no longer in Government care, but it does not replace the support of a loving family.

On November 22, 2003, courts across the country joined State agencies, children in foster care and hopeful parents to finalize adoptions and demonstrate the large number of children waiting for safe, stable, permanent homes.

As we approach the Thanksgiving holiday and gather with our families, we should not forget those children still waiting for a loving, permanent family to be thankful for.

ADDITIONAL STATEMENTS

HONORING ARVILLA ''BILLIE'' CAMPBELL ON HER 100TH BIRTHDAY

● Mr. CRAPO. Mr. President, I honor Arvilla ''Billie'' Campbell of Meridian, ID, who is approaching her 100th birthday on January 21, 2004. Arvilla's impressive longevity is matched by her positive contributions to home and country. I am sure that her six children, 19 grandchildren, and 48 great-grandchildren join me in paying tribute to this great women.

Arvilla was born and raised in Preston, ID, where she attended high school at the Preston Academy. In 1923, she married Elgin Campbell, and the couple had six children together. Her children report that Arvilla set a great foundation for each of their lives through the principles she taught. Arvilla recognized the important of a strong work ethic, telling her children that you only get what you work for. Arvilla herself was a hard worker, doing all she could during the Great Depression to ensure that her family had what they needed. She was known to comment that though the family may have been broke, they were never poor. Arvilla taught her children to have pride in their appearance and made sure they had impeccable decorum and proper speech at all times. Arvilla was also active in the Church of Jesus Christ of Latter Day Saints, and she taught many children over the occurs of many years of service.

Arvilla also taught love of country, a fact reflected in the lives of her children. Remarkably, all six of her children have served or are affiliated with the Armed Forces. She encouraged them to serve in the military because she believes freedom is a privilege that deserves effort and sacrifice. All four of Arvilla's sons have served in combat. E. Stewart Campbell served in the Navy, starting in World War II through the Vietnam War, attaining the rank of lieutenant colonel. Garth K. Campbell served in the Pacific Theatre of World War II as a petty officer in the Navy. Bruce E. Campbell served in the Korean War as a corporal in the Army. Doug Campbell served in both the Korean and Vietnam wars as an Army platoon sergeant. Helen Campbell Harden, one of the Arvilla's daughters, is married to John Harden, an Army warrant officer in the Army. Ruth Campbell Rivers, another daughter, is also closely connected to the military: her husband Gerald is a lance corporal in the Marine Corps. America has benefited from the efforts of each of these individuals, and Arvilla is to be commended for her children's unselfish service to the United States.

I wish Arvilla a Happy Birthday. She has been a great teacher, example, and citizen of Idaho. I wish her health and happiness on this exciting day, and join with family and friends in honoring her contribution to Idaho.●

GENE BOYT

● Mr. INHOFE. Mr. President, I stand today to pay tribute to a great American and a great Oklahoman. Gene Boyt was a member of our Nation's ''Greatest Generation'' and served his country during World War II in the United States Army. He died at the age of eighty-six in Chickasha, OK.

After being assigned to the Philippines as a lieutenant in the Engineering Corps, he was taken captive by the Japanese on April 9, 1942. As a prisoner, he was forced to march 90 miles in 6 days in what has become known as the Bataan Death March. The prisoners marched without food or water, and many were executed or died along the way from exhaustion and dehydration. After surviving the grueling journey, Lieutenant Boyt spent 3½ years in Japanese prisons.

Gene Boyt knew what persecution meant. He knew what it meant to stand up for the cause of freedom, for the honor and integrity of the United States. Gene Boyt knew what it meant to defend this country from enemies determined to destroy it. He knew

what it meant to suffer for what he believed.

I stand today proud to be an American because men like Gene Boyt lived and died protecting that right. He was awarded the Purple Heart, the Bronze Star, three Presidential Citations, the Philippines's Presidential Citation Medal, and the Oklahoma Medal of Valor. He deserves to be honored once again today on the Senate floor.

Today I stand in tribute to one of Oklahoma's favorite sons, a great American hero and devoted family man. Gene Boyt sacrificed everything for his country, and I am sure that his family is proud of this great man, and the legacy he left behind. The thoughts and prayers of a grateful Nation are with them during this difficult time.●

(At the request of Mr. DASCHLE, the following statement was ordered to be printed in the RECORD.)

HONORING MILITARY RESERVISTS AND THEIR SMALL BUSINESS EMPLOYERS DURING NATIONAL EMPLOYER SUPPORT OF THE GUARD AND RESERVE WEEK

● Mr. KERRY. Mr. President, as this is National Employer Support of the Guard and Reserve Week, it seems an appropriate time to speak on the honorable Americans serving in our National Guard and Reserve.

To fight our wars and to meet our military responsibilities, the United States supplements its regular, standing military with a capable band of citizen soldiers, reservists who serve nobly and continue to make the ultimate sacrifice for this country. At present, there are about 165,000 national guardsmen and reservists on active duty—more than half of the 300,000 called to active duty since September 11. They serve admirably around the world, performing critical wartime functions in Iraq, Afghanistan, and elsewhere. This country does not go into battle without members of the National Guard and Reserve, and we should be grateful for their service.

Instead of gratitude, members of the Guard and Reserve find the Bush administration's military agenda leaving them behind. In addition, earlier this year, the Republican majority in the U.S. House of Representatives sought to cut reservist pay by 40 percent for normal peacetime training requirements. The Republican majority in the U.S. Senate blocked efforts to extend health care benefits to Guard and Reserve members. Just this month, the Republican majority in Congress voted against legislation by Senator DURBIN that would have provided supplemental income for Federal employees who are called up to active duty. These efforts are wrong and demonstrate the misplaced priorities of the Republican Party.

To make matters worse, the Bush administration recently announced that it would require thousands of National Guard and Army Reserve troops to extend their tours of duty up for an additional six months. This extension will cause significant economic difficulties for the reservists, their families, their employers, and our national economy.

Beyond the hardship of leaving their families, their homes and their regular employment, more than one-third of military reservists and National Guard members face a pay cut when they're called for active duty. Many of these reservists have families who depend upon that paycheck and can least afford a substantial reduction in pay.

The United States Chamber of Commerce estimates that 70 percent of military reservists called to active duty work in small- or medium-size companies. The continued activation of military reservists to serve in Iraq and the broader war on terrorism has imposed a tremendous burden on many of our country's small businesses. Too many of these businesses, when their employees are asked to leave their jobs and serve the Nation, are unable to continue operating successfully—resulting in severe financial difficulty and even bankruptcy. Large businesses have the resources to provide supplemental income to reservist employees called up for active duty and to replace them with a temporary employee. However, many small businesses are unable to provide this assistance or temporarily cover the reservist's duties.

The Federal Government has an obligation to help small businesses weather the loss of an employee to a call-up and a duty to protect small business employees and their families from suffering a pay cut to serve our Nation. It is imperative that we help families of reservists maintain their standard of living while their loved one protects our country abroad.

That is why I have proposed creating a Small Business Military Reservist Tax Credit, which does two things. First, it provides an immediate Federal income tax credit to any small business to help with the cost of temporarily replacing a reservist employee that has been called up to active duty. Second, it provides a tax credit to small businesses that pay any difference in salary for an employee who is called up. This tax credit is worth up to $12,000 to any small business and up to $20,000 for small manufacturers.

It is common knowledge that small businesses continue to be our most effective tool at creating new jobs and spurring economic growth nationwide. Small businesses employ over 50 percent of the Nation's work force. Across the country, small businesses are currently creating 75 percent of new jobs. Furthermore, many of these small businesses provide quality goods and services that are a vital link in the supply chain for national defense. Many of these small companies need immediate help to keep their business going while their employees encounter tremendous personal sacrifice in service of our country.

This assistance will immediately help struggling entrepreneurs keep their small businesses running during the loss of an employee to temporary military service. It will also help the families of military reservists cope with the financial burden of their absence. In this way we ensure that we preserve our great tradition of citizen soldiers at such a critical time in the Nation's history.

In his speech designating this week National Employer Support of the Guard and Reserve Week, President Bush recognized several large businesses for their support of the Guard and Reserve. I, too, commend these big corporations for their support of our reservists and guardsmen, but the President has again showed that he doesn't understand the plight of our military reservists and their smaller employers. The fact is big businesses, like those the President recently honored, aren't going out of business if one of their reservist employees is called up. Small businesses may.

My legislation provides a real solution—helping small businesses maintain productivity and helping make up the difference for reservists who face pay cuts when they're deployed—not just a pat on the back that this week provides. I urge the President and all of my colleagues to support my proposal.●

HONORING NOR-LEA GENERAL HOSPITAL

● Mr. DOMENICI. Mr. President, today I recognize the outstanding achievement of a hospital in my home State of New Mexico. Nor-Lea General Hospital, which is located in Lovington, New Mexico, was recently honored as one of the Nation's ''Top 100'' Hospitals by Solucient Corporation, a healthcare information company, in their 10th National Benchmarks for Success study. Nor-Lea was recognized because they have demonstrated superior clinical, operational, and financial performance in overall service.

I am proud to recognize Nor-Lea Hospital for its strong commitment to help the community. Too often we hear about hospitals that are struggling; hospitals asserting they can not save money and improve patient services and thus are not able to meet the needs of their communities.

Nor-Lea represents the exception. They represent the value of management, not only to save money, but also to improve efficiency. Nor-Lea is demonstrating what kind of performance is possible when this is done and they are setting new targets for performance improvement across the industry.

Nor-Lea General Hospital is a 25-bed Medicare-certified facility. Medicare, Medicaid, private insurance and private pay are accepted for services rendered. Nor-Lea General Hospital offers comprehensive outpatient services, which include a state-of-the-art laboratory facility with national lab affiliations, radiology services, MRI, bone densitometry, fluoroscopy, x-ray, ultrasound, and respiratory services.

The hospital also has a newly enlarged emergency room which is open 24 hours a day, 7 days a week. Each month about 385 individuals utilize this emergency room.

Nor-Lea was recognized as a top performing ''Small Community Hospital'' because of their higher survival rate and because they spend less money, release patients from the hospital faster, and have fewer employees. In short, Nor-Lea treats more of the sickest patients, while maintaining high customer service and preserving profits in a difficult marketplace.

Congratulations, Nor-Lea General Hospital. I hope that your success will be a catalyst for continuous hospital performance improvement.●

HONORING LINDA BARKER

● Mr. JOHNSON. Mr. President, today I wish to publicly commend Linda Barker, a resident of Sioux Falls, SD, on her selection as the recipient of the Sioux Falls Development Foundation's annual Spirit of Sioux Falls Award.

The Spirit of Sioux Falls Award is given annually in memory of the eight people who were killed when then South Dakota Gov. George Mickelson's plane crashed in 1993. This year, the recipient was Linda Barker, a member of the community who has shown leadership and commitment to the economic development in Sioux Falls. Dan Scott, President of the Sioux Falls Development Foundation, said that Linda, who is currently a member of the Board of Directors for the Development Foundation, was chosen because she ''has been an incredibly valuable member of the Board of Directors. Not just because she has attended the meetings, but because she has been in our office on a weekly basis offering any kind of help the staff needed.''

During her service with the South Dakota Development Foundation, she was instrumental in a number of ways. In addition to her work with the Forward Sioux Falls program, her leadership helped the Development Foundation acquire enough land to serve as development parks for the next fifteen years. According to Mr. Scott, they are now well prepared to handle the needs in the development park arena for the future. She was also instrumental in serving as chairman of the membership committee—essentially revitalizing and reenergizing their membership effort, raising the number from 350 to 400 members.

Linda's involvement in the Sioux Falls area comes from her love of the community. In her thirteen years as part owner of Business Aviation Services in Sioux Falls, she was instrumental in helping the company more than quadruple its business, increasing sales from $4 million to $18 million annually. The company has also added 100 employees and it now owns or manages 48 aircraft, compared with six in 1990, when Linda joined the ownership team. Dale Froehlich, president and chief executive officer of Business Aviation, said Linda's success is ''because of her unwillingness to give up, even in the dreariest of situations.'' It is this type of hard work and dedication that led Linda to her success and her subsequent recognition with the Spirit of Sioux Falls Award.

This prestigious award is a reflection of her extraordinary leadership, skill and commitment to South Dakota. I am pleased that her success is being publicly recognized, and I am confident that her achievements will serve as an exemplary model for talented South Dakotans throughout our state. People of all ages need to think more about how we, as individual citizens, can work together at the local level to ensure the health and vitality of our towns and neighborhoods. Citizens such as Linda Barker are examples to all of us. She is an extraordinary individual who richly deserves this distinguished recognition. I strongly commend her hard work and dedication, and I am very pleased that her efforts are being publicly honored and celebrated.

It is with great honor that I share her impressive accomplishments with my colleagues.●

IN REMEMBRANCE OF THE REVEREND DR. AVERY ALDRIDGE

● Mr. LEVIN. Madam President, I want to call my colleagues' attention to the loss of one of the most influential civic and religious leaders in Flint, MI, Dr. Avery Aldridge, who passed away at the age of 78 on November 1, 2003. He is greatly mourned by his wife and family, his church community, and people in my home State of Michigan who knew and loved him as a man of great faith, devoted to his family, and a voice for justice and equality in the African American community.

Dr. Aldridge was born in Widener, AR on February 9, 1925, the fourth of nine children. He completed his secondary education in Memphis, TN, and from there was inducted in the Army in 1943. He served as a Sergeant during World War II, defending the cause of freedom for his country until his honorable discharge in 1946. He then settled in Flint, MI where he married Mildred Light and had two children, Karen and Derrick. Dr. Aldridge and his wife were dedicated members of Antioch Baptist Church where he served as General Superintendent of the Sunday School and was later ordained into the ministry.

In December, 1956, Dr. Aldridge founded Foss Avenue Missionary Baptist Church with his wife, Mildred, and two others. The church has grown through the years to a congregation of two thousand families, with 50 auxiliaries and committees, an elementary and secondary school, a credit union, an activity center and a free clothing center. Dr. Aldridge also led Foss Avenue to initiate a small business center to train youth for employment, provide food baskets to those in need, organize a prison ministry and annually provide Thanksgiving Day dinner to all incarcerated in the Genessee County Jail. Dr. Aldridge's vision and leadership also supported four missionaries to Africa, and led to the founding of Concerned Pastors for Social Action (CPSA), the CPSA Courier, a weekly community and religious publication, and Faith Access to Community Economic Development (FACED), a community development organization.

Dr. Aldridge was a lifelong learner and furthered his education at Moody Bible Institute in Chicago and the University of Michigan-Flint. He believed strongly in the value of education and supported black colleges across the country, as well as scholarships for local youth. Because of his work, he was awarded several honorary degrees through the years.

Dr. Avery was committed to serving the needs of people and improving the quality of community life. He rose to prominence in Flint during the civil rights movement of the 1960s, and was a calming influence in the city during tensions in the wake of the Detroit riots in 1967. He became known as ''The Rights Activist,'' serving on local, State, and national commissions, including the Flint Human Relations Commission, the Flint Housing Commission, the Michigan AIDS Policy Commission, and the National Holiday for Martin Luther King, Jr. Commission.

I know my colleagues join me in paying tribute to the life and ministry of Reverend Dr. Avery Aldridge who will be missed by the many people whose lives he touched. I hope his family takes comfort in knowing that his legacy will stand as an inspiration for generations to come.●

PRINCIPAL OF THE YEAR FINALIST

● Mr. CORZINE. Mr. President, it is my distinct honor and pleasure to recognize Richard Roberto of John F. Kennedy High School in Paterson, NJ as one of six finalists for the National High School Principal of the Year.

The impact that Mr. Roberto has made on the students and faculty at John F. Kennedy High School cannot be overstated. His leadership has produced remarkable results for students—indeed, test scores are higher at John F. Kennedy, in part, I am sure, because he created an extended year program for juniors and established freshman houses to personalize the learning environment. He also administered the expansion of eight career academies. These academies provide small learning communities in which students can explore diverse interests. As you can see, students have thrived under Mr. Roberto because of his efforts to develop opportunities for their success.

Not only has his work affected students, but his staff development program, which includes a focus on core curriculum content, has fostered collaboration among all the teachers at

John F. Kennedy High School. Through newsletters, needs assessments, teachers surveys, and collaborative groups Mr. Roberto has instituted whole school reform that concentrates on the needs of all members of his faculty.

I congratulate Mr. Roberto on his success in building a school environment that facilitates communication and creates a learning environment enabling student success. His dedication, innovation, and leadership are qualities that every principal in our Nation should have. It is with great admiration that I acknowledge Mr. Roberto as a 2003 Principal of the Year finalist.●

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Thomas, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Office laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 10:57 a.m., a message from the House of Representatives, delivered by Ms. Niland, one its reading clerks, announced that the House has passed the following bills, without amendment:

S. 189. An act to authorize appropriations for nanoscience, nanoengineering, and nanotechnology research, and for other purposes; and

S. 1895. An act to temporarily extend the programs under the Small Business Act and the Small Business Investment Act of 1958 through March 15, 2004, and for other purposes.

The message also announced that the House has passed the following bill, with an amendment:

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

The message further announced that the House passed the following bills in which it requests the concurrence of the Senate:

H.R. 253. An act to amend the National Flood Insurance Act of 1968 to reduce losses to properties for which repetitive flood insurance claim payments have been made; and

H.R. 3521. An act to amend the Internal Revenue Code of 1986 to extend certain expiring provisions, and for other purposes.

The message also announced that the House agree to the amendments of the Senate to the bill (H.R. 1828) to halt Syrian support for terrorism, end its occupation of Lebanon, and stop its development of weapons of mass destruction, and by so doing hold Syria accountable for the serious international security problems it has caused in the Middle East, and for other purposes.

The message further announced that the House agree to the amendments of the Senate to the resolution (H. Con. Res. 209) commending the signing of the United States-Adriatic Charter, a charter of partnership among the United States, Albania, Croatia, and Macedonia.

ENROLLED BILLS SIGNED

The message also announced that the Speaker has signed the following enrolled bills:

S. 117. An act to authorize the Secretary of Agriculture to sell or exchange certain land in the State of Florida, and for other purposes;

S. 286. An act to revise and extend the Birth Defects Prevention Act of 1998;

S. 650. An act to amend the Federal Food, Drug, and Cosmetic Act to authorize the Food and Drug Administration to require certain research into drugs used in pediatric patients;

S. 1685. An act to extend and expand the basic pilot program for employment eligibility verification, and for other purposes.

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

S. 1824. An act to amend the Foreign Assistance Act of 1961 to reauthorize the Overseas Private Investment Corporation, and for other purposes; and

H.R. 3182. An act to reauthorize the adoption incentive payments program under part E of title IV of the Social Security Act, and for other purposes.

The enrolled bills were signed subsequently by the President pro tempore (Mr. STEVENS).

At 12:12 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 bill in which it requests the concurrence of the Senate:

H.R. 135. An act to establish the ''Twenty-First Century Water Commission'' to study and develop recommendations for a comprehensive water strategy to address future water needs.

At 3:17 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House agree to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 1904) to improve the capacity of the Secretary of Agriculture and the Secretary of the Interior 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.

At 5:20 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 bills, without amendment:

S. 1152. An act to reauthorize the United States Fire Administration, and for other purposes.

S. 1156. An act to amend title 38, United States Code, to improve and enhance provision of health care for veterans, to authorize major construction projects and other facilities matters for the Department of Veterans Affairs, to enhance and improve authorities relating to the administration of personnel of the Department of Veterans Affairs, and for other purposes.

At 9:43 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. 79. Joint resolution making further continuing appropriations for the fiscal year 2004, and for other purposes.

MEASURES PLACED ON THE CALENDAR

The following bill was read the second time, and placed on the calendar:

H.R. 1274. An act to direct the Administrator of General Services to convey to Fresno County, California, the existing Federal courthouse in that county.

ENROLLED BILLS PRESENTED

The Secretary of the Senate reported that on today, November 21, 2003, she had presented to the President of the United States the following enrolled bills:

S. 117. An act to authorize the Secretary of Agriculture to sell or exchange certain land in the State of Florida, and for other purposes;

S. 286. An act to revise and extend the Birth Defects Prevention Act of 1998;

S. 650. An act to amend the Federal Food, Drug, and Cosmetic Act to authorize the Food and Drug Administration to require certain research into drugs used in pediatric patients;

S. 1685. An act to extend and expand the basic pilot program for employment eligibility verification, and for other purposes.

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

S. 1824. An act to amend the Foreign Assistance Act of 1961 to reauthorize the Overseas Private Investment Corporation, and for other purposes; and

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. BENNETT, from the Committee on Joint Economic Committee:

Special Report entitled ''The 2003 Joint Economic Report'' (Rept. No. 108–206).

By Ms. COLLINS, from the Committee on Governmental Affairs, with amendments:

S. 1522. A bill to provide new human capital flexibility with respect to the GAO, and for other purposes.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. WARNER for the Committee on Armed Services.

Air Force nomination of Maj. Gen. William Welser III.

Air Force nominations beginning Colonel Paul F. Capasso and ending Colonel Robert M. Worley II, which nominations were received by the Senate and appeared in the Congressional Record on January 9, 2003.

Air Force nomination of Col. Stephen L. Lanning.

Air Force nomination of Brigadier General Robin E. Scott.

Army nomination of Maj. Gen. Larry J. Dodgen.

Army nomination of Maj. Gen. John M. Curran.

Army nomination of Brig. Gen. Keith M. Huber.

Army nomination of Brig. Gen. Dennis E. Hardy.

Army nominations beginning Brig. Gen. James R. Sholar and ending Col. Henry J. Ostermann, which nominations were received by the Senate and appeared in the Congressional Record on August 1, 2003.

Navy nomination of Rear Adm. Walter B. Massenburg.

Navy nominations beginning Rear Adm. (1h) Robert E. Cowley III and ending Rear Adm. (1h) Steven W. Maas, which nominations were received by the Senate and appeared in the Congressional Record on March 19, 2003.

Navy nomination of Capt. Brian G. Brannman.

Navy nomination of Capt. Raymond K. Alexander.

Navy nominations beginning Rear Adm. (1h) Donald K. Bullard and ending Rear Adm. (1h) John J. Waickwicz, which nominations were received by the Senate and appeared in the Congressional Record on October 16, 2003.

Mr. WARNER. Mr. President, for the Committee on Armed Services I report favorably the following nomination lists which were printed in the RECORDS on the dates indicated, and ask unanimous consent, to save the expense of reprinting on the Executive Calendar that these nominations lie at the Secretary's desk for the information of Senators.

The PRESIDING OFFICER. Without objection, it is so ordered.

Air Force nomination of Gary H. Sharp.

Air Force nomination of Jeffrey N. Leknes.

Air Force nomination of Samuel B. Echaure.

Air Force nominations beginning Thomas E. Jahn and ending Rodney D. Lewis, which nominations were received by the Senate and appeared in the Congressional Record on October 23, 2003.

Air Force nominations beginning Samuel C. Fields and ending Kevin C. Zeeck, which nominations were received by the Senate and appeared in the Congressional Record on October 23, 2003.

Air Force nomination of Robert G. Cates III.

Air Force nomination of Mary J. Quinn.

WITHDRAWALS

Executive message transmitted by the President to the Senate on November 21, 2003, withdrawing from further Senate consideration the following nominations:

April H. Foley, of New York, to be a Member of the Board of Directors of the Export-Import Bank of the United States for a term expiring January 20, 2007, which was sent to the Senate on April 10, 2003.

April H. Foley, of New York, to be a Member of the Board of Directors of the Export-Import Bank of the United States for a term expiring January 20, 2007, which was sent to the Senate on May 14, 2003.

DISCHARGED NOMINATIONS

The Senate Committee on Health, Education, Labor, and Pensions was discharged from further consideration of the following nominations and the nominations were:

James McBride, of New York, to be a Member of the National Council on the Arts for a term expiring September 3, 2008.

David Eisner, of Maryland, to be Chief Executive Officer of the Corporation for National and Community Service.

Read Van de Water, of North Carolina, to be a Member of the National Mediation Board for a term expiring July 1, 2006.

Raymond Simon, of Arkansas, to be Assistant Secretary for Elementary and Secondary Education, Department of Education.

Jose Antonio Aponte, of Colorado, to be a Member of the National Commission on Libraries and Information Science for a term expiring July 19, 2007.

Sandra Frances Ashworth, of Idaho, to be a Member of the National Commission on Libraries and Information Science for a term expiring July 19, 2004.

Edward Louis Bertorelli, of Massachusetts, to be a Member of the National Commission on Libraries and Information Science for a term expiring July 19, 2005.

Carol L. Diehl, of Wisconsin, to be a Member of the National Commission on Libraries and Information Science for a term expiring July 19, 2005.

Allison Druin, of Maryland, to be a Member of the National Commission on Libraries and Information Science for a term expiring July 19, 2006.

Beth Fitzsimmons, of Michigan, to be a Member of the National Commission on Libraries and Information Science for a term expiring July 19, 2006.

Patricia M. Hines, of South Carolina, to be a Member of the National Commission on Libraries and Information Science for a term expiring July 19, 2005.

Colleen Ellen Huebner, of Washington, to be a Member of the National Commission on Libraries and Information Science for a term expiring July 19, 2007.

Stephen M. Kennedy, of New Hampshire, to be a Member of the National Commission on Libraries and Information Science for a term expiring July 19, 2007.

Bridget L. Lamont, of Illinois, to be a Member of the National Commission on Libraries and Information Science for a term expiring July 19, 2008.

Mary H. Perdue, of Maryland, to be a Member of the National Commission on Libraries and Information Science for a term expiring July 19, 2008.

Herman Lavon Totten, of Texas, to be a Member of the National Commission on Libraries and Information Science for a term expiring July 19, 2008.

Public Health Service nomination beginning with Vincent A. Berkley and ending with James Syms.

Drew R. McCoy, of Massachusetts, to be a Member of the Board of Trustees of the James Madison Memorial Fellowship Foundation for a term of six years.

Carol Kinsley, of Massachusetts, to be a Member of the Board of Directors of the Corporation for National and Community Service for a term expiring October 6, 2006.

Susan K. Sclafani, of the District of Columbia, to be Assistant Secretary for Vocational and Adult Education, Department of Education.

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.

Steven J. Law, of the District of Columbia, to be Deputy Secretary of Labor.

J. Robinson West, of the District of Columbia, to be a Member of the Board of Directors of the United States Institute of Peace for a term expiring January 19, 2007.

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. JEFFORDS (for himself, Ms. SNOWE, and Mr. HATCH):

S. 1912. A bill to amend the Internal Revenue Code of 1986 to expand pension coverage and savings opportunities and to provide other pension reforms; to the Committee on Finance.

By Mr. MCCAIN (for himself and Mr. FEINGOLD):

S. 1913. A bill to amend the Internal Revenue Code of 1986 to reform the system of public financing for Presidential elections, and for other purposes; to the Committee on Finance.

By Ms. STABENOW (for herself and Mr. LEVIN):

S. 1914. A bill to prohibit the closure or realignment of impatient services at the Aleda E. Lutz Department of Veterans Affairs Medical Center in Saginaw, Michigan, as proposed under the Capital Asset Realignment for Enhanced Services initiative; to the Committee on Veterans' Affairs.

By Mr. LIEBERMAN:

S. 1915. A bill to ensure that the Government fully accounts for both its explicit liabilities and implicit commitments and adopts fiscal and economic policies that enable it to finance and manage these liabilities and commitments, to honor commitments to the Baby Boom and subsequent generations with regard to social insurance programs, and to provide for the national defense, homeland security, and other critical governmental responsibilities; to the Committee on the Budget and the Committee on Governmental Affairs, jointly, pursuant to the order of August 4, 1977, with instructions that if one Committee reports, the other Committee have thirty days to report or be discharged.

By Ms. LANDRIEU:

S. 1916. A bill to amend title 10, United States Code, to increase the minimum Survivor Benefit Plan basic annuity for surviving spouses age 62 and older, to provide for a one-year open season under that plan, and for other purposes; to the Committee on Armed Services.

By Mrs. HUTCHISON:

S. 1917. A bill to amend the Internal Revenue Code of 1986 to permit the issuance of tax-exempt bonds for certain air and water pollution control facilities, and to provide that the volume cap for private activity bonds shall not apply to bonds for facilities for the furnishing of water, sewage facilities, and air or water pollution control facilities; to the Committee on Finance.

By Mr. SANTORUM (for himself and Mrs. FEINSTEIN):

S. 1918. A bill to amend the Internal Revenue Code of 1986 to provide that qualified homeowner downpayment assistance is a charitable purpose; to the Committee on Finance.

By Mr. ALLEN:

S. 1919. A bill to designate a portion of the United States courthouse located at 2100 Jamieson Avenue, in Alexandria, Virginia, as the ''Justin W. Williams United States Attorney's Building''; to the Committee on Environment and Public Works.

By Mr. GRASSLEY (for himself and Mr. LEAHY):

S. 1920. A bill to extend for 6 months the period for which chapter 12 of title 11 of the United States Code is reenacted; to the Committee on the Judiciary.

By Mr. GRASSLEY (for himself and Mr. SESSIONS):

S. 1921. A bill to amend chapter 3 of title 28, United States Code, to provide for 11 circuit judges on the United States Court of Appeals for the District of Columbia Circuit; to the Committee on the Judiciary.

By Mr. SMITH (for himself and Mr. BREAUX):

S. 1922. A bill to amend the Internal Revenue Code of 1986 to comply with the World Trade Organization rulings on the FSC/ETI benefit in a manner that preserves manufacturing jobs and production activities in the United States, and for other purposes; to the Committee on Finance.

By Mr. LEAHY:

S. 1923. A bill to reauthorize and amend the National Film Preservation Act of 1996; to the Committee on the Judiciary.

By Mr. JEFFORDS:

S. 1924. A bill to provide for the coverage of milk production under the H-2A nonimmigrant worker program; to the Committee on the Judiciary.

By Mr. KENNEDY (for himself, Mr. SCHUMER, Mr. DODD, Mr. HARKIN, Ms. MIKULSKI, Mrs. MURRAY, Mr. EDWARDS, Mrs. CLINTON, Mr. INOUYE, Mr. LEAHY, Mr. LEVIN, Mr. KERRY, Mr. BIDEN, Mr. ROCKEFELLER, Mr. LIEBERMAN, Mr. AKAKA, Mrs. BOXER, Mr. FEINGOLD, Mr. DURBIN, Mr. BAYH, Mr. CORZINE, Mr. DAYTON, and Mr. LAUTENBERG):

S. 1925. A bill to amend the National Labor Relations Act to establish an efficient system to enable employees to form, join, or assist labor organizations, to provide for mandatory injunctions for unfair labor practices during organizing efforts, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Ms. STABENOW (for herself, Mr. GRAHAM of Florida, Mrs. CLINTON, Mrs. MURRAY, Mr. LEAHY, Mr. DASCHLE, Mr. PRYOR, Mr. LEVIN, Mr. SCHUMER, and Ms. CANTWELL):

S. 1926. A bill to amend title XVIII of the Social Security Act to restore the medicare program and for other purposes; to the Committee on Finance.

By Mrs. CLINTON:

S. 1927. A bill to establish an award program to encourage the development of effective bomb-scanning technology; to the Committee on Commerce, Science, and Transportation.

By Mr. SARBANES (for himself, Mr. SCHUMER, Ms. STABENOW, Mr. CORZINE, Mr. DURBIN, Mr. KERRY, Ms. MIKULSKI, Mrs. CLINTON, Mr. LEVIN, Mr. LEAHY, Mr. AKAKA, Mr. KENNEDY, Mr. LAUTENBERG, Mr. DAYTON, and Mr. DODD):

S. 1928. A bill to amend the Truth in Lending Act to protect consumers against predatory practices in connection with high cost mortgage transactions, to strengthen the civil remedies available to consumers under existing law, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. GREGG (for himself and Mr. KENNEDY):

S. 1929. A bill to amend the Employee Retirement Income Security Act of 1974 and the Public Health Service Act to extend the mental health benefits parity provisions for an additional year; considered and passed.

By Mr. BROWNBACK (for himself, Mr. ENSIGN, Mr. ENZI, Mr. HAGEL, Mr. INHOFE, Mr. NICKLES, Mr. SANTORUM, and Mr. SESSIONS):

S. 1930. A bill to provide that the approved application under the Federal Food, Drug, and Cosmetic Act for the drug commonly known as RU–486 is deemed to have been withdrawn, to provide for the review by the Comptroller General of the United States of the process by which the Food and Drug Administration approved such drug, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. COLEMAN (for himself, Mr. CORZINE, Mr. VOINOVICH, and Mr. LAUTENBERG):

S. Res. 271. A resolution urging the President of the United States diplomatic corps to dissuade member states of the United Nations from supporting resolutions that unfairly castigate Israel and to promote within the United Nations General Assembly more balanced and constructive approaches to resolving conflict in the Middle East; to the Committee on Foreign Relations.

By Ms. SNOWE (for herself, Mrs. MURRAY, Mr. WARNER, Mr. BREAUX, Mr. CRAPO, Mr. CONRAD, Mr. DASCHLE, Mr. EDWARDS, Mr. KENNEDY, Mr. JOHNSON, and Mr. GRASSLEY):

S. Res. 272. A resolution designating the week beginning November 16, 2003, as American Education Week; considered and agreed to.

By Mr. DASCHLE (for Mr. KERRY):

S. Con. Res. 84. A concurrent resolution recognizing the sacrifices made by members of the regular and reserve components of the Armed Forces, expressing concern about their safety and security, and urging the Secretary of Defense to take immediate steps to ensure that the reserve components are provided with the same equipment as regular components; to the Committee on Armed Services.

By Mr. MCCAIN (for himself and Mr. LIEBERMAN):

S. Con. Res. 85. A concurrent resolution expressing the sense of Congress that the continued participation of the Russian Federation in the Group of 8 nations should be conditioned on the Russian Government voluntarily accepting and adhering to the norms and standards of democracy; to the Committee on Foreign Relations.

ADDITIONAL COSPONSORS

S. 665

At the request of Mr. GRASSLEY, the name of the Senator from Alaska (Ms. MURKOWSKI) was added as a cosponsor of S. 665, a bill to amend the Internal Revenue Code of 1986 to provide tax relief for farmers and fisherman, and for other purposes.

S. 1136

At the request of Mr. SPECTER, the name of the Senator from Georgia (Mr. MILLER) was added as a cosponsor of S. 1136, a bill to restate, clarify, and revise the Soldiers' and Sailors' Civil Relief Act of 1940.

S. 1245

At the request of Ms. COLLINS, the name of the Senator from Rhode Island (Mr. REED) was added as a cosponsor of S. 1245, a bill to provide for homeland security grant coordination and simplification, and for other purposes.

S. 1431

At the request of Mr. LAUTENBERG, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of S. 1431, a bill to reauthorize the assault weapons ban, and for other purposes.

S. 1549

At the request of Mr. JOHNSON, his name was added as a cosponsor of S. 1549, 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.

S. 1586

At the request of Mr. DAYTON, his name was withdrawn as a cosponsor of S. 1586, a bill to authorize appropriate action if the negotiations with the People's Republic of China regarding China's undervalued currency and currency manipulations are not successful.

S. 1700

At the request of Mr. LEAHY, the name of the Senator from New Mexico (Mr. BINGAMAN) was added as a cosponsor of S. 1700, 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, 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.

S. 1755

At the request of Mr. LEAHY, the name of the Senator from Washington (Ms. CANTWELL) was added as a cosponsor of S. 1755, a bill to amend the Richard B. Russell National School Lunch Act to provide grants to support farm-to-cafeteria projects.

S. 1792

At the request of Mr. DOMENICI, the name of the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of S. 1792, a bill to amend the Internal Revenue Code of 1986 to provide the same capital gains treatment for art and collectibles as for other investment property and to provide that a deduction equal to fair market value shall be allowed for charitable contributions of literary, musical, artistic, or scholarly compositions created by the donor.

S. 1825

At the request of Mr. DEWINE, the name of the Senator from California

(Mrs. FEINSTEIN) was added as a cosponsor of S. 1825, a bill to amend title 18, United States Code, to provide penalties for the sale and use of unauthorized mobile infrared transmitters.

S. 1853

At the request of Mr. KENNEDY, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 1853, a bill to provide extended unemployment benefits to displaced workers.

S. 1858

At the request of Mr. COCHRAN, the names of the Senator from Kansas (Mr. ROBERTS), the Senator from Georgia (Mr. MILLER) and the Senator from Michigan (Ms. STABENOW) were added as cosponsors of S. 1858, a bill to authorize the Secretary of Agriculture to conduct a loan repayment program to encourage the provision of veterinary services in shortage and emergency situations.

S. 1879

At the request of Ms. MIKULSKI, the name of the Senator from New Hampshire (Mr. GREGG) was added as a cosponsor of S. 1879, a bill to amend the Public Health Service Act to revise and extend provisions relating to mammography quality standards.

S. 1907

At the request of Mr. DASCHLE, the name of the Senator from North Dakota (Mr. DORGAN) was added as a cosponsor of S. 1907, a bill to promote rural safety and improve rural law enforcement.

S. CON. RES. 77

At the request of Mr. SESSIONS, the names of the Senator from Utah (Mr. HATCH), the Senator from Iowa (Mr. GRASSLEY), the Senator from Kentucky (Mr. BUNNING), the Senator from Oklahoma (Mr. INHOFE) and the Senator from Georgia (Mr. CHAMBLISS) were added as cosponsors of S. Con. Res. 77, a concurrent resolution expressing the sense of Congress supporting vigorous enforcement of the Federal obscenity laws.

S. CON. RES. 81

At the request of Mrs. FEINSTEIN, the name of the Senator from Ohio (Mr. VOINOVICH) was added as a cosponsor of S. Con. Res. 81, a concurrent resolution expressing the deep concern of Congress regarding the failure of the Islamic Republic of Iran to adhere to its obligations under a safeguards agreement with the International Atomic Energy Agency and the engagement by Iran in activities that appear to be designed to develop nuclear weapons.

S. CON. RES. 83

At the request of Mr. BIDEN, the name of the Senator from Connecticut (Mr. LIEBERMAN) was added as a cosponsor of S. Con. Res. 83, a concurrent resolution promoting the establishment of a democracy caucus within the United Nations.

S. RES. 120

At the request of Mr. JEFFORDS, the name of the Senator from Vermont (Mr. LEAHY) was added as a cosponsor of S. Res. 120, a resolution commemorating the 25th anniversary of Vietnam Veterans of America.

S. RES. 253

At the request of Mr. CAMPBELL, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of S. Res. 253, a resolution to recognize the evolution and importance of motorsports.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. JEFFORDS (for himself, Ms. SNOWE, and Mr. HATCH):

S. 1912. A bill to amend the Internal Revenue Code of 1986 to expand pension coverage and savings opportunities and to provide other pension reforms; to the Committee on Finance.

Mr. JEFFORDS. Mr. President, today, together with Senators HATCH and SNOWE, I am introducing, the Retirement Account Portability and Improvement Act of 2003. This legislation improves the portability of retirement savings by eliminating unnecessary complexities and barriers in the retirement savings system, and helps preserve retirement savings by giving American workers tools that will help them consolidate their retirement savings into one easily managed account.

In brief, this bill will make a number of improvements in the retirement savings system to help families preserve retirement assets. It will, for example, enhance the portability of retirement savings by expanding rollover options in traditional IRAs, Roth IRAs, and SIMPLE Plans. The bill also clarifies that when employees are permitted to make after-tax contributions to retirement plans, those after-tax amounts may be rolled over into other retirement plans eligible to receive such rollovers. This clarification will make it easier for workers to move all elements of their 401(k) of 403(b) savings when they change jobs and move between private sector and the tax-exempt sector.

In addition, the bill builds on defined contribution plan reforms enacted in 2001 by requiring a shortened vesting schedule for employer non-elective contributions, such as profit-sharing contributions, to defined contribution plans. As a result, employer contributions will become employee property more quickly, helping workers to build more meaningful retirement benefits. This new vesting schedule corresponds to rules for 401(k) matching contributions enacted in 2001.

Another provision in the bill would end an unfair tax penalty faced by non-spouse beneficiaries. Today, when an employee dies, the benefits in that employee's retirement account are paid out to a non-spouse beneficiary in one payment. The beneficiary must pay tax on the entire amount, and is often forced into a higher tax bracket as a result of the payment. A provision in this bill would allow non-spouse beneficiaries—siblings, children, domestic partners, parents—to roll over the money from the plan to an IRA. This will prevent an immediate tax bite to grieving beneficiaries and allow them to withdraw the money from their IRA over five years or over their own life expectancy.

The bill also helps preserve retirement savings by allowing plans to designate default IRAs or annuity contracts to which employee rollovers may be directed. Employers should be more willing to establish default IRA and annuity rollover options as a result, making it easier for employees to keep savings in the retirement system when they change jobs.

For workers who leave a job without claiming their retirement benefits, the bill improves on the automatic rollover provisions enacted in 2001, by allowing certain small distributions from retirement plans to be sent to the Pension Benefit Guaranty Corporation (PBGC), ensuring that participants are ultimately reunited with their earned benefits. The bill also expands the scope of the PBGC's successful Missing Participants program that matches workers with lost pension benefits.

Employees of state and local governments, including teachers, will benefit from a number of this bill's technical corrections that will facilitate the purchase of service credits in public pension programs, allowing state and local employees to more easily attain a full pension in the jurisdiction where they conclude their career. The bill also contains provisions that would clarify eligibility rights of certain state and local employees who participate in a Section 457 deferred compensation plan.

Congress must take every opportunity to encourage American workers not only to save for retirement, but also to preserve those hard-earned retirement savings. These portability improvements offer one set of tools for making it easier to navigate the retirement savings system and reach retirement with an adequate nest egg. There are many pressing and complex retirement issues that demand attention, but I am hopeful that this legislation, narrowly focused on portability, can be considered quickly and on its own merits.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1912

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

SECTION 1. SHORT TITLE; AMENDMENT OF 1986 CODE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Retirement Acount Portability 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.—The table of contents of this Act is as follows:

Sec. 1. Short title; amendment of 1986 Code; table of contents.
TITLE I—BUILDING AND PRESERVING RETIREMENT ASSETS AND ENHANCING PORTABILITY
Sec. 101. Allow rollovers by nonspouse beneficiaries of certain retirement plan distributions.
Sec. 102. Facilitation under fiduciary rules of certain rollovers and annuity distributions.
Sec. 103. Faster vesting of employer nonelective contributions.
Sec. 104. Allow rollover of after-tax amounts in annuity contracts.
TITLE II—EXPANDING RETIREMENT PLAN COVERAGE TO EMPLOYEES OF SMALL BUSINESSES
Sec. 201. Elimination of higher penalty on certain Simple distributions.
Sec. 202. Simple plan portability.
TITLE III—EXPANDING RETIREMENT SAVINGS FOR TAX-EXEMPT ORGANIZATION AND GOVERNMENT EMPLOYEES
Sec. 301. Clarifications regarding purchase of permissive service credit.
Sec. 302. Eligibility for participation in retirement plans.
TITLE IV—SIMPLIFICATION AND EQUITY
Sec. 401. Allow direct rollovers from retirement plans to Roth IRAs.
Sec. 402. Transfers to the PBGC.

TITLE I—BUILDING AND PRESERVING RETIREMENT ASSETS AND ENHANCING PORTABILITY

SEC. 101. ALLOW ROLLOVERS BY NONSPOUSE BENEFICIARIES OF CERTAIN RETIREMENT PLAN DISTRIBUTIONS.

(a) IN GENERAL.—

(1) QUALIFIED PLANS.—Section 402(c) (relating to rollovers from exempt trusts) is amended by adding at the end the following new paragraph:

''(11) DISTRIBUTIONS TO INHERITED INDIVIDUAL RETIREMENT PLAN OF NONSPOUSE BENEFICIARY.—

''(A) IN GENERAL.—If, with respect to any portion of a distribution from an eligible retirement plan of a deceased employee, a direct trustee-to-trustee transfer is made to an individual retirement plan described in clause (i) or (ii) of paragraph (8)(B) established for the purposes of receiving the distribution on behalf of an individual who is a designated beneficiary (as defined by section 401(a)(9)(E)) of the employee and who is not the surviving spouse of the employee—

''(i) the transfer shall be treated as an eligible rollover distribution for purposes of this subsection,

''(ii) the individual retirement plan shall be treated as an inherited individual retirement account or individual retirement annuity (within the meaning of section 408(d)(3)(C)) for purposes of this title, and

''(iii) section 401(a)(9)(B) (other than clause (iv) thereof) shall apply to such plan.

''(B) CERTAIN TRUSTS TREATED AS BENEFICIARIES.—For purposes of this paragraph, to the extent provided in rules prescribed by the Secretary, a trust maintained for the benefit of one or more designated beneficiaries shall be treated in the same manner as a trust designated beneficiary.''.

(2) SECTION 403(a) PLANS.—Subparagraph (B) of section 403(a)(4) (relating to rollover amounts) is amended by inserting ''and (11)'' after ''(7)''.

(3) SECTION 403(b) PLANS.—Subparagraph (B) of section 403(b)(8) (relating to rollover amounts) is amended by striking ''and (9)'' and inserting '', (9), and (11)''.

(4) SECTION 457 PLANS.—Subparagraph (B) of section 457(e)(16) (relating to rollover amounts) is amended by striking ''and (9)'' and inserting '', (9), and (11)''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to distributions after December 31, 2003.

SEC. 102. FACILITATION UNDER FIDUCIARY RULES OF CERTAIN ROLLOVERS AND ANNUITY DISTRIBUTIONS.

(a) IN GENERAL.—Section 404(c) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1104(c)) is amended by adding at the end the following new paragraph:

''(4)(A) In the case of a pension plan which makes a transfer under section 401(a)(31)(A) of the Internal Revenue Code of 1986 to an individual retirement plan (as defined in section 7701(a)(37) of such Code) in connection with a participant or beneficiary or makes a distribution to a participant or beneficiary of an annuity contract described in subparagraph (B), the participant or beneficiary shall, for purposes of paragraph (1), be treated as exercising control over the transfer or distribution if—

''(i) the participant or beneficiary elected such transfer or distribution, and

''(ii) in connection with such election, the participant or beneficiary was given an opportunity to elect any other individual retirement plan (in the case of a transfer) or any other annuity contract described in subparagraph (B) (in the case of a distribution).

''(B) An annuity contract is described in this subparagraph if it provides, either on an immediate or deferred basis, a series of substantially equal periodic payments (not less frequently than annually) for the life of the participant or beneficiary or the joint lives of the participant or beneficiary and such individual's designated beneficiary. Annuity payments shall not fail to be treated as part of a series of substantially equal periodic payments because the amount of the periodic payments may vary in accordance with investment experience, reallocations among investment options, actuarial gains or losses, cost of living indices, or similar fluctuating criteria. The availability of a commutation benefit, a minimum period of payments certain, or a minimum amount to be paid in any event shall not affect the treatment of an annuity contract as an annuity contract described in this subparagraph.

''(C) Under regulations prescribed by the Secretary, this paragraph shall apply without regard to whether the particular individual retirement plan receiving the transfer or the particular annuity contract being distributed is specifically identified by the pension plan as available to the participant or beneficiary.

''(D) Notwithstanding the preceding provisions of this paragraph, paragraph (1)(B) shall not apply with respect to liability under section 406 in connection with the specific identification of any individual retirement plan or annuity contract as being available to the participant or beneficiary.''.

(b) EFFECTIVE DATE AND RELATED RULES.—

(1) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the enactment of this Act.

(2) ISSUANCE OF FINAL REGULATIONS.—Final regulations under section 404(c)(4) of the Employee Retirement Income Security Act of 1974 (added by this section) shall be issued no later than 1 year after the date of the enactment of this Act.

SEC. 103. FASTER VESTING OF EMPLOYER NONELECTIVE CONTRIBUTIONS.

(a) AMENDMENTS TO THE INTERNAL REVENUE CODE OF 1986.—

(1) IN GENERAL.—Paragraph (2) of section 411(a) (relating to employer contributions) is amended to read as follows:

''(2) EMPLOYER CONTRIBUTIONS.—

''(A) DEFINED BENEFIT PLANS.—

''(i) IN GENERAL.—In the case of a defined benefit plan, a plan satisfies the requirements of this paragraph if it satisfies the requirements of clause (ii) or (iii).

''(ii) 5-YEAR VESTING.—A plan satisfies the requirements of this clause if an employee who has completed at least 5 years of service has a nonforfeitable right to 100 percent of the employee's accrued benefit derived from employer contributions.

''(iii) 3 TO 7 YEAR VESTING.—A plan satisfies the requirements of this clause if an employee has a nonforfeitable right to a percentage of the employee's accrued benefit derived from employer contributions determined under the following table:

"Years of service:	The nonforfeitable percentage is:
3	20
4	40
5	60
6	80
7 or more	100.

''(B) DEFINED CONTRIBUTION PLANS.—

''(i) IN GENERAL.—In the case of a defined contribution plan, a plan satisfies the requirements of this paragraph if it satisfies the requirements of clause (ii) or (iii).

''(ii) 3-YEAR VESTING.—A plan satisfies the requirements of this clause if an employee who has completed at least 3 years of service has a nonforfeitable right to 100 percent of the employee's accrued benefit derived from employer contributions.

''(iii) 2 TO 6 YEAR VESTING.—A plan satisfies the requirements of this clause if an employee has a nonforfeitable right to a percentage of the employee's accrued benefit derived from employer contributions determined under the following table:

"Years of service:	The nonforfeitable percentage is:
2	20
3	40
4	60
5	80
6	100.''.

(2) CONFORMING AMENDMENT.—Section 411(a) (relating to general rule for minimum vesting standards) is amended by striking paragraph (12).

(b) AMENDMENTS TO THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.—

(1) IN GENERAL.—Paragraph (2) of section 203(a) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1053(a)(2)) is amended to read as follows:

''(2)(A)(i) In the case of a defined benefit plan, a plan satisfies the requirements of this paragraph if it satisfies the requirements of clause (ii) or (iii).

''(ii) A plan satisfies the requirements of this clause if an employee who has completed at least 5 years of service has a nonforfeitable right to 100 percent of the employee's accrued benefit derived from employer contributions.

''(iii) A plan satisfies the requirements of this clause if an employee has a nonforfeitable right to a percentage of the employee's accrued benefit derived from employer contributions determined under the following table:

"Years of service:	The nonforfeitable percentage is:
3	20
4	40
5	60
6	80
7 or more	100.

''(B)(i) In the case of an individual account plan, a plan satisfies the requirements of this paragraph if it satisfies the requirements of clause (ii) or (iii).

''(ii) A plan satisfies the requirements of this clause if an employee who has completed at least 3 years of service has a nonforfeitable right to 100 percent of the employee's accrued benefit derived from employer contributions.

''(iii) A plan satisfies the requirements of this clause if an employee has a nonforfeitable right to a percentage of the employee's accrued benefit derived from employer contributions determined under the following table:

"Years of service:	The nonforfeitable percentage is:
2	20
3	40
4	60
5	80
6	100.''.

(2) CONFORMING AMENDMENT.—Section 203(a) of such Act is amended by striking paragraph (4).

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to contributions for plan years beginning after December 31, 2003.

(2) COLLECTIVE BARGAINING AGREEMENTS.—In the case of a plan maintained pursuant to one or more collective bargaining agreements between employee representatives and one or more employers ratified before the date of the enactment of this Act, the amendments made by this section shall not apply to contributions on behalf of employees covered by any such agreement for plan years beginning before the earlier of—

(A) the later of—

(i) the date on which the last of such collective bargaining agreements terminates (determined without regard to any extension thereof on or after such date of the enactment); or

(ii) January 1, 2004; or

(B) January 1, 2006.

(3) SERVICE REQUIRED.—With respect to any plan, the amendments made by this section shall not apply to any employee before the date that such employee has 1 hour of service under such plan in any plan year to which the amendments made by this section apply.

SEC. 104. ALLOW ROLLOVER OF AFTER-TAX AMOUNTS IN ANNUITY CONTRACTS.

(a) IN GENERAL.—Subparagraph (A) of section 402(c)(2) (maximum amount which may be rolled over) is amended by striking ''and which'' and inserting ''or to an annuity contract described in section 403(b) and such plan or contract''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 2003.

TITLE II—EXPANDING RETIREMENT PLAN COVERAGE TO EMPLOYEES OF SMALL BUSINESSES

SEC. 201. ELIMINATION OF HIGHER PENALTY ON CERTAIN SIMPLE DISTRIBUTIONS.

(a) IN GENERAL.—Subsection (t) of section 72 (relating to 10-percent additional tax on early distributions from qualified retirement plans) is amended by striking paragraph (6) and redesignating paragraphs (7), (8), and (9) as paragraphs (6), (7), and (8), respectively.

(b) CONFORMING AMENDMENTS.—

(1) Section 72(t)(2)(E) is amended by striking ''paragraph (7)'' and inserting ''paragraph (6)''.

(2) Section 72(t)(2)(F) is amended by striking ''paragraph (8)'' and inserting ''paragraph (7)''.

(3) Section 408(d)(3)(G) is amended by striking ''applies'' and inserting ''applied on the day before the date of the enactment of the Retirement Account Portability Act of 2003)''.

(4) Section 457(a)(2) is amended by striking ''section 72(t)(9)'' and inserting ''section 72(t)(8)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to years beginning after December 31, 2003.

SEC. 202. SIMPLE PLAN PORTABILITY.

(a) REPEAL OF LIMITATION.—Paragraph (3) of section 408(d) (relating to rollover contributions), as amended by this Act, is amended by striking subparagraph (G) and redesignating subparagraph (H) as subparagraph (G).

(b) Section 402(c)(8)(B) is amended by adding at the end the following new sentence: ''Individual retirement accounts and individual retirement annuities described in clauses (i) and (ii) shall be treated as eligible retirement plans without regard to whether they are part of a simplified employee pension (within the meaning of section 408(k)) or a simplified retirement account (within the meaning of section 408(p)).''.

(c) EFFECTIVE DATE.—The amendment made by this section shall apply to years beginning after December 31, 2003.

TITLE III—EXPANDING RETIREMENT SAVINGS FOR TAX-EXEMPT ORGANIZATION AND GOVERNMENT EMPLOYEES

SEC. 301. CLARIFICATIONS REGARDING PURCHASE OF PERMISSIVE SERVICE CREDIT.

(a) IN GENERAL.—Subparagraph (A) of section 457(e)(17) (relating to trustee-to-trustee transfers to purchase permissive service credit), and subparagraph (A) of section 403(b)(13) (relating to trustee-to-trustee transfers to purchase permissive service credit), are both amended by striking ''section 415(n)(3)(A)'' and inserting ''section 415(n)(3) (without regard to subparagraphs (B) and (C) thereof)''.

(b) DISTRIBUTION REQUIREMENTS.—Section 457(e)(17) and section 403(b)(13) are both amended by adding at the end the following sentence: ''Amounts transferred under this paragraph shall be distributed solely in accordance with section 401(a) as applicable to such defined benefit plan.''.

(c) SERVICE CREDIT.—Clause (ii) of section 415(n)(3)(A) is amended to read as follows:

''(ii) which relates to benefits with respect to which such –participant is not otherwise entitled, and''.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the amendments made by section 647 of the Economic Growth and Tax Relief Reconciliation Act of 2001.

SEC. 302. ELIGIBILITY FOR PARTICIPATION IN RETIREMENT PLANS.

An individual shall not be precluded from participating in an eligible deferred compensation plan by reason of having received a distribution under section 457(e)(9) of the Internal Revenue Code of 1986, as in effect prior to the enactment of the Small Business Job Protection Act of 1996.

TITLE IV—SIMPLIFICATION AND EQUITY

SEC. 401. ALLOW DIRECT ROLLOVERS FROM RETIREMENT PLANS TO ROTH IRAS.

(a) IN GENERAL.—Subsection (e) of section 408A (defining qualified rollover contribution) is amended to read as follows:

''(e) QUALIFIED ROLLOVER CONTRIBUTION.—For purposes of this section, the term 'qualified rollover contribution' means a rollover contribution—

''(1) to a Roth IRA from another such account,

''(2) from an eligible retirement plan, but only if—

''(A) in the case of an individual retirement plan, such rollover contribution meets the requirements of section 408(d)(3), and

''(B) in the case of any eligible retirement plan (as defined in section 402(c)(8)(B) other than clauses (i) and (ii) thereof), such rollover contribution meets the requirements of section 402(c), 403(b)(8), or 457(e)(16), as applicable.

For purposes of section 408(d)(3)(B), there shall be disregarded any qualified rollover contribution from an individual retirement plan (other than a Roth IRA) to a Roth IRA.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 408A(c)(3)(B) is amended—

(A) in the text by striking ''individual retirement plan'' and inserting ''an eligible retirement plan (as defined by section 402(c)(8)(B))'', and

(B) in the heading by striking ''IRA'' and inserting ''ELIGIBLE RETIREMENT PLAN''.

(2) Section 408A(d)(3) is amended—

(A) in subparagraph (A) by striking ''section 408(d)(3)'' inserting ''sections 402(c), 403(b)(8), 408(d)(3), and 457(e)(16)'',

(B) in subparagraph (B) by striking ''individual retirement plan'' and inserting ''eligible retirement plan (as defined by section 402(c)(8)(B))'',

(C) in subparagraph (D) by striking ''or 6047'' after ''408(i)'',

(D) in subparagraph (D) by striking ''or both'' and inserting ''persons subject to section 6047(d)(1), or all of the foregoing persons'', and

(E) in the heading by striking ''IRA'' and inserting ''ELIGIBLE RETIREMENT PLAN''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to distributions after December 31, 2003.

SEC. 402. TRANSFERS TO THE PBGC.

(a) MANDATORY DISTRIBUTIONS TO PBGC.—Clause (i) of section 401(a)(31)(B) (relating to general rule for certain mandatory distributions) is amended by inserting ''to the Pension Benefit Guaranty Corporation in accordance with section 4050(e) of the Employee Retirement Income Security Act of 1974 or'' after ''such transfer''.

(b) TAX TREATMENT OF DISTRIBUTIONS.—Subparagraph (B) of section 401(a)(31) is amended by adding at the end the following new clause:

''(iii) INCOME TAX TREATMENT OF TRANSFERS TO PBGC.—For purposes of determining the income tax treatment relating to transfers to the Pension Benefit Guaranty Corporation under clause (i)—

''(I) the transfer of amounts to the Pension Benefit Guaranty Corporation pursuant to clause (i) shall be treated as a transfer to an individual retirement plan under such clause, and

''(II) the distribution of such amounts from the Pension Benefit Guaranty Corporation shall be treated as a distribution from an individual retirement plan.''.

(c) MISSING PARTICIPANTS AND BENEFICIARIES.—

(1) IN GENERAL.—Section 4050 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1350) is amended by redesignating subsection (c) as subsection (f) and by inserting after subsection (b) the following new subsections:

''(c) MULTIEMPLOYER PLANS.—The corporation shall prescribe rules similar to the rules in subsection (a) for multiemployer plans covered by this title that terminate under section 4041A.

''(d) PLANS NOT OTHERWISE SUBJECT TO TITLE.—

''(1) TRANSFER TO CORPORATION.—The plan administrator of a plan described in paragraph (4) may elect to transfer the benefits of a missing participant or beneficiary to the corporation upon termination of the plan.

''(2) INFORMATION TO THE CORPORATION.—To the extent provided in regulations, the plan administrator of a plan described in paragraph (4) shall, upon termination of the plan, provide the corporation information with respect to benefits of a missing participant or beneficiary if the plan transfers such benefits—

''(A) to the corporation, or

''(B) to an entity other than the corporation or a plan described in paragraph (4)(B)(ii).

''(3) PAYMENT BY THE CORPORATION.—If benefits of a missing participant or beneficiary were transferred to the corporation under paragraph (1), the corporation shall, upon location of the participant or beneficiary, pay to the participant or beneficiary the amount transferred (or the appropriate survivor benefit) either—

''(A) in a single sum (plus interest), or

''(B) in such other form as is specified in regulations of the corporation.

''(4) PLANS DESCRIBED.—A plan is described in this paragraph if—

''(A) the plan is a pension plan (within the meaning of section 3(2))—

''(i) to which the provisions of this section do not apply (without regard to this subsection), and

''(ii) which is not a plan described in paragraphs (2) through (11) of section 4021(b), and

''(B) at the time the assets are to be distributed upon termination, the plan—

''(i) has one or more missing participants or beneficiaries, and

''(ii) has not provided for the transfer of assets to pay the benefits of all missing participants and beneficiaries to another pension plan (within the meaning of section 3(2)).

''(5) CERTAIN PROVISIONS NOT TO APPLY.—Subsections (a)(1) and (a)(3) shall not apply to a plan described in paragraph (4).

''(e) INVOLUNTARY CASHOUTS.—

''(1) PAYMENT BY THE CORPORATION.—If benefits under a plan described in paragraph (2) were transferred to the corporation under section 401(a)(31)(B) of the Internal Revenue Code of 1986, the corporation shall, upon application filed by the participant or beneficiary with the corporation in such form and manner as may be prescribed in regulations of the corporation, pay to the participant or beneficiary the amount transferred (or the appropriate survivor benefit) either—

''(A) in a single sum (plus interest), or

''(B) in such other form as is specified in regulations of the corporation.

''(2) INFORMATION TO THE CORPORATION.—To the extent provided in regulations, the plan administrator of a plan described in paragraph (3) shall, upon transferred to the corporation under section 401(a)(31)(B) of such Code, provide the corporation information with respect to benefits of the participant or beneficiary so transferred.

''(3) PLANS DESCRIBED.—A plan is described in this paragraph if the plan is a pension plan (within the meaning of section 3(2))—

''(A) which provides for mandatory distributions under section 401(a)(31)(B) of the Internal Revenue Code of 1986, and

''(B) which is not a plan described in paragraphs (2) through (11) of section 4021(b).

''(4) CERTAIN PROVISIONS NOT TO APPLY.—Subsections (a)(1) and (a)(3) shall not apply to a plan described in paragraph (2).''.

(2) CONFORMING AMENDMENTS.—Section 206(f) of such Act (29 U.S.C. 1056(f)) is amended—

(A) by striking ''title IV'' and inserting ''section 4050''; and

(B) by striking ''the plan shall provide that,''.

(d) EFFECTIVE DATE.—

(1) INTERNAL REVENUE CODE OF 1986 PROVISIONS.—The amendments made by subsections (a) and (b) shall take effect as if included in the amendments made by section 657 of the Economic Growth and Tax Relief Reconciliation Act of 2001.

(2) EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974 PROVISIONS.—The amendments made by subsection (c) shall apply to distributions made after final regulations implementing subsections (c), (d), and (e) of section 4050 of the Employee Retirement Income Security Act of 1974 (as added by subsection (c)), respectively, are prescribed.

(3) REGULATIONS.—The Pension Benefit Guaranty Corporation shall issue regulations necessary to carry out the amendments made by subsection (c) not later than December 31, 2004.

By Mr. MCCAIN (for himself and Mr. FEINGOLD):

S. 1913. A bill to amend the Internal Revenue Code of 1986 to reform the system of public financing for Presidential elections, and for other purposes; to the Committee on Finance.

Mr. MCCAIN. Mr. President, along with Senator RUSS FEINGOLD, I am proud today to introduce the Presidential Funding Act of 2003. This legislation will improve and reform the presidential public financing system. With major presidential candidates opting out of public financing for their 2004 primary campaigns, reform of the system of financing presidential nominations is needed more than ever.

The presidential public financing system has been in place for three decades and has achieved broad public acceptance. From 1976 to 2000, every major party presidential nominee has accepted public financing for the general election and, nearly all of the nominees have also accepted it for their primary elections. A total of 46 Democrats and 29 Republicans have accepted public financing for the presidential primaries during this period.

Since its creation, the presidential financing system has worked non-ideologically, with victories for three Republicans and two Democrats. It has also provided for competitive elections. In the five races that have been run under the system involving an incumbent president, challengers have won in three of those elections. This system of voluntary spending limits in exchange for public funding has been a nonpartisan success.

Last year's enactment of a ban on soft money addressed what had become a basic problem for the effectiveness and credibility of the presidential system. For the system to continue serving the nation effectively, its remaining problems now must be solved. This legislation will repair and revitalize the presidential campaign finance system in the following ways.

First, our legislation increases the overall spending limit for the presidential primaries and provide more public matching funds for presidential primary candidates.

The overall spending limit in the primaries for publicly financed candidates has failed to keep pace with reality. This was demonstrated when in 2000, public financing and spending limits for the primaries were rejected and a record $100 million in private contributions was spent to gain the Republican party's nomination—more than twice the amount that the publicly financed candidates were allowed to spend. During the 2004 presidential primary period, it is expected that Republicans will raise and spend as much as $200 million.

Our legislation increases the individual contribution limit from $1,000 to $2,000. Therefore, it will be easier over time for other candidates to reject public financing and raise private money in excess of the overall primary spending limit, thereby worsening the competitive disadvantage of publicly-financed candidates.

In addition, the ''front-loading'' of presidential primaries has created a much shorter nominating period—now likely to end by early March—and a longer actual general election period than existed when the presidential financing system was created in 1974. As a result, a potential ''gap'' exists in funds available for a publicly financed nominee to spend between gaining the party nomination in March and the party's summer nominating convention, when the nominee receives public funds for the general election. This creates a further competitive disadvantage.

To address these problems, our legislation increases the overall spending limit for the presidential primaries to $75 million from the $45 million limit in effect for the 2004 presidential election. This would equal the $75 million spending limit in effect for the general election, which applies to a much shorter period than the primaries.

The amount of public matching funds for individual contributions in the primaries is also increased from the current one-to-one match to a four-to-one match for up to $250 of each individual contribution. This would greatly increase the value of smaller contributions in the presidential nominating process, as was intended by the presidential financing system. It would decrease the reliance on larger contributions, provide more public funds to meet the higher spending limit, and improve the ability of publicly financed candidates to run competitive elections.

When the $1000 individual contribution limit was doubled last year, increasing the potential role of private contributions in the presidential financing system, no similar adjustment was made to increase the role of public matching funds. A new four-to-one multiple match for up to $250 of each individual contribution would accomplish that goal.

In addition, the threshold for qualifying for matching public funds in the primary has not changed since the system was established. Our legislation increases the qualifying threshold should be increased by more than doubling the threshold to require candidates to raise $15,000 in each of 20 states in amounts of no more than $250 per individual donor. Although the existing threshold has worked well during the history of the current system, a higher qualifying amount is appropriate for the future, especially since candidates would now be eligible to receive greater amounts of matching funds.

Second, our legislation requires a candidate to opt in or out of the public financing system for the entire presidential election, including both the primary and general election.

The purpose of the presidential public financing system is to allow candidates to run competitive races for the presidency without becoming dependent on or obligated to campaign donors. That purpose is undermined when a candidate opts out of the system to raise and spend large amounts of private money for a primary or general election race. Such candidates should not be able to reject public financing and then get the system's benefits when it suits their tactical advantage. A candidate should have to opt in or out of the system for the whole election.

Third, our legislation repeals the state-by-state primary spending limits and allows publicly financed primary candidates to receive their public matching funds before January 1st of the presidential election year.

The State-by-State primary spending limits have not worked. The limits have proven to be ineffective and have served to unjustifiably micromanage presidential campaigns.

Under current law, primary candidates can begin to raise private contributions eligible to be matched beginning on January 1 of the year before a presidential election year. They are not eligible, however, to receive any of the matching public funds until January 1 of the presidential election year. With the current ''front-loaded'' primary system, and with the nomination likely to be decided in the early months of a presidential election year, primary candidates need to be able to spend more funds at an earlier period than before. As a result, under our legislation, presidential primary candidates will be eligible to start receiving matching public funds on July 1 of the year before a presidential election year.

Fourth, our legislation provides additional public funds in the presidential general election for a publicly financed candidate facing a privately financed candidate who has substantially outspent the combined primary and general election spending limits.

As more wealthy individuals decide to spend their personal wealth to run for public office, the potential grows for an individual to spend an enormous amount of personal wealth to seek the presidency. There already have been candidates for the U.S. Senate and in mayoral races, for example, who have spent as much in personal wealth on their races as each major party presidential nominee received in public funds in 2000 to run their general election campaign.

In addition, with the increased individual contribution limit, a presidential candidate could decide to forgo public funding and raise and spend private contributions far in excess of the spending limits for publicly financed candidates.

To address this potential problem, our legislation makes a publicly financed major party nominee eligible to receive an additional $75 million for the general election race, when a privately financed general election candidate has spent more than 50 percent above the total primary and general election spending limit for the publicly financed candidate.

In other words, once a presidential general election candidate has spent more than a total of $225 million to seek the presidency, a publicly financed major party nominee, subject to a spending limit of $75 million for the primaries and $75 million for the general election, would receive an additional $75 million for the general election race.

Fifth, our legislation increases the funds available to finance the presidential public financing system.

Currently, the public financing system is funded by a voluntary $3 check-off available to taxpayers on their tax forms on an annual basis. This mechanism will not raise sufficient resources in the long term to finance the costs of a revised presidential system.

The $3 tax check-off is increased to $6 and indexed for inflation to help ensure there are sufficient funds available for future presidential elections. In addition, the Federal Election Commission (FEC) is authorized to conduct a public education campaign to explain to citizens why the check-off exists and how it works, including the fact that it does not increase the tax liability of taxpayers.

The current presidential public financing law creates a priority system that allocates available public funds from the check-off to the nomination conventions, the presidential general election and the presidential primaries in that order. This order of priority does not make sense.

Our legislation revises the order of priority for use of public funds to make funding of the general election candidates the first priority, funding of the primary election candidates the second priority, and funding of the nomination conventions the third priority.

Furthermore, a U.S. Department of the Treasury ruling prohibits taking into account the tax check-off revenues that will be received in April of the presidential election year in determining at the start of each presidential election year the total amount of funds available to be given to eligible candidates from the fund. This has had the effect of artificially lowering the amount of funds available and creating temporary shortfalls for primary candidates during the opening months of the presidential election year at the time when they need the funds the most.

Our legislation revises the law to require the U.S. Department of the Treasury (as it used to do) to estimate at the end of the year prior to a presidential election year the amount of check-off funds that will be received in the presidential election year and to take these funds into account in determining the total amount of funds available under the presidential system.

Finally, our legislation implements the soft money ban to ensure that the parties and federal officeholders and candidates do not raise or spend soft money in connection with the presidential nominating conventions.

Despite the passage of the new campaign finance law and its ban on soft money, federal officeholders and national party officials have continued to raise soft money to finance the national nomination conventions on the fictional premise that such funds are not in connection with a ''federal election'' but rather are for municipal or civic purposes.

The reality is that a presidential nominating convention is defined as a ''federal election'' election under the campaign finance law. Furthermore, federal officeholders and candidates and national party officials who raise soft money for the conventions are subject to precisely the same kind of problems of corruption and the appearance of corruption that the new law prevents by banning soft money.

To reaffirm that the soft money ban applies to the presidential nominating conventions, our legislation explicitly prohibits the national parties and federal officeholders and candidates from raising and spending soft money to pay for the presidential nominating conventions, including for a host committee, civic committee or municipality.

The highly expensive, front-loaded, nationalized, primary system requires that we more than ever fix the presidential public funding system. We must continue to promote competition in order to give voters choices. Our legislation not only saves the existing system but improves it as well. It not only shores up the financial foundations of the system but it would also bring more donors into the system, making financial participation more democratic. It would give our citizens a stake in their government. It is our hope that with the enactment of this legislation, candidates will no longer take small donors for granted and finally hear their voices. In return, all of our citizens will feel reconnected to the presidential financing process that at times, has left them behind.

Mr. FEINGOLD. Mr. President, it is pleasure to join my friend and colleague Senator MCCAIN in introducing a bill to repair and strengthen the presidential public financing system. The Presidential Funding Act of 2003 will ensure that this system that has served our country so well for over a generation will continue to fulfill its promise in the 21st century.

The presidential public financing system was put into place in the wake of the Watergate scandals as part of the Federal Election Campaign Act of 1974. It was held to be constitutional by the Supreme Court in Buckley v. Valeo. Every major party nominee for President since 1976 has participated in the

system for the general election. The system, of course, is voluntary, as the Supreme Court required. In the last election, then-Governor George W. Bush opted out of the system for the presidential primaries, but elected to take the taxpayer funded grant in the general election. He appears ready to make the same choice in this election, and so far two of the Democratic presidential candidates have decided not to seek federal matching funds in the primaries. Before 2000, almost all serious candidates for President had participated in the system.

It is unfortunate that the matching funds system for the primaries is becoming less viable. The system reduces the fundraising pressures on candidates and levels the playing field between candidates. It allows candidates to run viable campaigns without becoming overly dependent on private donors. The system has worked well in the past, and its advantages for candidates and for the country make it worth repairing so that it can work in the future. If we don't repair it, the pressures on candidates to opt out because their opponents are opting out will increase until the system collapse from disuse.

At the outset, I want to emphasize that this bill is not designed to have any impact on the ongoing presidential race. It will take effect only after the 2004 elections. Therefore, there is no partisan purpose here. Once again, Senator MCCAIN and I are working together to try to improve the campaign finance system, regardless of any partisan impact that these reforms might have. Second, we do not expect Congress to take action on this bill during an election year. Instead, our hope is that by introducing a bill now we can begin a conversation with our colleagues and with the public that will allow us to take quick action beginning in 2005 so that a new system can be in place for the 2008 election.

The bill makes changes to both the primary and general election system to address the weaknesses and problems that have been identified by both participants in the system and experts on the presidential election financing process. First and most important, it eliminates the state-by-state spending limits in the current law and substantially increases the overall spending limit from the current limit of approximately $45 million to $75 million. This should make the system more viable for serious candidates facing opponents who are capable of raising significant sums outside the system. The bill also makes available significantly more public money for participating candidates by increasing the match of small contributions from 1:1 to 4:1. Thus, significantly more public money will be available to those candidates who choose to participate in the system.

One very important provision of this bill ties the primary and general election systems together and requires candidates to make a single decision on whether to participate. Candidates who opt out of the primary system and decide to rely solely on private money cannot return to the system for the general election. And candidates must commit to participate in the system in the general election if they want to receive federal matching funds in the primaries. The bill also increases the spending limits for participating candidates in the primaries who face a non-participating opponent if that opponent raises more than 33 percent more than the spending limit. This provides some protection against being far outspent by a non-participating opponent.

The bill also sets the general election spending limit at $75 million, indexed for inflation, which is about what it is projected to be in 2008. And if a general election candidate does not participate in the system and spends more than 33 percent more than the combined primary and general election spending limits, a participating candidate will receive a grant equal to twice the general election spending limit.

This bill also addresses what some have called the ''gap'' between the primary and general election seasons. Presumptive presidential nominees have emerged earlier in the election year over the life of the public financing system. This had led to some nominees being essentially out of money between the time that they nail down the nomination and the convention where they are formally nominated and become eligible for the general election grant. For a few cycles, soft money raised by the parties filled in that gap, but the Bipartisan Campaign Reform Act of 2002 thankfully has now closed that loophole. This bill doubles the amount of hard money that parties can spend in coordination with their candidates, allowing them to fill the gap once the party has a presumptive nominee.

Fixing the presidential public financing system will obviously cost money, but our best calculations at the present time indicate that the changes to the system in this bill can be paid for by doubling the income tax check-off on an individual return from $3 to just $6. The total cost of the changes to the system is projected to be around $175 million over the four-year election cycle. Of course, these projections may change as we get more data from the 2004 elections. But even a somewhat larger cost would be a very small investment to make to protect the health of our democracy and integrity of our presidential elections. The American people do not want to see a return to the pre-Watergate days of unlimited spending on presidential elections and candidates entirely beholden to private donors. We must act now to preserve the crown jewel of the Watergate reforms and assure the fairness of our elections and the confidence of our citizens in the process.

By Ms. STABENOW (for herself and Mr. LEVIN):

S. 1914. A bill to prohibit the closure or realignment of inpatient services at the Aleda E. Lutz Department of Veterans Affairs Medical Center in Saginaw, Michigan, as proposed under the Capital Asset Realignment for Enhanced Services initiatives; to the Committee on Veterans' Affairs.

Ms. STABENOW. Mr. President, I rise today to introduce legislation that would prevent the closure of the Saginaw Veterans Administration Medical Center in Saginaw, MI.

As of August 2003, there were almost one million veterans in lower Michigan and Northwestern Ohio. These one million veterans are served by four V.A. Medical Centers—Saginaw, Detroit, Ann Arbor and Battle Creek—and 12 Community Based Outpatient Clinics (CBOCs), all located in lower Michigan or Toledo, OH.

Regrettably, the Department of Veterans Affairs' Capitol Asset Realignment for Enhanced Services (CARES) Commission is recommending closing all acute care beds at the Aleda E. Lutz Department of Veterans Affairs Medical Center in Saginaw, MI. The geographic range for the acute services in Saginaw is vast. The facility essentially covers half of Michigan's Lower Peninsula. Therefore, closing these inpatient beds in Saginaw would have a devastating impact on veterans who live in Central and Northern Michigan.

If the Saginaw facility were to close, a veteran who lived in Mackinaw City would have to drive 281 miles to the Detroit facility or 272 miles to the Ann Arbor facility for medical care. Under ideal conditions these trips would take six hours instead of the current two hour trip that it would take to reach the existing Saginaw facility. Asking a veteran to go from Mackinaw City to Detroit is like asking a veteran to go from southeast Michigan to Buffalo, New York to get acute care.

How can we ask veterans, many of whom are sick and frail, to travel six hours to get necessary inpatient services? Going through a major illness is tough enough for our veterans. The closing of this hospital would add insult to injury.

This bill seeks to stop this closure and ensure that the thousands of veterans who live in central and northern Michigan have access to the medical services they deserve. I urge my colleagues to support this bill.

Mr. President, 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. 1914

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

SECTION 1. PROHIBITION ON CLOSURE OR REALIGNMENT OF INPATIENT SERVICES AT ALEDA E. LUTZ DEPARTMENT OF VETERANS AFFAIRS MEDICAL CENTER IN SAGINAW, MICHIGAN.

The Secretary of Veterans Affairs shall not carry out the closure or realignment of inpatient services at the Aleda E. Lutz Department of Veterans Affairs Medical Center in Saginaw, Michigan, as proposed under the Capital Asset Realignment for Enhanced Services (CARES) initiative.

By Mrs. HUTCHISON:

S. 1917. A bill to amend the Internal Revenue Code of 1986 to permit the issuance of tax-exempt bonds for certain air and water pollution control facilities, and to provide that the volume cap for private activity bonds shall not apply to bonds for facilities for the furnishing of water, sewage facilities, and air or water pollution control facilities; to the Committee on Finance.

Mrs. HUTCHISON. Mr. President, I am proud to offer the Clean Air and Water Investment and Infrastructure Act.

Texas, like many States, faces increasingly difficult challenges in improving air and water quality.

The Clean Air Act requires the Environmental Protection Agency to set air quality standards and establishes deadlines for State and local governments to achieve those levels. Today, more than 90 communities across the country are out of compliance with the Clean Air Act. These so-called ''non-attainment'' areas are threated with regulatory sanctions, such as loss of federal highway funding, if they do not meet mandated ozone levels by 2007.

Texas has four non-attainment areas: Beaumont-Port Arthur, Dallas-Fort Worth, El Paso and Houston. The Houston area alone needs an estimated $4.1 billion annually in order to meet Federal air quality standards.

These communities will not achieve compliance without assistance. Too many industrial plants need to install expensive equipment. If these environmental investments do not become more affordable, communities will either suffer sanctions or force industrial facilities to close and move offshore, causing substantial economic hardship.

Texas and many areas of the country, especially in the Southwest and West, also face critical water and wastewater problems. Investments in sources of clean water must be made or we will face shortages in the coming decades. However, necessary water infrastructure improvements are extremely expensive. According to the Texas State water plan, the cost of water supply acquisition projects, water and wastewater treatment, and other infrastructure projects in Texas through 2050 will be more than $100 billion.

Currently, air and water pollution control facilities cannot be financed by tax-exempt bonds. Even if they could, they would be limited by a cap which sets the total amount of tax-exempt private activity bonds issued by a state. Given the demands of other projects, such as housing, relatively few of the air and water pollution projects would have an opportunity to access this financing option.

In order to help us meet the challenges, I am introducing the Clear Air and Water Investment and Infrastructure Act. My bill will allow federal tax-exempt bonds to be used by private firms for air and water pollution control projects. Given the importance of these critical projects, these bonds also would be issued outside the constraints of the private-activity bond caps. The Texas Water Development Board estimates this could save 30 percent in financing costs for water projects.

For example, this bill would allow tax-exempt debt to be used to finance private systems along the Gulf Coast that desalinate seawater and brackish groundwater, and to install air pollution facilities on electric utility plants. States and communities would have an important new tool for addressing air and water pollution control needs.

Pollution control is a problem for all of us. It is to everyone's benefit to develop ways to promote public and private partnerships which can finance projects to improve air and water quality. I hope my colleagues will support this effort.

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. 1917

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 ''Clean Air and Water Investment and Infrastructure Act''.

SEC. 2. TAX-EXEMPT BONDS FOR AIR AND WATER POLLUTION CONTROL FACILITIES.

(a) IN GENERAL.—Subsection (a) of section 142 of the Internal Revenue Code of 1986 (defining exempt facility bond) is amended by striking ''or'' at the end of paragraph (12), by striking the period at the end of paragraph (13) and inserting '', or'', and by adding at the end the following new paragraph:

''(14) air or water pollution control facilities.''.

(b) AIR OR WATER POLLUTION CONTROL FACILITIES.—Section 142 of the Internal Revenue Code of 1986 (relating to exempt facility bond) is amended by adding at the end the following new subsection:

''(l) POLLUTION CONTROL FACILITIES ACQUIRED BY REGIONAL POLLUTION CONTROL AUTHORITIES.—

''(1) IN GENERAL.—For purposes of paragraph (14) of subsection (a), a bond shall be treated as described in such paragraph if it is part of an issue substantially all of the proceeds of which are used by a qualified regional pollution control authority to acquire existing air or water pollution control facilities which the authority itself will operate in order to maintain or improve the control of pollutants.

''(2) RESTRICTIONS.—Paragraph (1) shall apply only if—

''(A) the amount paid, directly or indirectly, for a facility does not exceed the fair market value of the facility,

''(B) the fees or charges imposed, directly or indirectly, on the seller for any use of the facility after the sale of such facility are not less than the amounts that would be charged if the facility were financed with obligations the interest on which is not exempt from tax, and

''(C) no person other than the qualified regional pollution control authority is considered after the sale as the owner of the facility for the purposes of Federal income taxes.

''(3) QUALIFIED REGIONAL POLLUTION CONTROL AUTHORITY.—For purposes of this subsection, the term 'qualified regional pollution control authority' means an authority which—

''(A) is a political subdivision created by State law to control air or water pollution,

''(B) has within its jurisdictional boundaries all or part of at least 2 counties (or equivalent political subdivisions), and

''(C) operates air or water pollution control facilities.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to bonds issued after the date of the enactment of this Act.

SEC. 3. EXEMPTION FROM VOLUME CAP FOR FACILITIES FURNISHING WATER, SEWAGE FACILITIES, AND AIR OR WATER POLLUTION CONTROL FACILITIES.

(a) IN GENERAL.—Paragraph (3) of section 146(g) of the Internal Revenue Code of 1986 (relating to exception for certain bonds) is amended—

(1) by inserting ''(4), (5),'' after ''(2),'',

(2) by striking ''or (13)'' and inserting ''(13), or (14)'',

(3) by inserting ''facilities for the furnishing of water, sewage facilities,'' after ''wharves,'',

(4) by striking ''and'' before ''qualified'', and

(5) by inserting '', and air or water pollution control facilities'' after ''educational facilities''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to bonds issued after the date of the enactment of this Act.

By Mr. SANTORUM (for himself and Mrs. FEINSTEIN):

S. 1918. A bill to amend the Internal Revenue Code of 1986 to provide that qualified homeowner downpayment assistance is a charitable purpose; to the Committee on Finance.

Mr. SANTORUM. Mr. President, I am please to introduce today, along with my colleague from California, Senator FEINSTEIN, legislation that will further one of the most important public policy goals we have as a Nation—the goal of homeownership. Homeownership is a significant part of the American dream. It has been called the backbone of our economy. It is widely considered the primary means by which American families create middle-class wealth and build financial security.

Homeownership is all those things and more. It is the cornerstone of healthy communities across our Nation. It is good for families, good for our schools, good for our neighborhoods. Equity in homes is the leading source for collateral for small business start-up borrowing, and home equity loans are the leading provider of funds for a college education. Some experts even say home owners are more likely to vote.

Despite the many benefits, there are still too many Americans for whom the

American dream of homeownership is unreachable. There are too many American families who pay rent month after month, never accumulating equity, never experiencing the joy of raising their children in a home they own, and look forward to passing along to future generations. That is especially true among Americans from minority populations. Though nationwide nearly 70 percent of Americans own their own home, homeownership rates among African-Americans and Hispanics is less than 50 percent.

There are any number of obstacles to homeownership, but there is one problem that is widely considered the single biggest obstacle: the lack of funds for a down payment. Again, this is disproportionately true among minority families, which frequently have less accumulated wealth that can be used for a down payment.

President Bush has proposed creating the American Dream Down Payment Fund, which would provide down payment assistance to 40,000 families every year. I support that effort, and I applaud President Bush for proposing this bold new initiative. The President has set a goal of increasing the number of minority homeowners by at least 5.5 million by the end of this decade, which the Department of Housing and Urban Development estimates would create $256 billion in economic activity. I believe that is an important goal for us as a Nation.

I also believe that as we work to find ways for the Federal Government to increase homeownership, we need to encourage the private sector to do the same. There are a number of non-profit organizations in our country doing just that by providing a gift of down payment assistance to potential homeowners. These gifts of down payment assistance go to families and individuals who have the income to afford a mortgage, but who would otherwise be prevented from buying a home because they lack funds for a down payment. Last year non-profit organizations provided gifts of down payment assistance to over 85,000 home buyers—and the number will likely be much higher this year. One organization alone has helped over 160,000 individuals and families become homeowners, by providing a gift of funds for a down payment. And all without collecting a single dime of government funding.

That is why I am so pleased to be introducing this legislation today. I want to be sure the private sector can continue playing such a vital role in increasing homeownership by providing down payment assistance. Although many charities holding tax exemptions under section 501(c)(3) of the Internal Revenue Code provide down payment assistance, IRS regulations do not clearly address down payment assistance programs.

Our legislation will clarify that, under certain circumstances, the provision of down payment assistance to American families for use in purchasing low or moderate price homes constitutes charitable activity. Rather than developing our own standard for eligible home purchases, we have relied on the National Housing Act rule for FHA-insured loans. Our provision applies to purchases of a principal residence if the amount of the mortgage is less than the maximum mortgage amount eligible for FHA insurance in the geographic area in which the home is located. That will ensure that a charitable down payment assistance program is not used to support the purchase of rental properties or expensive homes.

Our legislation also includes one other provision designed to protect the Treasury. Home sellers often contribute to charitable down payment assistance providers in connection with the sale of a home. Those contributions are used to replenish the pool to make available gift assistance for other home buyers. Although the contributions are being made to a charity, they are not charitable in nature; they are expenses of selling a home. The legislation clarifies that a party to a home sale transaction may not claim a charitable contribution deduction for a contribution to a down payment assistance provider made in connection with the sale.

Although IRS regulations do not clearly address down payment assistance programs, our legislation merely codifies current practice. As a result, I do not anticipate that the legislation will result in a significant change in tax revenues.

Non-profit providers of down payment assistance help tens of thousands of Americans every year become homeowners. These organizations are changing lives, changing families, changing our communities—and they are doing it all without a single dime of taxpayer funds. I am pleased my colleague from California, Senator FEINSTEIN, has joined me in introducing this legislation. I ask all of my colleagues to join us in this important effort.

Mrs. FEINSTEIN. Mr. President, I am pleased to join with the distinguished Senator from Pennsylvania, Senator SANTORUM, to introduce legislation that will promote the American dream of homeownership.

Our legislation will specify that providing homeownership down payment assistance to American families constitutes a charitable activity under the regulations of the Internal Revenue Service.

As the cornerstone of middle-class wealth in our nation, we should be doing everything possible to promote broad investment in owner-occupied housing. Today, we have that chance.

It should not be a surprise that homeownership among low to moderate income families is lower than for those with higher incomes. The single biggest obstacle to achieving this dream is the lack of a downpayment.

Across America there are organizations that assist low to moderate income families with that first important step toward homeownership. In California, one of these groups, the Nehemiah Corporation, helps literally thousands of families each year by providing down payments.

While the Federal Government provides tax incentives for increased homeownership, we should make it easier for the private sector to provide their own brand of incentives. Importantly, this legislation will do several things to ensure that the private sector continues to have the tools it needs to provide this important assistance.

One, our legislation will specify that homeownership down payment assistance to American families constitutes a charitable activity.

Currently, Internal Revenue Service regulations do not clearly address the special circumstances of those organizations that provide downpayment assistance to families.

Two, our bill is structured to ensure that a charitable down payment assistance program is not used to support the purchase of rental properties or expensive homes.

Three, our legislation is designed so that the taxpayers do not pick-up the tab. Since, home sellers often contribute to charitable down payment assistance providers in connection with the sale of a home, those contributions are not charitable in nature; they are an expense related to selling a home.

This legislation clarifies that a party to a home sale transaction may not claim a charitable contribution deduction for a contribution to a down payment assistance organization made in connection with the sale.

And, although Internal Revenue Service regulations do not specifically address down payment assistance programs, our legislation merely codifies current practice.

This legislation will ensure the continued growth of this essential segment of the financial services market at no cost to the taxpayers.

And, as my friend from Pennsylvania has said, equity in homes is the leading source for collateral for small business start-up borrowing.

At a time when the economy still fails to produce jobs, the expansion of small business and the employment they provide is essential to the health of our economy.

It is a win-win situation in the truest sense of the term and I urge my colleagues to support it.

By Mr. SMITH (for himself and Mr. BREAUX):

S. 1922. A bill to amend the Internal Revenue Code of 1986 to comply with the World Trade Organization rulings on the FSC/ETI benefit in a manner that preserves manufacturing jobs and production activities in the United States, and for other purposes; to the Committee on Finance.

Mr. SMITH. Mr. President, I rise today to introduce The American Manufacturing Jobs Bill of 2003—which will

provide a tax rate cut for all manufacturers who employ American workers. I am pleased to be joined in this effort by Senator JOHN BREAUX. On October 1, 2003, the Senate Finance Committee approved on a bipartisan basis S. 1673, the centerpiece of which resolves the FSC/ETI issue by replacing the export tax benefit with a reduction in the tax burden on domestic manufacturing companies.

I applaud S. 1673, a balanced piece of legislation crafted by Chairman CHARLES GRASSLEY, R–IA, and ranking member Senator MAX BAUCUS, D–MT. I am, however, concerned that the domestic manufacturing benefit in S. 1673 is not applied equally to all U.S. manufacturers. This bill includes a provision—a ''haircut''—that provides less of a benefit to companies that also manufacture abroad.

For example, a company that has 55 percent of its manufacturing in the United States and 45 percent abroad will calculate its benefit under the bill and then reduce that benefit by a fraction—the numerator of which is the gross receipts from domestic manufacturing over the same derived from worldwide manufacturing.

This company thus suffers twice. First, the domestic manufacturing benefit in S. 1673 is less valuable than the benefit currently provided under FSC/ETI. Second, this company's manufacturing benefit is further reduced by the ''haircut'' merely because it also has overseas manufacturing operations in order to be closer to their markets.

The ''haircut'' is a discriminatory measure that hurts both foreign-owned and U.S.-owned companies alike. It is structured so that the more a company manufactures abroad, the less of a manufacturing rate cut it gets. The ''haircut'' makes the United States a less competitive location for current and future investment because multinational companies will believe they are being ''cheated'' and discriminated against.

At a time when American manufacturing jobs are leaving our country in record numbers, Congress should support all companies that employ Americans. U.S. companies with global operations employ more than 23 million Americans—9 million of which are in manufacturing jobs—this is tantamount to three out of every five manufacturing jobs in this country. Foreign-owned companies with U.S. operations employ more than 2 million manufacturing workers in the United States. It is these many of millions of manufacturing workers who will suffer if the ''haircut'' remains and companies are therefore discouraged to invest in the United States.

Moreover, the ''haircut'' is inconsistent with historic tax and trade policies to encourage U.S. companies to open up facilities outside the United States. In fact, there is an entire department—the Department of Commerce—set up to assist U.S. companies going global and then to promote and facilitate those same companies' efforts once they have established themselves in-country. I am also concerned that the ''haircut'' invites mirror legislation in other countries and may invite another WTO challenge to this legislation.

I believe we have a duty to encourage the retention and creation of manufacturing jobs in the United States. We must not treat U.S. jobs created by multinational companies as ''less worthy'' than U.S. jobs created by strictly domestic manufacturers. Congress should be in the business of rewarding all well-paid, manufacturing jobs that are created in the United States, not just those created by domestic manufacturers. I believe that by eliminating the ''haircut'' and providing a tax rate cut for all manufacturers who employ American workers, we can help to revitalize the U.S. manufacturing sector. I ask unanimous consent that the full text of this important legislation be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1922

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

SECTION 1. SHORT TITLE; AMENDMENT OF 1986 CODE.

(a) SHORT TITLE.—This Act may be cited as the ''American Manufacturing Jobs 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.

SEC. 2. REPEAL OF EXCLUSION FOR EXTRATERRITORIAL INCOME.

(a) IN GENERAL.—Section 114 is hereby repealed.

(b) CONFORMING AMENDMENTS.—

(1)(A) Subpart E of part III of subchapter N of chapter 1 (relating to qualifying foreign trade income) is hereby repealed.

(B) The table of subparts for such part III is amended by striking the item relating to subpart E.

(2) The table of sections for part III of subchapter B of chapter 1 is amended by striking the item relating to section 114.

(3) The second sentence of section 56(g)(4)(B)(i) is amended by striking ''or under section 114''.

(4) Section 275(a) is amended—

(A) by inserting ''or'' at the end of paragraph (4)(A), by striking ''or'' at the end of paragraph (4)(B) and inserting a period, and by striking subparagraph (C), and

(B) by striking the last sentence.

(5) Paragraph (3) of section 864(e) is amended—

(A) by striking:

''(3) TAX-EXEMPT ASSETS NOT TAKEN INTO ACCOUNT.—

''(A) IN GENERAL.—For purposes of''; and inserting:

''(3) TAX-EXEMPT ASSETS NOT TAKEN INTO ACCOUNT.—For purposes of'', and

(B) by striking subparagraph (B).

(6) Section 903 is amended by striking ''114, 164(a),'' and inserting ''164(a)''.

(7) Section 999(c)(1) is amended by striking ''941(a)(5),''.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to transactions occurring after the date of the enactment of this Act.

(2) BINDING CONTRACTS.—The amendments made by this section shall not apply to any transaction in the ordinary course of a trade or business which occurs pursuant to a binding contract—

(A) which is between the taxpayer and a person who is not a related person (as defined in section 943(b)(3) of such Code, as in effect on the day before the date of the enactment of this Act), and

(B) which is in effect on September 17, 2003, and at all times thereafter.

(d) REVOCATION OF SECTION 943(e) ELECTIONS.—

(1) IN GENERAL.—In the case of a corporation that elected to be treated as a domestic corporation under section 943(e) of the Internal Revenue Code of 1986 (as in effect on the day before the date of the enactment of this Act)—

(A) the corporation may, during the 1-year period beginning on the date of the enactment of this Act, revoke such election, effective as of such date of enactment, and

(B) if the corporation does revoke such election—

(i) such corporation shall be treated as a domestic corporation transferring (as of such date of enactment) all of its property to a foreign corporation in connection with an exchange described in section 354 of such Code, and

(ii) no gain or loss shall be recognized on such transfer.

(2) EXCEPTION.—Subparagraph (B)(ii) of paragraph (1) shall not apply to gain on any asset held by the revoking corporation if—

(A) the basis of such asset is determined in whole or in part by reference to the basis of such asset in the hands of the person from whom the revoking corporation acquired such asset,

(B) the asset was acquired by transfer (not as a result of the election under section 943(e) of such Code) occurring on or after the 1st day on which its election under section 943(e) of such Code was effective, and

(C) a principal purpose of the acquisition was the reduction or avoidance of tax (other than a reduction in tax under section 114 of such Code, as in effect on the day before the date of the enactment of this Act).

(e) GENERAL TRANSITION.—

(1) IN GENERAL.—In the case of a taxable year ending after the date of the enactment of this Act and beginning before January 1, 2007, for purposes of chapter 1 of such Code, a current FSC/ETI beneficiary shall be allowed a deduction equal to the transition amount determined under this subsection with respect to such beneficiary for such year.

(2) CURRENT FSC/ETI BENEFICIARY.—The term ''current FSC/ETI beneficiary'' means any corporation which entered into one or more transactions during its taxable year beginning in calendar year 2002 with respect to which FSC/ETI benefits were allowable.

(3) TRANSITION AMOUNT.—For purposes of this subsection—

(A) IN GENERAL.—The transition amount applicable to any current FSC/ETI beneficiary for any taxable year is the phaseout percentage of the base period amount.

(B) PHASEOUT PERCENTAGE.—

(i) IN GENERAL.—In the case of a taxpayer using the calendar year as its taxable year, the phaseout percentage shall be determined under the following table:

Years:	The phaseout percentage is:
2004	80

Years:	The phaseout percentage is:
2005	80
2006	60.

(ii) SPECIAL RULE FOR 2003.—The phaseout percentage for 2003 shall be the amount that bears the same ratio to 100 percent as the number of days after the date of the enactment of this Act bears to 365.

(iii) SPECIAL RULE FOR FISCAL YEAR TAXPAYERS.—In the case of a taxpayer not using the calendar year as its taxable year, the phaseout percentage is the weighted average of the phaseout percentages determined under the preceding provisions of this paragraph with respect to calendar years any portion of which is included in the taxpayer's taxable year. The weighted average shall be determined on the basis of the respective portions of the taxable year in each calendar year.

''(C) SHORT TAXABLE YEAR.—The Secretary shall prescribe guidance for the computation of the transition amount in the case of a short taxable year.

(4) BASE PERIOD AMOUNT.—For purposes of this subsection, the base period amount is the FSC/ETI benefit for the taxpayer's taxable year beginning in calendar year 2002.

(5) FSC/ETI BENEFIT.—For purposes of this subsection, the term ''FSC/ETI benefit'' means—

(A) amounts excludable from gross income under section 114 of such Code, and

(B) the exempt foreign trade income of related foreign sales corporations from property acquired from the taxpayer (determined without regard to section 923(a)(5) of such Code (relating to special rule for military property), as in effect on the day before the date of the enactment of the FSC Repeal and Extraterritorial Income Exclusion Act of 2000).

In determining the FSC/ETI benefit there shall be excluded any amount attributable to a transaction with respect to which the taxpayer is the lessor unless the leased property was manufactured or produced in whole or in significant part by the taxpayer.

(6) SPECIAL RULE FOR AGRICULTURAL AND HORTICULTURAL COOPERATIVES.—Determinations under this subsection with respect to an organization described in section 943(g)(1) of such Code, as in effect on the day before the date of the enactment of this Act, shall be made at the cooperative level and the purposes of this subsection shall be carried out in a manner similar to section 199(h)(2) of such Code, as added by this Act. Such determinations shall be in accordance with such requirements and procedures as the Secretary may prescribe.

(7) CERTAIN RULES TO APPLY.—Rules similar to the rules of section 41(f) of such Code shall apply for purposes of this subsection.

(8) COORDINATION WITH BINDING CONTRACT RULE.—The deduction determined under paragraph (1) for any taxable year shall be reduced by the phaseout percentage of any FSC/ETI benefit realized for the taxable year by reason of subsection (c)(2) or section 5(c)(1)(B) of the FSC Repeal and Extraterritorial Income Exclusion Act of 2000, except that for purposes of this paragraph the phaseout percentage for 2003 shall be treated as being equal to 100 percent.

(9) SPECIAL RULE FOR TAXABLE YEAR WHICH INCLUDES DATE OF ENACTMENT.—In the case of a taxable year which includes the date of the enactment of this Act, the deduction allowed under this subsection to any current FSC/ETI beneficiary shall in no event exceed—

(A) 100 percent of such beneficiary's base period amount for calendar year 2003, reduced by

(B) the FSC/ETI benefit of such beneficiary with respect to transactions occurring during the portion of the taxable year ending on the date of the enactment of this Act.

SEC. 3. DEDUCTION RELATING TO INCOME ATTRIBUTABLE TO UNITED STATES PRODUCTION ACTIVITIES.

(a) IN GENERAL.—Part VI of subchapter B of chapter 1 (relating to itemized deductions for individuals and corporations) is amended by adding at the end the following new section:

''SEC. 199. INCOME ATTRIBUTABLE TO DOMESTIC PRODUCTION ACTIVITIES.

''(a) ALLOWANCE OF DEDUCTION.—

''(1) IN GENERAL.—There shall be allowed as a deduction an amount equal to 9 percent of the qualified production activities income of the taxpayer for the taxable year.

''(2) PHASEIN.—In the case of taxable years beginning in 2003, 2004, 2005, 2006, 2007, or 2008, paragraph (1) shall be applied by substituting for the percentage contained therein the transition percentage determined under the following table:

''Taxable years beginning in:	The transition percentage is:
2003 or 2004	1
2005	2
2006	3
2007 or 2008	6.

''(b) DEDUCTION LIMITED TO WAGES PAID.—

''(1) IN GENERAL.—The amount of the deduction allowable under subsection (a) for any taxable year shall not exceed 50 percent of the W-2 wages of the employer for the taxable year.

''(2) W-2 WAGES.—For purposes of paragraph (1), the term 'W-2 wages' means the sum of the aggregate amounts the taxpayer is required to include on statements under paragraphs (3) and (8) of section 6051(a) with respect to employment of employees of the taxpayer during the taxpayer's taxable year.

''(3) SPECIAL RULES.—

''(A) PASS-THRU ENTITIES.—In the case of an S corporation, partnership, estate or trust, or other pass-thru entity, the limitation under this subsection shall apply at the entity level.

''(B) ACQUISITIONS AND DISPOSITIONS.—The Secretary shall provide for the application of this subsection in cases where the taxpayer acquires, or disposes of, the major portion of a trade or business or the major portion of a separate unit of a trade or business during the taxable year.

''(c) QUALIFIED PRODUCTION ACTIVITIES INCOME.—For purposes of this section, the term 'qualified production activities income' means an amount equal to the portion of the modified taxable income of the taxpayer which is attributable to domestic production activities.

''(d) DETERMINATION OF INCOME ATTRIBUTABLE TO DOMESTIC PRODUCTION ACTIVITIES.—For purposes of this section—

''(1) IN GENERAL.—The portion of the modified taxable income which is attributable to domestic production activities is so much of the modified taxable income for the taxable year as does not exceed—

''(A) the taxpayer's domestic production gross receipts for such taxable year, reduced by

''(B) the sum of—

''(i) the costs of goods sold that are allocable to such receipts,

''(ii) other deductions, expenses, or losses directly allocable to such receipts, and

''(iii) a proper share of other deductions, expenses, and losses that are not directly allocable to such receipts or another class of income.

''(2) ALLOCATION METHOD.—The Secretary shall prescribe rules for the proper allocation of items of income, deduction, expense, and loss for purposes of determining income attributable to domestic production activities.

''(3) SPECIAL RULES FOR DETERMINING COSTS.—

''(A) IN GENERAL.—For purposes of determining costs under clause (i) of paragraph (1)(B), any item or service brought into the United States shall be treated as acquired by purchase, and its cost shall be treated as not less than its fair market value immediately after it entered the United States. A similar rule shall apply in determining the adjusted basis of leased or rented property where the lease or rental gives rise to domestic production gross receipts.

''(B) EXPORTS FOR FURTHER MANUFACTURE.—In the case of any property described in subparagraph (A) that had been exported by the taxpayer for further manufacture, the increase in cost or adjusted basis under subparagraph (A) shall not exceed the difference between the value of the property when exported and the value of the property when brought back into the United States after the further manufacture.

''(4) MODIFIED TAXABLE INCOME.—The term 'modified taxable income' means taxable income computed without regard to the deduction allowable under this section.

''(e) DOMESTIC PRODUCTION GROSS RECEIPTS.—For purposes of this section—

''(1) IN GENERAL.—The term 'domestic production gross receipts' means the gross receipts of the taxpayer which are derived from—

''(A) any sale, exchange, or other disposition of, or

''(B) any lease, rental, or license of,

qualifying production property which was manufactured, produced, grown, or extracted in whole or in significant part by the taxpayer within the United States.

''(2) SPECIAL RULES FOR CERTAIN PROPERTY.—In the case of any qualifying production property described in subsection (f)(1)(C)—

''(A) such property shall be treated for purposes of paragraph (1) as produced in significant part by the taxpayer within the United States if more than 50 percent of the aggregate development and production costs are incurred by the taxpayer within the United States, and

''(B) if a taxpayer acquires such property before such property begins to generate substantial gross receipts, any development or production costs incurred before the acquisition shall be treated as incurred by the taxpayer for purposes of subparagraph (A) and paragraph (1).

''(f) QUALIFYING PRODUCTION PROPERTY.—For purposes of this section—

''(1) IN GENERAL.—Except as otherwise provided in this paragraph, the term 'qualifying production property' means—

''(A) any tangible personal property,

''(B) any computer software, and

''(C) any property described in section 168(f) (3) or (4), including any underlying copyright or trademark.

''(2) EXCLUSIONS FROM QUALIFYING PRODUCTION PROPERTY.—The term 'qualifying production property' shall not include—

''(A) consumable property that is sold, leased, or licensed by the taxpayer as an integral part of the provision of services,

''(B) oil or gas,

''(C) electricity,

''(D) water supplied by pipeline to the consumer,

''(E) utility services, or

''(F) any film, tape, recording, book, magazine, newspaper, or similar property the market for which is primarily topical or otherwise essentially transitory in nature.

''(g) DEFINITIONS AND SPECIAL RULES.—

''(1) APPLICATION OF SECTION TO PASS-THRU ENTITIES.—In the case of an S corporation, partnership, estate or trust, or other pass-thru entity—

''(A) subject to the provisions of paragraph (2) and subsection (b)(3)(A), this section shall be applied at the shareholder, partner, or similar level, and

''(B) the Secretary shall prescribe rules for the application of this section, including rules relating to—

''(i) restrictions on the allocation of the deduction to taxpayers at the partner or similar level, and

''(ii) additional reporting requirements.

''(2) EXCLUSION FOR PATRONS OF AGRICULTURAL AND HORTICULTURAL COOPERATIVES.—

''(A) IN GENERAL.—If any amount described in paragraph (1) or (3) of section 1385(a)—

''(i) is received by a person from an organization to which part I of subchapter T applies which is engaged in the marketing of agricultural or horticultural products, and

''(ii) is allocable to the portion of the qualified production activities income of the organization which is deductible under subsection (a) and designated as such by the organization in a written notice mailed to its patrons during the payment period described in section 1382(d),

then such person shall be allowed an exclusion from gross income with respect to such amount. The taxable income of the organization shall not be reduced under section 1382 by the portion of any such amount with respect to which an exclusion is allowable to a person by reason of this paragraph.

''(B) SPECIAL RULES.—For purposes of applying subparagraph (A), in determining the qualified production activities income of the organization under this section—

''(i) there shall not be taken into account in computing the organization's modified taxable income any deduction allowable under subsection (b) or (c) of section 1382 (relating to patronage dividends, per-unit retain allocations, and nonpatronage distributions), and

''(ii) the organization shall be treated as having manufactured, produced, grown, or extracted in whole or significant part any qualifying production property marketed by the organization which its patrons have so manufactured, produced, grown, or extracted.

''(3) SPECIAL RULE FOR AFFILIATED GROUPS.—

''(A) IN GENERAL.—All members of an expanded affiliated group shall be treated as a single corporation for purposes of this section.

''(B) EXPANDED AFFILIATED GROUP.—The term 'expanded affiliated group' means an affiliated group as defined in section 1504(a), determined—

''(i) by substituting '50 percent' for '80 percent' each place it appears, and

''(ii) without regard to paragraphs (2) and (4) of section 1504(b).

''(4) COORDINATION WITH MINIMUM TAX.—The deduction under this section shall be allowed for purposes of the tax imposed by section 55; except that for purposes of section 55, alternative minimum taxable income shall be taken into account in determining the deduction under this section.

''(5) ORDERING RULE.—The amount of any other deduction allowable under this chapter shall be determined as if this section had not been enacted.

''(6) TRADE OR BUSINESS REQUIREMENT.—This section shall be applied by only taking into account items which are attributable to the actual conduct of a trade or business.

''(7) POSSESSIONS, ETC.—

''(A) IN GENERAL.—For purposes of subsections (d) and (e), the term 'United States' includes the Commonwealth of Puerto Rico, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Virgin Islands of the United States.

''(B) SPECIAL RULES FOR APPLYING WAGE LIMITATION.—For purposes of applying the limitation under subsection (b) for any taxable year—

''(i) the determination of W–2 wages of a taxpayer shall be made without regard to any exclusion under section 3401(a)(8) for remuneration paid for services performed in a jurisdiction described in subparagraph (A), and

''(ii) in determining the amount of any credit allowable under section 30A or 936 for the taxable year, there shall not be taken into account any wages which are taken into account in applying such limitation.

''(8) COORDINATION WITH TRANSITION RULES.—For purposes of this section—

''(A) domestic production gross receipts shall not include gross receipts from any transaction if the binding contract transition relief of section 2(c)(2) of the American Manufacturing Jobs Act of 2003 applies to such transaction, and

''(B) any deduction allowed under section 2(e) of such Act shall be disregarded in determining the portion of the taxable income which is attributable to domestic production gross receipts.''.

(b) MINIMUM TAX.—Section 56(g)(4)(C) (relating to disallowance of items not deductible in computing earnings and profits) is amended by adding at the end the following new clause:

''(v) DEDUCTION FOR DOMESTIC PRODUCTION.—Clause (i) shall not apply to any amount allowable as a deduction under section 199.''.

(c) CLERICAL AMENDMENT.—The table of sections for part VI of subchapter B of chapter 1 is amended by adding at the end the following new item:

''Sec. 199. Income attributable to domestic production activities.''.

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to taxable years ending after the date of the enactment of this Act.

(2) APPLICATION OF SECTION 15.—Section 15 of the Internal Revenue Code of 1986 shall apply to the amendments made by this section as if they were changes in a rate of tax.

By Mr. LEAHY:

S. 1923. A bill to reauthorize and amend the National Film Preservation Act of 1996; to the Committee on the Judiciary.

Mr. LEAHY. Mr. President, I call attention today to a part of American heritage that is literally disintegrating faster than can be saved. Motion pictures are an important part of our American experience and provide an extraordinary record of our history, our dreams, and our aspirations. The National Film Preservation Board and the National Film Preservation Foundation were created by Congress under the auspices of the Library of Congress, to help save America's film heritage. Today, I am introducing the ''National Film Preservation Act of 2003,'' which will reauthorize and extend the ''National Film Preservation Act of 1996.''

We first acted in 1988 in order to recognize both the educational, cultural, and historical importance of our film heritage, and its inherently fragile nature. The ''National Film Preservation Act of 2003'' will allow the Library of Congress to continue its important work in preserving America's fading treasures, as well as providing grants that will help libraries, museums, and archives preserve films, and make those works available for study and research. These continued efforts are more critical today than ever before. Fewer than 20 percent of the features of the 1920s exist in complete form and less than 10 percent of the features of the 1910s have survived into the new millennium.

The films saved by the National Film Preservation Board are precisely those types of films that would be unlikely to survive without public support. At-risk documentaries, silent-era films, avant-garde works, ethnic films, newsreels, and home movies are in many ways more illuminating on the question of who we are as a society than the Hollywood sound features kept and preserved by major studios. What is more, in many cases only one copy of these ''orphaned'' works exists. As the Librarian of Congress, Dr. James H. Billington, has noted, ''Our film heritage is America's living past.'' I encourage my colleagues to support the ''Film Preservation Act of 2003'' so that America's past can survive in order to enlighten and entertain future generations.

I ask unanimous consent that the text of this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1923

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

TITLE I—REAUTHORIZATION OF THE NATIONAL FILM PRESERVATION BOARD

SEC. 101. SHORT TITLE.

This title may be cited as the ''National Film Preservation Act of 2003''.

SEC. 102. REAUTHORIZATION AND AMENDMENT.

(a) DUTIES OF THE LIBRARIAN OF CONGRESS.—Section 103 of the National Film Preservation Act of 1996 (2 U.S.C. 179m) is amended:

(1) in subsection (b)—

(A) by striking ''film copy'' each place that term appears and inserting ''film or other approved copy'';

(B) by striking ''film copies'' each place that term appears and inserting ''film or other approved copies''; and

(C) in the third sentence, by striking ''copyrighted'' and inserting ''copyrighted, mass distributed, broadcast, or published'' ; and

(2) by adding at the end the following:

''(c) COORDINATION OF PROGRAM WITH OTHER COLLECTION, PRESERVATION, AND ACCESSIBILITY ACTIVITIES.—In carrying out the comprehensive national film preservation program for motion pictures established under the National Film Preservation Act of 1992, the Librarian, in consultation with the Board established pursuant to section 104, shall—

''(1) carry out activities to make films included in the National Film registry more broadly accessible for research and educational purposes, and to generate public awareness and support of the Registry and the comprehensive national film preservation program;

''(2) review the comprehensive national film preservation plan, and amend it to the

extent necessary to ensure that it addresses technological advances in the preservation and storage of, and access to film collections in multiple formats; and

''(3) wherever possible, undertake expanded initiatives to ensure the preservation of the moving image heritage of the United States, including film, videotape, television, and born digital moving image formats, by supporting the work of the National Audio-Visual Conservation Center of the Library of Congress, and other appropriate nonprofit archival and preservation organizations.''.

(b) NATIONAL FILM PRESERVATION BOARD.—Section 104 of the National Film Preservation Act of 1996 (2 U.S.C. 179n) is amended—

(1) in subsection (a)(1) by striking ''20'' and inserting ''22'';

(2) in subsection (a) (2) by striking ''three'' and inserting ''5'';

(3) in subsection (d) by striking ''11'' and inserting ''12''; and

(4) by striking subsection (e) and inserting the following:

''(e) REIMBURSEMENT OF EXPENSES.—Members of the Board shall serve without pay, but may receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.''.

(c) RESPONSIBILITIES AND POWERS OF BOARD.—Section 105(c) of the National Film Preservation Act of 1996 (2 U.S.C. 179o) is amended by adding at the end the following:

''(3) REVIEW AND APPROVAL OF SPECIAL FOUNDATION PROJECTS.—The Board shall review special projects submitted for its approval by the National Film Preservation Foundation under section 151711 of title 36, United States Code.''.

(d) NATIONAL FILM REGISTRY.—Section 106 of the National Film Preservation Act of 1996 (2 U.S.C. 179q) is amended by adding at the end the following:

''(e) NATIONAL AUDIO-VISUAL CONSERVATION CENTER.—The Librarian shall utilize the National Audio-Visual Conservation Center of the Library of Congress at Culpeper, Virginia, to ensure that preserved films included in the National Film Registry are stored in a proper manner, and disseminated to researchers, scholars, and the public as may be appropriate in accordance with—

''(1) title 17 of the United States Code; and

''(2) the terms of any agreements between the Librarian and persons who hold copyrights to such audiovisual works.''.

(e) USE OF SEAL.—Section 107 (a) of the National Film Preservation Act of 1996 (2 U.S.C. 179q) is amended—

(1) in paragraph (1), by inserting ''in any format'' after ''or any copy''; and

(2) in paragraph (2), by striking ''or film copy'' and inserting ''in any format''.

(f) EFFECTIVE DATE.—Section 113 of the National Film Preservation Act of 1996 (2 U.S.C. 179w) is amended by striking ''7'' and inserting ''17''.

TITLE II—REAUTHORIZATION OF THE NATIONAL FILM PRESERVATION FOUNDATION

SEC. 201. SHORT TITLE.

This title may be cited as the ''National Film Preservation Foundation Reauthorization Act of 2003''.

SEC. 202. REAUTHORIZATION AND AMENDMENT.

(a) BOARD OF DIRECTORS.—Section 151703 of title 36, United States Code, is amended—

(1) in subsection (b)(2)(A), by striking ''nine'' and inserting ''12''; and

(2) in subsection (b)(4), by striking the second sentence and inserting ''There shall be no limit to the number of terms to which any individual may be appointed.''.

(b) POWERS.—Section 151705 of title 36, United States Code, is amended in subsection (b) by striking ''District of Columbia'' and inserting ''the jurisdiction in which the principal office of the corporation is located''.

(c) PRINCIPAL OFFICE.—Section 151706 of title 36, United States Code, is amended by inserting '', or another place as determined by the board of directors'' after ''District of Columbia''.

(d) AUTHORIZATION OF APPROPRIATIONS.—Section 151711 of title 36, United States Code, is amended by striking subsections (a) and (b) and inserting the following:

''(a) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Library of Congress amounts necessary to carry out this chapter, not to exceed $500,000 for each of the fiscal years 2004 and 2005, and not to exceed $1,000,000 for each of the fiscal years 2006 through 2013. These amounts are to be made available to the corporation to match any private contributions (whether in currency, services, or property) made to the corporation by private persons and State and local governments.

''(b) LIMITATION RELATED TO ADMINISTRATIVE EXPENSES.—Amounts authorized under this section may not be used by the corporation for management and general or fundraising expenses as reported to the Internal Revenue Service as part of an annual information return required under the Internal Revenue Code of 1986.''.

(e) COOPERATIVE FILM PRESERVATION.—

(1) IN GENERAL.—Chapter 1517 of title 36, United States Code, is amended—

(A) by redesignating sections 151711 and 151712 as sections 151712 and 151713, respectively; and

(B) by adding at the end the following:

''§ 151711. Cooperative film preservation

''(a) COOPERATIVE FILM PRESERVATION.—

''(1) IN GENERAL.—The corporation shall design and support cooperative national film preservation and access initiatives. Such initiatives shall be approved by the corporation, the Librarian of Congress, and the National Film Preservation Board of the Library of Congress under section 105(c)(3) of the National Film Preservation Act of 1996.

''(2) SCOPE.—Cooperative initiatives authorized under paragraph (1) may include—

''(A) the repatriation and preservation of American films that may be found in archives outside of the United States;

''(B) the exhibition and dissemination via broadcast or other means of ''orphan'' films;

''(C) the production of educational materials in various formats to encourage film preservation, preservation initiatives undertaken by 3 or more archives jointly; and

''(D) other activities undertaken in light of significant unfunded film preservation and access needs.

''(b) AUTHORIZATION OF APPROPRIATIONS.—

''(1) IN GENERAL.—There are authorized to be appropriated to the Library of Congress amounts not to exceed $1,000,000 for each of the fiscal years 2006 through 2013, to carry out the purposes of this section.

''(2) MATCHING.—The amounts made available under paragraph (1) are to be made available to the corporation to match any private contributions (whether in currency, services, or property) made to the corporation by private persons and State and local governments.

''(3) LIMITATION RELATED TO ADMINISTRATIVE EXPENSES.—Amounts authorized under this section may not be used by the corporation for management and general or fundraising expenses as reported to the Internal Revenue Service as part of an annual information return required under the Internal Revenue Code of 1986.''.

(2) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 1517 of title 36, United States Code, is amended by striking the matter relating to section 151711 and 151712 and inserting the following:

''151711. Cooperative film preservation.
''151712. Authorization of appropriations.
''151713. Annual report.''.

By Mr. JEFFORDS:

S. 1924. A bill to provide for the coverage of milk production under the H–2A nonimmigrant worker program; to the Committee on the Judiciary.

Mr. JEFFORDS. Mr. President, today I rise to introduce the Dairy Farm Workers Fairness Act.

Family dairy farms are critically important to our agricultural economy and to the rural way of life in many parts of the country. These farms support the rural economy by supporting the local tax base and many local businesses. The working landscape created by our farms, especially a patchwork of small farms, is also the best antidote for the urban sprawl that is overtaking so much of the country. And, of course, the availability of fresh, locally produced milk is an amenity that we have come to take for granted. To support our rural economies, the working landscape and our local food supply systems we need to help small family dairy farms survive and thrive.

The most difficult challenge to the family dairy farm, after the volatility in milk price, is finding and hiring workers. In my home State of Vermont, dairy farms are not only an important part of our economy; they are an institution that has come to define our landscape. Vermont's beauty lies in the green fields, the red barns and the cows grazing on the hillside. When a farm family sells their land, which in many cases may have been worked by them and their ancestors for 5 or more generations, the decision is often driven by the non-stop, 7 day a week, 365 days a year work schedule. As fewer rural residents choose to work in agriculture, these farmers have been forced to take on more themselves. The whole family can end up working without vacations, sick leave or having weekends off. Although dairy farming might not seem seasonal, the burden becomes particularly heavy during the growing season when planting, haying, harvesting and storage of feed must all occur.

Dairy farmers are being forced to explore other options to find a predictable source of qualified labor. While other agricultural businesses in the country benefit from the temporary workers qualified under the H2A Work Visa Program, dairy farms do not. The job of milking cows on dairy farms has been judged under the current H2A program to not meet the definition of temporary or seasonal and is thus excluded. The largest labor need on dairy farms during the growing season, remains the need for assistance with milking. The cows must be milked two or three times a day by hired help so the farmer is able to take on the more complex and specialized work of operating large machinery to plant and harvest. While the work of milking is not seasonal or temporary, the need for additional labor to accomplish the

work is seasonal and temporary. I believe the exclusion of dairy farming under the H2A program is an unintended problem in definitions, and our legislation is designed to fix that glitch. We must do this out of fairness, so that dairy farms can benefit from the same access to labor that other farms have, and more importantly to help our farms survive.

Recently, I heard from a farmer who owns and operates, along with his wife, a small dairy farm in central Vermont. The couple is nearing retirement age and have no children of their own. They had attempted to find a farm hand that could live on the farm and help with milking and some of the heavier chores. After placing ads in the paper and working with the state of Vermont's Department of Employment and Training, it became clear that their best option was to hire a family friend who had a strong desire to learn farming. Since the young man was from Honduras they began the visa process only to have their request for certification by the U.S. Department of Labor denied because their need was considered neither temporary nor seasonal. This farm plays such an important role in their rural Vermont community that I heard from several other constituents who asked for my assistance on this family's behalf. The couple continues to work their land but in doing so they are straining their health and pushing themselves harder than they should. They continue to operate their farm because they do not want to sell it since it is land that has been farmed for generations.

The legislation I am introducing today would allow this family farm, and so many others like it, to avail themselves of a labor source that exists for virtually every other farm in this country. By creating a period based on the summer growing season, dairy farms will be able to bring on extra help during the busiest part of the year, providing much needed relief for our farm families. I urge my colleagues to join me in supporting dairy farms across the United States by cosponsoring this important legislation. I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1924

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 ''Dairy Farm Workers Fairness Act''.

SEC. 2. COVERAGE OF MILK PRODUCTION UNDER H–2A NONIMMIGRANT WORKER PROGRAM.

(a) IN GENERAL.—For purposes of the administration of the H–2A worker program in a year, work performed in the production of milk for commercial use not earlier than April 15 or later than October 15 of that year shall qualify as agriculture labor or services of a seasonal nature.

(b) DEFINITIONS.—In this section:

(1) H–2A NONIMMIGRANT WORKER PROGRAM.—The term ''H–2A nonimmigrant worker program'' means the program for the admission to the United States of H–2A nonimmigrant workers.

(2) H–2A NONIMMIGRANT WORKERS.—The term ''H–2A worker'' means a nonimmigrant alien described in section 101(a)(15)(H)(ii)(a) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)(ii)(a)).

By Ms. STABENOW (for herself, Mr. GRAHAM of Florida, Mrs. CLINTON, Mrs. MURRAY, Mr. LEAHY, Mr. DASCHLE, Mr. PRYOR, Mr. LEVIN, Mr. SCHUMER, and Ms. CANTWELL):

S. 1926. A bill to amend title XVIII of the Social Security Act to restore the medicare program and for other purposes; to the Committee on Finance.

Ms. STABENOW. Mr. President, I rise today to introduce legislation that would allow us to help our providers and patients now.

If we immediately pass this bill, we can make our providers whole and then go back to the drawing board to get a better Medicare prescription drug benefit bill.

The bill includes all of the provider givebacks in the Conference Report accompanying H.R. 1, the Medicare Prescription Drug and Modernization Act of 2003.

It includes all adjustments, word for word, for the rural provisions, physician updates, graduate medical education, GME, and home health services.

It does not add new language.

It does not include any provider cuts or premium increases in H.R.1.

Congress should pass these provisions on their own to help hospitals, physicians, and patients and not hold them hostage to a prescription drug bill that privatizes Medicare and provides a mediocre benefit to most seniors.

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. 1926

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

SECTION 1. SHORT TITLE; AMENDMENTS TO SOCIAL SECURITY ACT; REFERENCES TO BIPA AND SECRETARY; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Support Our Health Care Providers Act of 2003''.

(b) AMENDMENTS TO SOCIAL SECURITY ACT.—Except as otherwise specifically provided, whenever in division A of this Act an amendment 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 that section or other provision of the Social Security Act.

(c) BIPA; SECRETARY.—In this Act:

(1) BIPA.—The term ''BIPA'' means the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000, as enacted into law by section 1(a)(6) of Public Law 106–554.

(2) SECRETARY.—The term ''Secretary'' means the Secretary of Health and Human Services.

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

Sec. 1. Short title; table of contents.

TITLE I—RURAL PROVISIONS

Subtitle A—Provisions Relating to Part A Only

Sec. 101. Equalizing urban and rural standardized payment amounts under the medicare inpatient hospital prospective payment system.
Sec. 102. Enhanced disproportionate share hospital (DSH) treatment for rural hospitals and urban hospitals with fewer than 100 beds.
Sec. 103. Adjustment to the medicare inpatient hospital prospective payment system wage index to revise the labor-related share of such index.
Sec. 104. More frequent update in weights used in hospital market basket.
Sec. 105. Improvements to critical access hospital program.
Sec. 106. Medicare inpatient hospital payment adjustment for low-volume hospitals.
Sec. 107. Treatment of missing cost reporting periods for sole community hospitals.
Sec. 108. Recognition of attending nurse practitioners as attending physicians to serve hospice patients.
Sec. 109. Rural hospice demonstration project.
Sec. 110. Exclusion of certain rural health clinic and federally qualified health center services from the prospective payment system for skilled nursing facilities.
Sec. 110A. Rural community hospital demonstration program.

Subtitle B—Provisions Relating to Part B Only

Sec. 111. 2-year extension of hold harmless provisions for small rural hospitals and sole community hospitals under the prospective payment system for hospital outpatient department services.
Sec. 112. Establishment of floor on work geographic adjustment.
Sec. 113. Medicare incentive payment program improvements for physician scarcity.
Sec. 114. Payment for rural and urban ambulance services.
Sec. 115. Providing appropriate coverage of rural air ambulance services.
Sec. 116. Treatment of certain clinical diagnostic laboratory tests furnished to hospital outpatients in certain rural areas.
Sec. 117. Extension of telemedicine demonstration project.
Sec. 118. Report on demonstration project permitting skilled nursing facilities to be originating telehealth sites; authority to implement.

Subtitle C—Provisions Relating to Parts A and B

Sec. 121. 1-year increase for home health services furnished in a rural area.
Sec. 122. Redistribution of unused resident positions.

Subtitle D—Other Provisions

Sec. 131. Providing safe harbor for certain collaborative efforts that benefit medically underserved populations.
Sec. 132. Office of rural health policy improvements.

Sec. 133. MedPac study on rural hospital payment adjustments.
Sec. 134. Frontier extended stay clinic demonstration project.

TITLE II—PROVISIONS RELATING TO PART A

Subtitle A—Inpatient Hospital Services

Sec. 201. Revision of acute care hospital payment updates.
Sec. 202. Revision of the indirect medical education (IME) adjustment percentage.
Sec. 203. Recognition of new medical technologies under inpatient hospital prospective payment system.
Sec. 204. Increase in Federal rate for hospitals in Puerto Rico.
Sec. 205. Wage index adjustment reclassification reform.
Sec. 206. Limitation on charges for inpatient hospital contract health services provided to Indians by medicare participating hospitals.
Sec. 207. Clarifications to certain exceptions to medicare limits on physician referrals.
Sec. 208. 1-time appeals process for hospital wage index classification.

Subtitle B—Other Provisions

Sec. 211. Payment for covered skilled nursing facility services.
Sec. 212. Coverage of hospice consultation services.
Sec. 213. Study on portable diagnostic ultrasound services for beneficiaries in skilled nursing facilities.

TITLE III—PROVISIONS RELATING TO PART B

Subtitle A—Provisions Relating to Physicians' Services

Sec. 301. Revision of updates for physicians' services.
Sec. 302. Treatment of physicians' services furnished in Alaska.
Sec. 303. Inclusion of podiatrists, dentists, and optometrists under private contracting authority.
Sec. 304. GAO study on access to physicians' services.
Sec. 305. Collaborative demonstration-based review of physician practice expense geographic adjustment data.
Sec. 306. MedPac report on payment for physicians' services.

Subtitle B—Preventive Services

Sec. 311. Coverage of an initial preventive physical examination.
Sec. 312. Coverage of cardiovascular screening blood tests.
Sec. 313. Coverage of diabetes screening tests.
Sec. 314. Improved payment for certain mammography services.

Subtitle C—Other Provisions

Sec. 321. Hospital outpatient department (HOPD) payment reform.
Sec. 322. Limitation of application of functional equivalence standard.
Sec. 323. Payment for renal dialysis services.
Sec. 324. 2-year moratorium on therapy caps; provisions relating to reports.
Sec. 325. Waiver of part B late enrollment penalty for certain military retirees; special enrollment period.
Sec. 326. Payment for services furnished in ambulatory surgical centers.
Sec. 327. Payment for certain shoes and inserts under the fee schedule for orthotics and prosthetics.
Sec. 328. 5-year authorization of reimbursement for all medicare part B services furnished by certain Indian hospitals and clinics.

Subtitle D—Additional Demonstrations, Studies, and Other Provisions

Sec. 341. Demonstration project for coverage of certain prescription drugs and biologicals.
Sec. 342. Extension of coverage of intravenous immune globulin (IVIG) for the treatment of primary immune deficiency diseases in the home.
Sec. 343. MedPac study of coverage of surgical first assisting services of certified registered nurse first assistants.
Sec. 344. MedPac study of payment for cardio-thoracic surgeons.
Sec. 345. Studies relating to vision impairments.
Sec. 346. Medicare health care quality demonstration programs.
Sec. 347. MedPac study on direct access to physical therapy services.
Sec. 348. Demonstration project for consumer-directed chronic outpatient services.
Sec. 349. Medicare care management performance demonstration.
Sec. 350. GAO study and report on the propagation of concierge care.
Sec. 351. Demonstration of coverage of chiropractic services under medicare.

TITLE IV—PROVISIONS RELATING TO PARTS A AND B

Subtitle A—Home Health Services

Sec. 401. Demonstration project to clarify the definition of homebound.
Sec. 402. Demonstration project for medical adult day-care services.
Sec. 403. Temporary suspension of oasis requirement for collection of data on non-medicare and non-medicaid patients.
Sec. 404. MedPac study on medicare margins of home health agencies.
Sec. 405. Coverage of religious nonmedical health care institution services furnished in the home.

Subtitle B—Graduate Medical Education

Sec. 411. Exception to initial residency period for geriatric residency or fellowship programs.
Sec. 412. Treatment of volunteer supervision.

Subtitle C—Chronic Care Improvement

Sec. 421. Voluntary chronic care improvement under traditional fee-for-service.
Sec. 422. Medicare advantage quality improvement programs.
Sec. 423. Chronically ill medicare beneficiary research, data, demonstration strategy.

Subtitle D—Other Provisions

Sec. 431. Improvements in national and local coverage determination process to respond to changes in technology.
Sec. 432. Extension of treatment of certain physician pathology services under medicare.
Sec. 433. Payment for pancreatic islet cell investigational transplants for medicare beneficiaries in clinical trials.
Sec. 434. Restoration of medicare trust funds.
Sec. 435. Modifications to Medicare Payment Advisory Commission (MedPac).
Sec. 436. Technical amendments.

TITLE V—ADMINISTRATIVE IMPROVEMENTS, REGULATORY REDUCTION, AND CONTRACTING REFORM

Sec. 500. Administrative improvements within the Centers for Medicare & Medicaid Services (CMS).

Subtitle A—Regulatory Reform

Sec. 501. Construction; definition of supplier.
Sec. 502. Issuance of regulations.
Sec. 503. Compliance with changes in regulations and policies.
Sec. 504. Reports and studies relating to regulatory reform.

Subtitle B—Contracting Reform

Sec. 511. Increased flexibility in medicare administration.
Sec. 512. Requirements for information security for medicare administrative contractors.

Subtitle C—Education and Outreach

Sec. 521. Provider education and technical assistance.
Sec. 522. Small provider technical assistance demonstration program.
Sec. 523. Medicare beneficiary ombudsman.
Sec. 524. Beneficiary outreach demonstration program.
Sec. 525. Inclusion of additional information in notices to beneficiaries about skilled nursing facility benefits.
Sec. 526. Information on medicare-certified skilled nursing facilities in hospital discharge plans.

Subtitle D—Appeals and Recovery

Sec. 531. Transfer of responsibility for medicare appeals.
Sec. 532. Process for expedited access to review.
Sec. 533. Revisions to medicare appeals process.
Sec. 534. Prepayment review.
Sec. 535. Recovery of overpayments.
Sec. 536. Provider enrollment process; right of appeal.
Sec. 537. Process for correction of minor errors and omissions without pursuing appeals process.
Sec. 538. Prior determination process for certain items and services; advance beneficiary notices.
Sec. 539. Appeals by providers when there is no other party available.
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TITLE I—RURAL PROVISIONS

Subtitle A—Provisions Relating to Part A Only

SEC. 101. EQUALIZING URBAN AND RURAL STANDARDIZED PAYMENT AMOUNTS UNDER THE MEDICARE INPATIENT HOSPITAL PROSPECTIVE PAYMENT SYSTEM.

(a) IN GENERAL.—Section 1886(d)(3)(A)(iv) (42 U.S.C. 1395ww(d)(3)(A)(iv)) is amended—

(1) by striking ''(iv) For discharges'' and inserting ''(iv)(I) Subject to subclause (II), for discharges''; and

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

''(II) For discharges occurring in a fiscal year (beginning with fiscal year 2004), the Secretary shall compute a standardized amount for hospitals located in any area within the United States and within each region equal to the standardized amount computed for the previous fiscal year under this subparagraph for hospitals located in a large urban area (or, beginning with fiscal year 2005, for all hospitals in the previous fiscal year) increased by the applicable percentage increase under subsection (b)(3)(B)(i) for the fiscal year involved.''.

(b) CONFORMING AMENDMENTS.—

(1) COMPUTING DRG-SPECIFIC RATES.—Section 1886(d)(3)(D) (42 U.S.C. 1395ww(d)(3)(D)) is amended—

(A) in the heading, by striking ''IN DIFFERENT AREAS'';

(B) in the matter preceding clause (i), by striking '', each of'';

(C) in clause (i)—

(i) in the matter preceding subclause (I), by inserting ''for fiscal years before fiscal year 2004,'' before ''for hospitals''; and

(ii) in subclause (II), by striking ''and'' after the semicolon at the end;

(D) in clause (ii)—

(i) in the matter preceding subclause (I), by inserting ''for fiscal years before fiscal year 2004,'' before ''for hospitals''; and

(ii) in subclause (II), by striking the period at the end and inserting ''; and''; and

(E) by adding at the end the following new clause:

''(iii) for a fiscal year beginning after fiscal year 2003, for hospitals located in all areas, to the product of—

''(I) the applicable standardized amount (computed under subparagraph (A)), reduced under subparagraph (B), and adjusted or reduced under subparagraph (C) for the fiscal year; and

''(II) the weighting factor (determined under paragraph (4)(B)) for that diagnosis-related group.''.

(2) TECHNICAL CONFORMING SUNSET.—Section 1886(d)(3) (42 U.S.C. 1395ww(d)(3)) is amended—

(A) in the matter preceding subparagraph (A), by inserting '', for fiscal years before fiscal year 1997,'' before ''a regional adjusted DRG prospective payment rate''; and

(B) in subparagraph (D), in the matter preceding clause (i), by inserting '', for fiscal years before fiscal year 1997,'' before ''a regional DRG prospective payment rate for each region,''.

(3) ADDITIONAL TECHNICAL AMENDMENT.—Section 1886(d)(3)(A)(iii) (42 U.S.C. 1395ww(d)(3)(A)(iii)) is amended by striking ''in an other urban area'' and inserting ''in an urban area''.

(c) EQUALIZING URBAN AND RURAL STANDARDIZED PAYMENT AMOUNTS UNDER THE MEDICARE INPATIENT HOSPITAL PROSPECTIVE PAYMENT SYSTEM FOR HOSPITALS IN PUERTO RICO.—

(1) IN GENERAL.—Section 1886(d)(9)(A) (42 U.S.C. 1395ww(d)(9)(A)), as amended by section 204, is amended—

(A) in clause (i), by striking ''and'' after the comma at the end; and

(B) by striking clause (ii) and inserting the following new clause:

''(ii) the applicable Federal percentage (specified in subparagraph (E)) of—

''(I) for discharges beginning in a fiscal year beginning on or after October 1, 1997, and before October 1, 2003, the discharge-weighted average of—

''(aa) the national adjusted DRG prospective payment rate (determined under paragraph (3)(D)) for hospitals located in a large urban area,

''(bb) such rate for hospitals located in other urban areas, and

''(cc) such rate for hospitals located in a rural area,

for such discharges, adjusted in the manner provided in paragraph (3)(E) for different area wage levels; and

''(II) for discharges in a fiscal year beginning on or after October 1, 2003, the national DRG prospective payment rate determined under paragraph (3)(D)(iii) for hospitals located in any area for such discharges, adjusted in the manner provided in paragraph (3)(E) for different area wage levels.

(2) APPLICATION OF PUERTO RICO STANDARDIZED AMOUNT BASED ON LARGE URBAN AREAS.—The authority of the Secretary referred to in paragraph (1) shall apply with respect to the amendments made by subsection (c) (2) of this section in the same manner as that authority applies with respect to the extension of provisions equalizing urban and rural standardized inpatient hospital payments under subsection (a) of such section 402, except that any reference in subsection (b)(2)(A) of such section 402 is deemed to be a reference to April 1, 2004.

SEC. 102 ENHANCED DISPROPORTIONATE SHARE HOSPITAL (DSH) TREATMENT FOR RURAL HOSPITALS AND URBAN HOSPITALS WITH FEWER THAN 100 BEDS.

(a) DOUBLING THE CAP.—Section 1886(d)(5)(F) (42 U.S.C. 1395ww(d)(5)(F)) is amended by adding at the end the following new clause:

''(xiv)(I) In the case of discharges occurring on or after April 1, 2004, subject to subclause (II), there shall be substituted for the disproportionate share adjustment percentage otherwise determined under clause (iv) (other than subclause (I)) or under clause (viii), (x), (xi), (xii), or (xiii), the disproportionate share adjustment percentage determined under clause (vii) (relating to large, urban hospitals).

''(II) Under subclause (I,) the disproportionate share adjustment percentage shall not exceed 12 percent for a hospital that is not classified as a rural referral center under subparagraph (C).''.

(b) CONFORMING AMENDMENTS.—Section 1886(d) (42 U.S.C. 1395ww(d)) is amended—

(1) in paragraph (5)(F)—

(A) in each of subclauses (II), (III), (IV), (V), and (VI) of clause (iv), by inserting ''subject to clause (xiv) and'' before ''for discharges occurring'';

(B) in clause (vi), by striking ''The Formula'' and inserting ''Subject to clause (xiv), the formula''; and

As used in this section, the term 'subsection (d) Puerto Rico hospital' means a hospital that is located in Puerto Rico and that would be a subsection (d) hospital (as defined in paragraph (1)(B)) if it were located in one of the 50 States.''.

(2) APPLICATION OF PUERTO RICO STANDARDIZED AMOUNT BASED ON LARGE URBAN AREAS.—Section 1886(d)(9)(C) (42 U.S.C. 1395ww(d)(9)(C)) is amended—

(A) in clause (i)—

(i) by striking ''(i) The Secretary'' and inserting ''(i)(I) For discharges in a fiscal year after fiscal year 1988 and before fiscal year 2004, the Secretary''; and

(ii) by adding at the end the following new subclause:

''(II) For discharges occurring in a fiscal year (beginning with fiscal year 2004), the Secretary shall compute an average standardized amount for hospitals located in any area of Puerto Rico that is equal to the average standardized amount computed under subclause (I) for fiscal year 2003 for hospitals in a large urban area (or, beginning with fiscal year 2005, for all hospitals in the previous fiscal year) increased by the applicable percentage increase under subsection (b)(3)(B) for the fiscal year involved.'';

(B) in clause (ii), by inserting ''(or for fiscal year 2004 and thereafter, the average standardized amount)'' after ''each of the average standardized amounts''; and

(C) in clause (iii)(I), by striking ''for hospitals located in an urban or rural area, respectively''.

(d) IMPLEMENTATION.—

(1) IN GENERAL.—The amendments made by subsections (a), (b), and (c)(1) of this section shall have no effect on the authority of the Secretary, under subsection (b)(2) of section 402 of Public Law 108–89, to delay implementation of the extension of provisions equalizing urban and rural standardized inpatient hospital payments under subsection (a) of such section 402.

(2) APPLICATION OF PUERTO RICO STANDARDIZED AMOUNT BASED ON LARGE URBAN AREAS.—The authority of the Secretary referred to in paragraph (1) shall apply with respect to the amendments made by subsection (c)(2) of this section in the same manner as that authority applies with respect to the extension of provisions equalizing urban and rural standardized inpatient hospital payments under subsection (a) of such section 402, except that any reference in subsection (b)(2)(A) of such section 402 is deemed to be a reference to April 1, 2004.

SEC. 102. ENHANCED DISPROPORTIONATE SHARE HOSPITAL (DSH) TREATMENT FOR RURAL HOSPITALS AND URBAN HOSPITALS WITH FEWER THAN 100 BEDS.

(a) DOUBLING THE CAP.—Section 1886(d)(5)(F) (42 U.S.C. 1395ww(d)(5)(F)) is amended by adding at the end the following new clause:

''(xiv)(I) In the case of discharges occurring on or after April 1, 2004, subject to subclause (II), there shall be substituted for the disproportionate share adjustment percentage otherwise determined under clause (iv) (other than subclause (I)) or under clause

(viii), (x), (xi), (xii), or (xiii), the disproportionate share adjustment percentage determined under clause (vii) (relating to large, urban hospitals).

''(II) Under subclause (I), the disproportionate share adjustment percentage shall not exceed 12 percent for a hospital that is not classified as a rural referral center under subparagraph (C).''.

(b) CONFORMING AMENDMENTS.—Section 1886(d) (42 U.S.C. 1395ww(d)) is amended—

(1) in paragraph (5)(F)—

(A) in each of subclauses (II), (III), (IV), (V), and (VI) of clause (iv), by inserting ''subject to clause (xiv) and'' before ''for discharges occurring'';

(B) in clause (viii), by striking ''The formula'' and inserting ''Subject to clause (xiv), the formula''; and

(C) in each of clauses (x), (xi), (xii), and (xiii), by striking ''For purposes'' and inserting ''Subject to clause (xiv), for purposes''; and

(2) in paragraph (2)(C)(iv)—

(A) by striking ''or'' before ''the enactment of section 303''; and

(B) by inserting before the period at the end the following: '', or the enactment of section 402(a)(1) of the Medicare Provider Restoration Act of 2003''.

SEC. 103. ADJUSTMENT TO THE MEDICARE INPATIENT HOSPITAL PROSPECTIVE PAYMENT SYSTEM WAGE INDEX TO REVISE THE LABOR-RELATED SHARE OF SUCH INDEX.

(a) ADJUSTMENT.—

(1) IN GENERAL.—Section 1886(d)(3)(E) (42 U.S.C. 1395ww(d)(3)(E)) is amended—

(A) by striking ''WAGE LEVELS.—The Secretary'' and inserting ''WAGE LEVELS.—

''(i) IN GENERAL.—Except as provided in clause (ii), the Secretary''; and

(B) by adding at the end the following new clause:

''(ii) ALTERNATIVE PROPORTION TO BE ADJUSTED BEGINNING IN FISCAL YEAR 2005.—For discharges occurring on or after October 1, 2004, the Secretary shall substitute '62 percent' for the proportion described in the first sentence of clause (i), unless the application of this clause would result in lower payments to a hospital than would otherwise be made.''.

(2) WAIVING BUDGET NEUTRALITY.—Section 1886(d)(3)(E) (42 U.S.C. 1395ww(d)(3)(E)), as amended by subsection (a), is amended by adding at the end of clause (i) the following new sentence: ''The Secretary shall apply the previous sentence for any period as if the amendments made by section 103(a)(1) of the Medicare Provider Restoration Act of 2003 had not been enacted.''.

(b) APPLICATION TO PUERTO RICO HOSPITALS.—Section 1886(d)(9)(C)(iv) (42 U.S.C. 1395ww(d)(9)(C)(iv)) is amended—

(1) by inserting ''(I)'' after ''(iv)'';

(2) by striking ''paragraph (3)(E)'' and inserting ''paragraph (3)(E)(i)''; and

(3) by adding at the end the following new subclause:

''(II) For discharges occurring on or after October 1, 2004, the Secretary shall substitute '62 percent' for the proportion described in the first sentence of clause (i), unless the application of this subclause would result in lower payments to a hospital than would otherwise be made.''.

SEC. 104. MORE FREQUENT UPDATE IN WEIGHTS USED IN HOSPITAL MARKET BASKET.

(a) MORE FREQUENT UPDATES IN WEIGHTS.—After revising the weights used in the hospital market basket under section 1886(b)(3)(B)(iii) of the Social Security Act (42 U.S.C. 1395ww(b)(3)(B)(iii)) to reflect the most current data available, the Secretary shall establish a frequency for revising such weights, including the labor share, in such market basket to reflect the most current data available more frequently than once every 5 years.

(b) INCORPORATION OF EXPLANATION IN RULEMAKING.—The Secretary shall include in the publication of the final rule for payment for inpatient hospital services under section 1886(d) of the Social Security Act (42 U.S.C. 1395ww(d)) for fiscal year 2006, an explanation of the reasons for, and options considered, in determining frequency established under subsection (a).

SEC. 105. IMPROVEMENTS TO CRITICAL ACCESS HOSPITAL PROGRAM.

(a) INCREASE IN PAYMENT AMOUNTS.—

(1) IN GENERAL.—Sections 1814(l), 1834(g)(1), and 1883(a)(3) (42 U.S.C. 1395f(l), 1395m(g)(1), and 1395tt(a)(3)) are each amended by inserting ''equal to 101 percent of'' before ''the reasonable costs''.

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall apply to payments for services furnished during cost reporting periods beginning on or after January 1, 2004.

(b) COVERAGE OF COSTS FOR CERTAIN EMERGENCY ROOM ON-CALL PROVIDERS.—

(1) IN GENERAL.—Section 1834(g)(5) (42 U.S.C. 1395m(g)(5)) is amended—

(A) in the heading—

(i) by inserting ''CERTAIN'' before ''EMERGENCY''; and

(ii) by striking ''PHYSICIANS'' and inserting ''PROVIDERS'';

(B) by striking ''emergency room physicians who are on-call (as defined by the Secretary)'' and inserting ''physicians, physician assistants, nurse practitioners, and clinical nurse specialists who are on-call (as defined by the Secretary) to provide emergency services''; and

(C) by striking ''physicians' services'' and inserting ''services covered under this title''.

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall apply with respect to costs incurred for services furnished on or after January 1, 2005.

(c) AUTHORIZATION OF PERIODIC INTERIM PAYMENT (PIP).—

(1) IN GENERAL.—Section 1815(e)(2) (42 U.S.C. 1395g(e)(2)) is amended—

(A) in the matter before subparagraph (A), by inserting '', in the cases described in subparagraphs (A) through (D)'' after ''1986'';

(B) by striking ''and'' at the end of subparagraph (C);

(C) by adding ''and'' at the end of subparagraph (D); and

(D) by inserting after subparagraph (D) the following new subparagraph:

''(E) inpatient critical access hospital services;''.

(2) DEVELOPMENT OF ALTERNATIVE TIMING METHODS OF PERIODIC INTERIM PAYMENTS.—With respect to periodic interim payments to critical access hospitals for inpatient critical access hospital services under section 1815(e)(2)(E) of the Social Security Act, as added by paragraph (1), the Secretary shall develop alternative methods for the timing of such payments.

(3) AUTHORIZATION OF PIP.—The amendments made by paragraph (1) shall apply to payments made on or after July 1, 2004.

(d) CONDITION FOR APPLICATION OF SPECIAL PROFESSIONAL SERVICE PAYMENT ADJUSTMENT.—

(1) IN GENERAL.—Section 1834(g)(2) (42 U.S.C. 1395m(g)(2)) is amended by adding after and below subparagraph (B) the following:

''The Secretary may not require, as a condition for applying subparagraph (B) with respect to a critical access hospital, that each physician or other practitioner providing professional services in the hospital must assign billing rights with respect to such services, except that such subparagraph shall not apply to those physicians and practitioners who have not assigned such billing rights.''.

(2) EFFECTIVE DATE.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the amendment made by paragraph (1) shall apply to cost reporting periods beginning on or after July 1, 2004.

(B) RULE OF APPLICATION.—In the case of a critical access hospital that made an election under section 1834(g)(2) of the Social Security Act (42 U.S.C. 1395m(g)(2)) before November 1, 2003, the amendment made by paragraph (1) shall apply to cost reporting periods beginning on or after July 1, 2001.

(e) REVISION OF BED LIMITATION FOR HOSPITALS.—

(1) IN GENERAL.—Section 1820(c)(2)(B)(iii) (42 U.S.C. 1395i–4(c)(2)(B)(iii)) is amended by striking ''15 (or, in the case of a facility under an agreement described in subsection (f), 25)'' and inserting ''25''.

(2) CONFORMING AMENDMENT.—Section 1820(f) (42 U.S.C. 1395i–4(f)) is amended by striking ''and the number of beds used at any time for acute care inpatient services does not exceed 15 beds''.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to designations made before, on, or after January 1, 2004, but any election made pursuant to regulations promulgated to carry out such amendments shall only apply prospectively.

(f) PROVISIONS RELATING TO FLEX GRANTS.—

(1) ADDITIONAL 4-YEAR PERIOD OF FUNDING.—Section 1820(j) (42 U.S.C. 1395i–4(j)) is amended by inserting before the period at the end the following: '', and for making grants to all States under paragraphs (1) and (2) of subsection (g), $35,000,000 in each of fiscal years 2005 through 2008''.

(2) ADDITIONAL REQUIREMENTS AND ADMINISTRATION.—Section 1820(g) (42 U.S.C. 1395i–4(g)) is amended by adding at the end the following new paragraphs:

''(4) ADDITIONAL REQUIREMENTS WITH RESPECT TO FLEX GRANTS.—With respect to grants awarded under paragraph (1) or (2) from funds appropriated for fiscal year 2005 and subsequent fiscal years—

''(A) CONSULTATION WITH THE STATE HOSPITAL ASSOCIATION AND RURAL HOSPITALS ON THE MOST APPROPRIATE WAYS TO USE GRANTS.—A State shall consult with the hospital association of such State and rural hospitals located in such State on the most appropriate ways to use the funds under such grant.

''(B) LIMITATION ON USE OF GRANT FUNDS FOR ADMINISTRATIVE EXPENSES.—A State may not expend more than the lesser of—

''(i) 15 percent of the amount of the grant for administrative expenses; or

''(ii) the State's federally negotiated indirect rate for administering the grant.

''(5) USE OF FUNDS FOR FEDERAL ADMINISTRATIVE EXPENSES.—Of the total amount appropriated for grants under paragraphs (1) and (2) for a fiscal year (beginning with fiscal year 2005), up to 5 percent of such amount shall be available to the Health Resources and Services Administration for purposes of administering such grants.''.

(g) AUTHORITY TO ESTABLISH PSYCHIATRIC AND REHABILITATION DISTINCT PART UNITS.—

(1) IN GENERAL.—Section 1820(c)(2) (42 U.S.C. 1395i–4(c)(2)) is amended by adding at the end the following:

''(E) AUTHORITY TO ESTABLISH PSYCHIATRIC AND REHABILITATION DISTINCT PART UNITS.—

''(i) IN GENERAL.—Subject to the succeeding provisions of this subparagraph, a critical access hospital may establish—

''(I) a psychiatric unit of the hospital that is a distinct part of the hospital; and

''(II) a rehabilitation unit of the hospital that is a distinct part of the hospital,

if the distinct part meets the requirements (including conditions of participation) that would otherwise apply to the distinct part if the distinct part were established by a subsection (d) hospital in accordance with the matter following clause (v) of section 1886(d)(1)(B), including any regulations adopted by the Secretary under such section.

''(ii) LIMITATION ON NUMBER OF BEDS.—The total number of beds that may be established under clause (i) for a distinct part unit may not exceed 10.

''(iii) EXCLUSION OF BEDS FROM BED COUNT.—In determining the number of beds of a critical access hospital for purposes of applying the bed limitations referred to in subparagraph (B)(iii) and subsection (f), the Secretary shall not take into account any bed established under clause (i).

''(iv) EFFECT OF FAILURE TO MEET REQUIREMENTS.—If a psychiatric or rehabilitation unit established under clause (i) does not meet the requirements described in such clause with respect to a cost reporting period, no payment may be made under this title to the hospital for services furnished in such unit during such period. Payment to the hospital for services furnished in the unit may resume only after the hospital has demonstrated to the Secretary that the unit meets such requirements.''.

(2) PAYMENT ON A PROSPECTIVE PAYMENT BASIS.—Section 1814(l) (42 U.S.C. 1395f(l)) is amended—

(A) by striking ''(l) The amount'' and inserting ''(l)(1) Except as provided in paragraph (2), the amount''; and

(B) by adding at the end the following new paragraph:

''(2) In the case of a distinct part psychiatric or rehabilitation unit of a critical access hospital described in section 1820(c)(2)(E), the amount of payment for inpatient critical access hospital services of such unit shall be equal to the amount of the payment that would otherwise be made if such services were inpatient hospital services of a distinct part psychiatric or rehabilitation unit, respectively, described in the matter following clause (v) of section 1886(d)(1)(B).''.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to cost reporting periods beginning on or after October 1, 2004.

(h) WAIVER AUTHORITY.—

(1) IN GENERAL.—Section 1820(c)(2)(B)(i)(II) (42 U.S.C. 1395i–4(c)(2)(B)(i)(II)) is amended by inserting ''before January 1, 2006,'' after ''is certified''.

(2) GRANDFATHERING WAIVER AUTHORITY FOR CERTAIN FACILITIES.—Section 1820(h) (42 U.S.C. 1395i–4(h)) is amended—

(A) in the heading preceding paragraph (1), by striking ''OF CERTAIN FACILITIES'' and inserting ''PROVISIONS''; and

(B) by adding at the end the following new paragraph:

''(3) STATE AUTHORITY TO WAIVE 35-MILE RULE.—In the case of a facility that was designated as a critical access hospital before January 1, 2006, and was certified by the State as being a necessary provider of health care services to residents in the area under subsection (c)(2)(B)(i)(II), as in effect before such date, the authority under such subsection with respect to any redesignation of such facility shall continue to apply notwithstanding the amendment made by section 105(h)(1) of the Medicare Provider Restoration Act of 2003.''.

SEC. 106. MEDICARE INPATIENT HOSPITAL PAYMENT ADJUSTMENT FOR LOW-VOLUME HOSPITALS.

(a) IN GENERAL.—Section 1886(d) (42 U.S.C. 1395ww(d)) is amended by adding at the end the following new paragraph:

''(12) PAYMENT ADJUSTMENT FOR LOW-VOLUME HOSPITALS.—

''(A) IN GENERAL.—In addition to any payments calculated under this section for a subsection (d) hospital, for discharges occurring during a fiscal year (beginning with fiscal year 2005), the Secretary shall provide for an additional payment amount to each low-volume hospital (as defined in subparagraph (C)(i)) for discharges occurring during that fiscal year that is equal to the applicable percentage increase (determined under subparagraph (B) for the hospital involved) in the amount paid to such hospital under this section for such discharges (determined without regard to this paragraph).

''(B) APPLICABLE PERCENTAGE INCREASE.—The Secretary shall determine an applicable percentage increase for purposes of subparagraph (A) as follows:

''(i) The Secretary shall determine the empirical relationship for subsection (d) hospitals between the standardized cost-per-case for such hospitals and the total number of discharges of such hospitals and the amount of the additional incremental costs (if any) that are associated with such number of discharges.

''(ii) The applicable percentage increase shall be determined based upon such relationship in a manner that reflects, based upon the number of such discharges for a subsection (d) hospital, such additional incremental costs.

''(iii) In no case shall the applicable percentage increase exceed 25 percent.

''(C) DEFINITIONS.—

''(i) LOW-VOLUME HOSPITAL.—For purposes of this paragraph, the term 'low-volume hospital' means, for a fiscal year, a subsection (d) hospital (as defined in paragraph (1)(B)) that the Secretary determines is located more than 25 road miles from another subsection (d) hospital and has less than 800 discharges during the fiscal year.

''(ii) DISCHARGE.—For purposes of subparagraph (B) and clause (i), the term 'discharge' means an inpatient acute care discharge of an individual regardless of whether the individual is entitled to benefits under part A.''.

(b) JUDICIAL REVIEW.—Section 1886(d)(7)(A) (42 U.S.C. 1395ww(d)(7)(A)) is amended by inserting after ''to subsection (e)(1)'' the following: ''or the determination of the applicable percentage increase under paragraph (12)(A)(ii)''.

SEC. 107. TREATMENT OF MISSING COST REPORTING PERIODS FOR SOLE COMMUNITY HOSPITALS.

(a) IN GENERAL.—Section 1886(b)(3)(I) (42 U.S.C. 1395ww(b)(3)(I)) is amended by adding at the end the following new clause:

''(iii) In no case shall a hospital be denied treatment as a sole community hospital or payment (on the basis of a target rate as such as a hospital) because data are unavailable for any cost reporting period due to changes in ownership, changes in fiscal intermediaries, or other extraordinary circumstances, so long as data for at least one applicable base cost reporting period is available.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to cost reporting periods beginning on or after January 1, 2004.

SEC. 108. RECOGNITION OF ATTENDING NURSE PRACTITIONERS AS ATTENDING PHYSICIANS TO SERVE HOSPICE PATIENTS.

(a) IN GENERAL.—Section 1861(dd)(3)(B) (42 U.S.C. 1395x(dd)(3)(B)) is amended by inserting ''or nurse practitioner (as defined in subsection (aa)(5))'' after ''the physician (as defined in subsection (r)(1))''.

(b) CLARIFICATION OF HOSPICE ROLE OF NURSE PRACTITIONERS.—Section 1814(a)(7)(A)(i)(I) (42 U.S.C. 1395f(a)(7)(A)(i)(I)) is amended by inserting ''(which for purposes of this subparagraph does not include a nurse practitioner)'' after ''attending physician (as defined in section 1861(dd)(3)(B))''.

SEC. 109. RURAL HOSPICE DEMONSTRATION PROJECT.

(a) IN GENERAL.—The Secretary shall conduct a demonstration project for the delivery of hospice care to medicare beneficiaries in rural areas. Under the project medicare beneficiaries who are unable to receive hospice care in the facility for lack of an appropriate caregiver are provided such care in a facility of 20 or fewer beds which offers, within its walls, the full range of services provided by hospice programs under section 1861(dd) of the Social Security Act (42 U.S.C. 1395x(dd)).

(b) SCOPE OF PROJECT.—The Secretary shall conduct the project under this section with respect to no more than 3 hospice programs over a period of not longer than 5 years each.

(c) COMPLIANCE WITH CONDITIONS.—Under the demonstration project—

(1) the hospice program shall comply with otherwise applicable requirements, except that it shall not be required to offer services outside of the home or to meet the requirements of section 1861(dd)(2)(A)(iii) of the Social Security Act; and

(2) payments for hospice care shall be made at the rates otherwise applicable to such care under title XVIII of such Act.

The Secretary may require the program to comply with such additional quality assurance standards for its provision of services in its facility as the Secretary deems appropriate.

(d) REPORT.—Upon completion of the project, the Secretary shall submit a report to Congress on the project and shall include in the report recommendations regarding extension of such project to hospice programs serving rural areas.

SEC. 110. EXCLUSION OF CERTAIN RURAL HEALTH CLINIC AND FEDERALLY QUALIFIED HEALTH CENTER SERVICES FROM THE PROSPECTIVE PAYMENT SYSTEM FOR SKILLED NURSING FACILITIES.

(a) IN GENERAL.—Section 1888(e)(2)(A) (42 U.S.C. 1395yy(e)(2)(A)) is amended—

(1) in clause (i)(II), by striking ''clauses (ii) and (iii)'' and inserting ''clauses (ii), (iii), and (iv)''; and

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

''(iv) EXCLUSION OF CERTAIN RURAL HEALTH CLINIC AND FEDERALLY QUALIFIED HEALTH CENTER SERVICES.—Services described in this clause are—

''(I) rural health clinic services (as defined in paragraph (1) of section 1861(aa)); and

''(II) Federally qualified health center services (as defined in paragraph (3) of such section);

that would be described in clause (ii) if such services were furnished by an individual not affiliated with a rural health clinic or a Federally qualified health center.''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to services furnished on or after January 1, 2005.

SEC. 110A. RURAL COMMUNITY HOSPITAL DEMONSTRATION PROGRAM.

(a) ESTABLISHMENT OF RURAL COMMUNITY HOSPITAL (RCH) DEMONSTRATION PROGRAM.—

(1) IN GENERAL.—The Secretary shall establish a demonstration program to test the feasibility and advisability of the establishment of rural community hospitals (as defined in subsection (f)(1)) to furnish covered inpatient hospital services (as defined in subsection (f)(2)) to medicare beneficiaries.

(2) DEMONSTRATION AREAS.—The program shall be conducted in rural areas selected by

the Secretary in States with low population densities, as determined by the Secretary.

(3) APPLICATION.—Each rural community hospital that is located in a demonstration area selected under paragraph (2) that desires to participate in the demonstration program under this section shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

(4) SELECTION OF HOSPITALS.—The Secretary shall select from among rural community hospitals submitting applications under paragraph (3) not more than 15 of such hospitals to participate in the demonstration program under this section.

(5) DURATION.—The Secretary shall conduct the demonstration program under this section for a 5-year period.

(6) IMPLEMENTATION.—The Secretary shall implement the demonstration program not later than January 1, 2005, but may not implement the program before October 1, 2004.

(b) PAYMENT.—

(1) IN GENERAL.—The amount of payment under the demonstration program for covered inpatient hospital services furnished in a rural community hospital, other than such services furnished in a psychiatric or rehabilitation unit of the hospital which is a distinct part, is—

(A) for discharges occurring in the first cost reporting period beginning on or after the implementation of the demonstration program, the reasonable costs of providing such services; and

(B) for discharges occurring in a subsequent cost reporting period under the demonstration program, the lesser of—

(i) the reasonable costs of providing such services in the cost reporting period involved; or

(ii) the target amount (as defined in paragraph (2), applicable to the cost reporting period involved.

(2) TARGET AMOUNT.—For purposes of paragraph (1)(B)(ii), the term ''target amount'' means, with respect to a rural community hospital for a particular 12-month cost reporting period—

(A) in the case of the second such reporting period for which this subsection is in effect, the reasonable costs of providing such covered inpatient hospital services as determined under paragraph (1)(A), and

(B) in the case of a later reporting period, the target amount for the preceding 12-month cost reporting period,

increased by the applicable percentage increase (under clause (i) of section 1886(b)(3)(B) of the Social Security Act (42 U.S.C. 1395ww(b)(3)(B))) in the market basket percentage increase (as defined in clause (iii) of such section) for that particular cost reporting period.

(c) FUNDING.—

(1) IN GENERAL.—The Secretary shall provide for the transfer from the Federal Hospital Insurance Trust Fund under section 1817 of the Social Security Act (42 U.S.C. 1395i) of such funds as are necessary for the costs of carrying out the demonstration program under this section.

(2) BUDGET NEUTRALITY.—In conducting the demonstration program under this section, the Secretary shall ensure that the aggregate payments made by the Secretary do not exceed the amount which the Secretary would have paid if the demonstration program under this section was not implemented.

(d) WAIVER AUTHORITY.—The Secretary may waive such requirements of title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) as may be necessary for the purpose of carrying out the demonstration program under this section.

(e) REPORT.—Not later than 6 months after the completion of the demonstration program under this section, the Secretary shall submit to Congress a report on such program, together with recommendations for such legislation and administrative action as the Secretary determines to be appropriate.

(f) DEFINITIONS.—In this section:

(1) RURAL COMMUNITY HOSPITAL DEFINED.—

(A) IN GENERAL.—The term ''rural community hospital'' means a hospital (as defined in section 1861(e) of the Social Security Act (42 U.S.C. 1395x(e))) that—

(i) is located in a rural area (as defined in section 1886(d)(2)(D) of such Act (42 U.S.C. 1395ww(d)(2)(D))) or treated as being so located pursuant to section 1886(d)(8)(E) of such Act (42 U.S.C. 1395ww(d)(8)(E));

(ii) subject to paragraph (2), has fewer than 51 acute care inpatient beds, as reported in its most recent cost report;

(iii) makes available 24-hour emergency care services; and

(iv) is not eligible for designation, or has not been designated, as a critical access hospital under section 1820.

(B) TREATMENT OF PSYCHIATRIC AND REHABILITATION UNITS.—For purposes of paragraph (1)(B), beds in a psychiatric or rehabilitation unit of the hospital which is a distinct part of the hospital shall not be counted.

(2) COVERED INPATIENT HOSPITAL SERVICES.—The term ''covered inpatient hospital services'' means inpatient hospital services, and includes extended care services furnished under an agreement under section 1883 of the Social Security Act (42 U.S.C. 1395tt).

Subtitle B—Provisions Relating to Part B Only

SEC. 111. 2-YEAR EXTENSION OF HOLD HARMLESS PROVISIONS FOR SMALL RURAL HOSPITALS AND SOLE COMMUNITY HOSPITALS UNDER THE PROSPECTIVE PAYMENT SYSTEM FOR HOSPITAL OUTPATIENT DEPARTMENT SERVICES.

(a) HOLD HARMLESS PROVISIONS.—

(1) IN GENERAL.—Section 1833(t)(7)(D)(i) (42 U.S.C. 1395l(t)(7)(D)(i)) is amended—

(A) in the heading, by striking ''SMALL'' and inserting ''CERTAIN'';

(B) by inserting ''or a sole community hospital (as defined in section 1886(d)(5)(D)(iii)) located in a rural area'' after ''100 beds''; and

(C) by striking ''2004'' and inserting ''2006''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1)(B) shall apply with respect to cost reporting periods beginning on and after January 1, 2004.

(b) STUDY; AUTHORIZATION OF ADJUSTMENT.—Section 1833(t) (42 U.S.C. 1395l(t)) is amended—

(1) by redesignating paragraph (13) as paragraph (16); and

(2) by inserting after paragraph (12) the following new paragraph:

''(13) AUTHORIZATION OF ADJUSTMENT FOR RURAL HOSPITALS.—

''(A) STUDY.—The Secretary shall conduct a study to determine if, under the system under this subsection, costs incurred by hospitals located in rural areas by ambulatory payment classification groups (APCs) exceed those costs incurred by hospitals located in urban areas.

''(B) AUTHORIZATION OF ADJUSTMENT.—Insofar as the Secretary determines under subparagraph (A) that costs incurred by hospitals located in rural areas exceed those costs incurred by hospitals located in urban areas, the Secretary shall provide for an appropriate adjustment under paragraph (2)(E) to reflect those higher costs by January 1, 2006.''.

SEC. 112. ESTABLISHMENT OF FLOOR ON WORK GEOGRAPHIC ADJUSTMENT.

Section 1848(e)(1) (42 U.S.C. 1395w–4(e)(1)) is amended—

(1) in subparagraph (A), by striking ''subparagraphs (B) and (C)'' and inserting ''subparagraphs (B), (C), and (E)''; and

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

''(E) FLOOR AT 1.0 ON WORK GEOGRAPHIC INDEX.—After calculating the work geographic index in subparagraph (A)(iii), for purposes of payment for services furnished on or after January 1, 2004, and before January 1, 2007, the Secretary shall increase the work geographic index to 1.00 for any locality for which such work geographic index is less than 1.00.''.

SEC. 113. MEDICARE INCENTIVE PAYMENT PROGRAM IMPROVEMENTS FOR PHYSICIAN SCARCITY.

(a) ADDITIONAL INCENTIVE PAYMENT FOR CERTAIN PHYSICIAN SCARCITY AREAS.—Section 1833 (42 U.S.C. 1395l) is amended by adding at the end the following new subsection:

''(u) INCENTIVE PAYMENTS FOR PHYSICIAN SCARCITY AREAS.—

''(1) IN GENERAL.—In the case of physicians' services furnished on or after January 1, 2005, and before January 1, 2008—

''(A) by a primary care physician in a primary care scarcity county (identified under paragraph (4)); or

''(B) by a physician who is not a primary care physician in a specialist care scarcity county (as so identified),

in addition to the amount of payment that would otherwise be made for such services under this part, there also shall be paid an amount equal to 5 percent of the payment amount for the service under this part.

''(2) DETERMINATION OF RATIOS OF PHYSICIANS TO MEDICARE BENEFICIARIES IN AREA.—Based upon available data, the Secretary shall establish for each county or equivalent area in the United States, the following:

''(A) NUMBER OF PHYSICIANS PRACTICING IN THE AREA.—The number of physicians who furnish physicians' services in the active practice of medicine or osteopathy in that county or area, other than physicians whose practice is exclusively for the Federal Government, physicians who are retired, or physicians who only provide administrative services. Of such number, the number of such physicians who are—

''(i) primary care physicians; or

''(ii) physicians who are not primary care physicians.

''(B) NUMBER OF MEDICARE BENEFICIARIES RESIDING IN THE AREA.—The number of individuals who are residing in the county and are entitled to benefits under part A or enrolled under this part, or both (in this subsection referred to as 'individuals').

''(C) DETERMINATION OF RATIOS.—

''(i) PRIMARY CARE RATIO.—The ratio (in this paragraph referred to as the 'primary care ratio') of the number of primary care physicians (determined under subparagraph (A)(i)), to the number of individuals determined under subparagraph (B).

''(ii) SPECIALIST CARE RATIO.—The ratio (in this paragraph referred to as the 'specialist care ratio') of the number of other physicians (determined under subparagraph (A)(ii)), to the number of individuals determined under subparagraph (B).

''(3) RANKING OF COUNTIES.—The Secretary shall rank each such county or area based separately on its primary care ratio and its specialist care ratio.

''(4) IDENTIFICATION OF COUNTIES.—

''(A) IN GENERAL.—The Secretary shall identify—

''(i) those counties and areas (in this paragraph referred to as 'primary care scarcity counties') with the lowest primary care ratios that represent, if each such county or area were weighted by the number of individuals determined under paragraph (2)(B), an

aggregate total of 20 percent of the total of the individuals determined under such paragraph; and

''(ii) those counties and areas (in this subsection referred to as 'specialist care scarcity counties') with the lowest specialist care ratios that represent, if each such county or area were weighted by the number of individuals determined under paragraph (2)(B), an aggregate total of 20 percent of the total of the individuals determined under such paragraph.

''(B) PERIODIC REVISIONS.—The Secretary shall periodically revise the counties or areas identified in subparagraph (A) (but not less often than once every three years) unless the Secretary determines that there is no new data available on the number of physicians practicing in the county or area or the number of individuals residing in the county or area, as identified in paragraph (2).

''(C) IDENTIFICATION OF COUNTIES WHERE SERVICE IS FURNISHED.—For purposes of paying the additional amount specified in paragraph (1), if the Secretary uses the 5-digit postal ZIP Code where the service is furnished, the dominant county of the postal ZIP Code (as determined by the United States Postal Service, or otherwise) shall be used to determine whether the postal ZIP Code is in a scarcity county identified in subparagraph (A) or revised in subparagraph (B).

''(D) JUDICIAL REVIEW.—There shall be no administrative or judicial review under section 1869, 1878, or otherwise, respecting—

''(i) the identification of a county or area;

''(ii) the assignment of a specialty of any physician under this paragraph;

''(iii) the assignment of a physician to a county under paragraph (2); or

''(iv) the assignment of a postal ZIP Code to a county or other area under this subsection.

''(5) RURAL CENSUS TRACTS.—To the extent feasible, the Secretary shall treat a rural census tract of a metropolitan statistical area (as determined under the most recent modification of the Goldsmith Modification, originally published in the Federal Register on February 27, 1992 (57 Fed. Reg. 6725)), as an equivalent area for purposes of qualifying as a primary care scarcity county or specialist care scarcity county under this subsection.

''(6) PHYSICIAN DEFINED.—For purposes of this paragraph, the term 'physician' means a physician described in section 1861(r)(1) and the term 'primary care physician' means a physician who is identified in the available data as a general practitioner, family practice practitioner, general internist, or obstetrician or gynecologist.

''(7) PUBLICATION OF LIST OF COUNTIES; POSTING ON WEBSITE.—With respect to a year for which a county or area is identified or revised under paragraph (4), the Secretary shall identify such counties or areas as part of the proposed and final rule to implement the physician fee schedule under section 1848 for the applicable year. The Secretary shall post the list of counties identified or revised under paragraph (4) on the Internet website of the Centers for Medicare & Medicaid Services.''.

(b) IMPROVEMENT TO MEDICARE INCENTIVE PAYMENT PROGRAM.—

(1) IN GENERAL.—Section 1833(m) (42 U.S.C. 1395l(m)) is amended—

(A) by inserting ''(1)'' after ''(m)'';

(B) in paragraph (1), as designated by subparagraph (A)—

(i) by inserting ''in a year'' after ''In the case of physicians' services furnished''; and

(ii) by inserting ''as identified by the Secretary prior to the beginning of such year'' after ''as a health professional shortage area''; and

(C) by adding at the end the following new paragraphs:

''(2) For each health professional shortage area identified in paragraph (1) that consists of an entire county, the Secretary shall provide for the additional payment under paragraph (1) without any requirement on the physician to identify the health professional shortage area involved. The Secretary may implement the previous sentence using the method specified in subsection (u)(4)(C).

''(3) The Secretary shall post on the Internet website of the Centers for Medicare & Medicaid Services a list of the health professional shortage areas identified in paragraph (1) that consist of a partial county to facilitate the additional payment under paragraph (1) in such areas.

''(4) There shall be no administrative or judicial review under section 1869, section 1878, or otherwise, respecting—

''(A) the identification of a county or area;

''(B) the assignment of a specialty of any physician under this paragraph;

''(C) the assignment of a physician to a county under this subsection; or

''(D) the assignment of a postal zip code to a county or other area under this subsection.''.

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall apply to physicians' services furnished on or after January 1, 2005.

(c) GAO STUDY OF GEOGRAPHIC DIFFERENCES IN PAYMENTS FOR PHYSICIANS' SERVICES.—

(1) STUDY.—The Comptroller General of the United States shall conduct a study of differences in payment amounts under the physician fee schedule under section 1848 of the Social Security Act (42 U.S.C. 1395w–4) for physicians' services in different geographic areas. Such study shall include—

(A) an assessment of the validity of the geographic adjustment factors used for each component of the fee schedule;

(B) an evaluation of the measures used for such adjustment, including the frequency of revisions;

(C) an evaluation of the methods used to determine professional liability insurance costs used in computing the malpractice component, including a review of increases in professional liability insurance premiums and variation in such increases by State and physician specialty and methods used to update the geographic cost of practice index and relative weights for the malpractice component; and

(D) an evaluation of the effect of the adjustment to the physician work geographic index under section 1848(e)(1)(E) of the Social Security Act, as added by section 112, on physician location and retention in areas affected by such adjustment, taking into account—

(i) differences in recruitment costs and retention rates for physicians, including specialists, between large urban areas and other areas; and

(ii) the mobility of physicians, including specialists, over the last decade.

(2) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Comptroller General shall submit to Congress a report on the study conducted under paragraph (1). The report shall include recommendations regarding the use of more current data in computing geographic cost of practice indices as well as the use of data directly representative of physicians' costs (rather than proxy measures of such costs).

SEC. 114. PAYMENT FOR RURAL AND URBAN AMBULANCE SERVICES.

(a) PHASE-IN PROVIDING FLOOR USING BLEND OF FEE SCHEDULE AND REGIONAL FEE SCHEDULES.—Section 1834(l) (42 U.S.C. 1395m(l)) is amended—

(1) in paragraph (2)(E), by inserting ''consistent with paragraph (11)'' after ''in an efficient and fair manner''; and

(2) by redesignating paragraph (8), as added by section 221(a) of BIPA (114 Stat. 2763A–486), as paragraph (9); and

(3) by adding at the end the following new paragraph:

''(10) PHASE-IN PROVIDING FLOOR USING BLEND OF FEE SCHEDULE AND REGIONAL FEE SCHEDULES.—In carrying out the phase-in under paragraph (2)(E) for each level of ground service furnished in a year, the portion of the payment amount that is based on the fee schedule shall be the greater of the amount determined under such fee schedule (without regard to this paragraph) or the following blended rate of the fee schedule under paragraph (1) and of a regional fee schedule for the region involved:

''(A) For 2004 (for services furnished on or after July 1, 2004), the blended rate shall be based 20 percent on the fee schedule under paragraph (1) and 80 percent on the regional fee schedule.

''(B) For 2005, the blended rate shall be based 40 percent on the fee schedule under paragraph (1) and 60 percent on the regional fee schedule.

''(C) For 2006, the blended rate shall be based 60 percent on the fee schedule under paragraph (1) and 40 percent on the regional fee schedule.

''(D) For 2007, 2008, and 2009, the blended rate shall be based 80 percent on the fee schedule under paragraph (1) and 20 percent on the regional fee schedule.

''(E) For 2010 and each succeeding year, the blended rate shall be based 100 percent on the fee schedule under paragraph (1).

For purposes of this paragraph, the Secretary shall establish a regional fee schedule for each of the nine census divisions (referred to in section 1886(d)(2)) using the methodology (used in establishing the fee schedule under paragraph (1)) to calculate a regional conversion factor and a regional mileage payment rate and using the same payment adjustments and the same relative value units as used in the fee schedule under such paragraph.''.

(b) ADJUSTMENT IN PAYMENT FOR CERTAIN LONG TRIPS.—Section 1834(l), as amended by subsection (a), is amended by adding at the end the following new paragraph:

''(11) ADJUSTMENT IN PAYMENT FOR CERTAIN LONG TRIPS.—In the case of ground ambulance services furnished on or after July 1, 2004, and before January 1, 2009, regardless of where the transportation originates, the fee schedule established under this subsection shall provide that, with respect to the payment rate for mileage for a trip above 50 miles the per mile rate otherwise established shall be increased by ¼ of the payment per mile otherwise applicable to miles in excess of 50 miles in such trip.''.

(c) IMPROVEMENT IN PAYMENTS TO RETAIN EMERGENCY CAPACITY FOR AMBULANCE SERVICES IN RURAL AREAS.—

(1) IN GENERAL.—Section 1834(l) (42 U.S.C. 1395m(l)), as amended by subsections (a) and (b), is amended by adding at the end the following new paragraph:

''(12) ASSISTANCE FOR RURAL PROVIDERS FURNISHING SERVICES IN LOW POPULATION DENSITY AREAS.—

''(A) IN GENERAL.—In the case of ground ambulance services furnished on or after July 1, 2004, and before January 1, 2010, for which the transportation originates in a qualified rural area (identified under subparagraph (B)(iii)), the Secretary shall provide for a percent increase in the base rate of the fee schedule for a trip established under this subsection. In establishing such percent increase, the Secretary shall estimate the

average cost per trip for such services (not taking into account mileage) in the lowest quartile as compared to the average cost per trip for such services (not taking into account mileage) in the highest quartile of all rural county populations.

''(B) IDENTIFICATION OF QUALIFIED RURAL AREAS.—

''(i) DETERMINATION OF POPULATION DENSITY IN AREA.—Based upon data from the United States decennial census for the year 2000, the Secretary shall determine, for each rural area, the population density for that area.

''(ii) RANKING OF AREAS.—The Secretary shall rank each such area based on such population density.

''(iii) IDENTIFICATION OF QUALIFIED RURAL AREAS.—The Secretary shall identify those areas (in subparagraph (A) referred to as 'qualified rural areas') with the lowest population densities that represent, if each such area were weighted by the population of such area (as used in computing such population densities), an aggregate total of 25 percent of the total of the population of all such areas.

''(iv) RURAL AREA.—For purposes of this paragraph, the term 'rural area' has the meaning given such term in section 1886(d)(2)(D). If feasible, the Secretary shall treat a rural census tract of a metropolitan statistical area (as determined under the most recent modification of the Goldsmith Modification, originally published in the Federal Register on February 27, 1992 (57 Fed. Reg. 6725) as a rural area for purposes of this paragraph.

''(v) JUDICIAL REVIEW.—There shall be no administrative or judicial review under section 1869, 1878, or otherwise, respecting the identification of an area under this subparagraph.''.

(2) USE OF DATA.—In order to promptly implement section 1834(l)(12) of the Social Security Act, as added by paragraph (1), the Secretary may use data furnished by the Comptroller General of the United States.

(d) TEMPORARY INCREASE FOR GROUND AMBULANCE SERVICES.—Section 1834(l) (42 U.S.C. 1395m(l)), as amended by subsections (a), (b), and (c), is amended by adding at the end the following new paragraph:

''(13) TEMPORARY INCREASE FOR GROUND AMBULANCE SERVICES.—

''(A) IN GENERAL.—After computing the rates with respect to ground ambulance services under the other applicable provisions of this subsection, in the case of such services furnished on or after July 1, 2004, and before January 1, 2007, for which the transportation originates in—

''(i) a rural area described in paragraph (9) or in a rural census tract described in such paragraph, the fee schedule established under this section shall provide that the rate for the service otherwise established, after the application of any increase under paragraphs (11) and (12), shall be increased by 2 percent; and

''(ii) an area not described in clause (i), the fee schedule established under this subsection shall provide that the rate for the service otherwise established, after the application of any increase under paragraph (11), shall be increased by 1 percent.

''(B) APPLICATION OF INCREASED PAYMENTS AFTER 2006.—The increased payments under subparagraph (A) shall not be taken into account in calculating payments for services furnished after the period specified in such subparagraph.''.

(e) IMPLEMENTATION.—The Secretary may implement the amendments made by this section, and revise the conversion factor applicable under section 1834(l) of the Social Security Act (42 U.S.C. 1395m(l)) for purposes of implementing such amendments, on an interim final basis, or by program instruction.

(f) GAO REPORT ON COSTS AND ACCESS.—Not later than December 31, 2005, the Comptroller General of the United States shall submit to Congress an initial report on how costs differ among the types of ambulance providers and on access, supply, and quality of ambulance services in those regions and States that have a reduction in payment under the medicare ambulance fee schedule (under section 1834(l) of the Social Security Act, as amended by this Act). Not later than December 31, 2007, the Comptroller General shall submit to Congress a final report on such access and supply.

(g) TECHNICAL AMENDMENTS.—(1) Section 221(c) of BIPA (114 Stat. 2763A–487) is amended by striking ''subsection (b)(2)'' and inserting ''subsection (b)(3)''.

(2) Section 1861(v)(1) (42 U.S.C. 1395x(v)(1)) is amended by moving subparagraph (U) 4 ems to the left.

SEC. 115. PROVIDING APPROPRIATE COVERAGE OF RURAL AIR AMBULANCE SERVICES.

(a) COVERAGE.—Section 1834(l) (42 U.S.C. 1395m(l)), as amended by subsections (a), (b), (c), and (d) of section 114, is amended by adding at the end the following new paragraph:

''(14) PROVIDING APPROPRIATE COVERAGE OF RURAL AIR AMBULANCE SERVICES.—

''(A) IN GENERAL.—The regulations described in section 1861(s)(7) shall provide, to the extent that any ambulance services (whether ground or air) may be covered under such section, that a rural air ambulance service (as defined in subparagraph (C)) is reimbursed under this subsection at the air ambulance rate if the air ambulance service—

''(i) is reasonable and necessary based on the health condition of the individual being transported at or immediately prior to the time of the transport; and

''(ii) complies with equipment and crew requirements established by the Secretary.

''(B) SATISFACTION OF REQUIREMENT OF MEDICALLY NECESSARY.—The requirement of subparagraph (A)(i) is deemed to be met for a rural air ambulance service if—

''(i) subject to subparagraph (D), such service is requested by a physician or other qualified medical personnel (as specified by the Secretary) who reasonably determines or certifies that the individual's condition is such that the time needed to transport the individual by land or the instability of transportation by land poses a threat to the individual's survival or seriously endangers the individual's health; or

''(ii) such service is furnished pursuant to a protocol that is established by a State or regional emergency medical service (EMS) agency and recognized or approved by the Secretary under which the use of an air ambulance is recommended, if such agency does not have an ownership interest in the entity furnishing such service.

''(C) RURAL AIR AMBULANCE SERVICE DEFINED.—For purposes of this paragraph, the term 'rural air ambulance service' means fixed wing and rotary wing air ambulance service in which the point of pick up of the individual occurs in a rural area (as defined in section 1886(d)(2)(D)) or in a rural census tract of a metropolitan statistical area (as determined under the most recent modification of the Goldsmith Modification, originally published in the Federal Register on February 27, 1992 (57 Fed. Reg. 6725)).

''(D) LIMITATION.—

''(i) IN GENERAL.—Subparagraph (B)(i) shall not apply if there is a financial or employment relationship between the person requesting the rural air ambulance service and the entity furnishing the ambulance service, or an entity under common ownership with the entity furnishing the air ambulance service, or a financial relationship between an immediate family member of such requester and such an entity.

''(ii) EXCEPTION.—Where a hospital and the entity furnishing rural air ambulance services are under common ownership, clause (i) shall not apply to remuneration (through employment or other relationship) by the hospital of the requester or immediate family member if the remuneration is for provider-based physician services furnished in a hospital (as described in section 1887) which are reimbursed under part A and the amount of the remuneration is unrelated directly or indirectly to the provision of rural air ambulance services.''.

(b) CONFORMING AMENDMENT.—Section 1861(s)(7) (42 U.S.C. 1395x(s)(7)) is amended by inserting '', subject to section 1834(l)(14),'' after ''but''.

(c) EFFECTIVE DATE.—The amendments made by this subsection shall apply to services furnished on or after January 1, 2005.

SEC. 116. TREATMENT OF CERTAIN CLINICAL DIAGNOSTIC LABORATORY TESTS FURNISHED TO HOSPITAL OUTPATIENTS IN CERTAIN RURAL AREAS.

(a) IN GENERAL.—Notwithstanding subsections (a), (b), and (h) of section 1833 of the Social Security Act (42 U.S.C. 1395l) and section 1834(d)(1) of such Act (42 U.S.C. 1395m(d)(1)), in the case of a clinical diagnostic laboratory test covered under part B of title XVIII of such Act that is furnished during a cost reporting period described in subsection (b) by a hospital with fewer than 50 beds that is located in a qualified rural area (identified under paragraph (12)(B)(iii) of section 1834(l) of the Social Security Act (42 U.S.C. 1395m(l)), as added by section 114(c)) as part of outpatient services of the hospital, the amount of payment for such test shall be 100 percent of the reasonable costs of the hospital in furnishing such test.

(b) APPLICATION.—A cost reporting period described in this subsection is a cost reporting period beginning during the 2-year period beginning on July 1, 2004.

(c) PROVISION AS PART OF OUTPATIENT HOSPITAL SERVICES.—For purposes of subsection (a), in determining whether clinical diagnostic laboratory services are furnished as part of outpatient services of a hospital, the Secretary shall apply the same rules that are used to determine whether clinical diagnostic laboratory services are furnished as an outpatient critical access hospital service under section 1834(g)(4) of the Social Security Act (42 U.S.C. 1395m(g)(4)).

SEC. 117. EXTENSION OF TELEMEDICINE DEMONSTRATION PROJECT.

Section 4207 of the Balanced Budget Act of 1997 (Public Law 105–33) is amended—

(1) in subsection (a)(4), by striking ''4-year'' and inserting ''8-year''; and

(2) in subsection (d)(3), by striking ''$30,000,000'' and inserting ''$60,000,000''.

SEC. 118. REPORT ON DEMONSTRATION PROJECT PERMITTING SKILLED NURSING FACILITIES TO BE ORIGINATING TELEHEALTH SITES; AUTHORITY TO IMPLEMENT.

(a) EVALUATION.—The Secretary, acting through the Administrator of the Health Resources and Services Administration in consultation with the Administrator of the Centers for Medicare & Medicaid Services, shall evaluate demonstration projects conducted by the Secretary under which skilled nursing facilities (as defined in section 1819(a) of the Social Security Act (42 U.S.C. 1395i–3(a)) are treated as originating sites for telehealth services.

(b) REPORT.—Not later than January 1, 2005, the Secretary shall submit to Congress a report on the evaluation conducted under subsection (a). Such report shall include recommendations on mechanisms to ensure that permitting a skilled nursing facility to

serve as an originating site for the use of telehealth services or any other service delivered via a telecommunications system does not serve as a substitute for in-person visits furnished by a physician, or for in-person visits furnished by a physician assistant, nurse practitioner or clinical nurse specialist, as is otherwise required by the Secretary.

(c) AUTHORITY TO EXPAND ORIGINATING TELEHEALTH SITES TO INCLUDE SKILLED NURSING FACILITIES.—Insofar as the Secretary concludes in the report required under subsection (b) that is advisable to permit a skilled nursing facility to be an originating site for telehealth services under section 1834(m) of the Social Security Act (42 U.S.C. 1395m(m)), and that the Secretary can establish the mechanisms to ensure such permission does not serve as a substitute for in-person visits furnished by a physician, or for in-person visits furnished by a physician assistant, nurse practitioner or clinical nurse specialist, the Secretary may deem a skilled nursing facility to be an originating site under paragraph (4)(C)(ii) of such section beginning on January 1, 2006.

Subtitle C—Provisions Relating to Parts A and B

SEC. 121. 1-YEAR INCREASE FOR HOME HEALTH SERVICES FURNISHED IN A RURAL AREA.

(a) IN GENERAL.—With respect to episodes and visits ending on or after April 1, 2004, and before April 1, 2005, in the case of home health services furnished in a rural area (as defined in section 1886(d)(2)(D) of the Social Security Act (42 U.S.C. 1395ww(d)(2)(D))), the Secretary shall increase the payment amount otherwise made under section 1895 of such Act (42 U.S.C. 1395fff) for such services by 5 percent.

(b) WAIVING BUDGET NEUTRALITY.—The Secretary shall not reduce the standard prospective payment amount (or amounts) under section 1895 of the Social Security Act (42 U.S.C. 1395fff) applicable to home health services furnished during a period to offset the increase in payments resulting from the application of subsection (a).

(c) NO EFFECT ON SUBSEQUENT PERIODS.—The payment increase provided under subsection (a) for a period under such subsection—

(1) shall not apply to episodes and visits ending after such period; and

(2) shall not be taken into account in calculating the payment amounts applicable for episodes and visits occurring after such period.

SEC. 122. REDISTRIBUTION OF UNUSED RESIDENT POSITIONS.

(a) IN GENERAL.—Section 1886(h) (42 U.S.C. 1395ww(h)(4)) is amended—

(1) in paragraph (4)(F)(i), by inserting ''subject to paragraph (7),'' after ''October 1, 1997,'';

(2) in paragraph (4)(H)(i), by inserting ''and subject to paragraph (7),'' after ''subparagraphs (F) and (G)''; and

(3) by adding at the end the following new paragraph:

''(7) REDISTRIBUTION OF UNUSED RESIDENT POSITIONS.—

''(A) REDUCTION IN LIMIT BASED ON UNUSED POSITIONS.—

''(i) PROGRAMS SUBJECT TO REDUCTION.—

''(I) IN GENERAL.—Except as provided in subclause (II), if a hospital's reference resident level (specified in clause (ii)) is less than the otherwise applicable resident limit (as defined in subparagraph (C)(ii)), effective for portions of cost reporting periods occurring on or after July 1, 2005, the otherwise applicable resident limit shall be reduced by 75 percent of the difference between such otherwise applicable resident limit and such reference resident level.

''(II) EXCEPTION FOR SMALL RURAL HOSPITALS.—This subparagraph shall not apply to a hospital located in a rural area (as defined in subsection (d)(2)(D)(ii)) with fewer than 250 acute care inpatient beds.

''(ii) REFERENCE RESIDENT LEVEL.—

''(I) IN GENERAL.—Except as otherwise provided in subclauses (II) and (III), the reference resident level specified in this clause for a hospital is the resident level for the most recent cost reporting period of the hospital ending on or before September 30, 2002, for which a cost report has been settled (or, if not, submitted (subject to audit)), as determined by the Secretary.

''(II) USE OF MOST RECENT ACCOUNTING PERIOD TO RECOGNIZE EXPANSION OF EXISTING PROGRAMS.—If a hospital submits a timely request to increase its resident level due to an expansion of an existing residency training program that is not reflected on the most recent settled cost report, after audit and subject to the discretion of the Secretary, the reference resident level for such hospital is the resident level for the cost reporting period that includes July 1, 2003, as determined by the Secretary.

''(III) EXPANSIONS UNDER NEWLY APPROVED PROGRAMS.—Upon the timely request of a hospital, the Secretary shall adjust the reference resident level specified under subclause (I) or (II) to include the number of medical residents that were approved in an application for a medical residency training program that was approved by an appropriate accrediting organization (as determined by the Secretary) before January 1, 2002, but which was not in operation during the cost reporting period used under subclause (I) or (II), as the case may be, as determined by the Secretary.

''(iii) AFFILIATION.—The provisions of clause (i) shall be applied to hospitals which are members of the same affiliated group (as defined by the Secretary under paragraph (4)(H)(ii)) as of July 1, 2003.

''(B) REDISTRIBUTION.—

''(i) IN GENERAL.—The Secretary is authorized to increase the otherwise applicable resident limit for each qualifying hospital that submits a timely application under this subparagraph by such number as the Secretary may approve for portions of cost reporting periods occurring on or after July 1, 2005. The aggregate number of increases in the otherwise applicable resident limits under this subparagraph may not exceed the Secretary's estimate of the aggregate reduction in such limits attributable to subparagraph (A).

''(ii) CONSIDERATIONS IN REDISTRIBUTION.—In determining for which hospitals the increase in the otherwise applicable resident limit is provided under clause (i), the Secretary shall take into account the demonstrated likelihood of the hospital filling the positions within the first 3 cost reporting periods beginning on or after July 1, 2005, made available under this subparagraph, as determined by the Secretary.

''(iii) PRIORITY FOR RURAL AND SMALL URBAN AREAS.—In determining for which hospitals and residency training programs an increase in the otherwise applicable resident limit is provided under clause (i), the Secretary shall distribute the increase to programs of hospitals located in the following priority order:

''(I) First, to hospitals located in rural areas (as defined in subsection (d)(2)(D)(ii)).

''(II) Second, to hospitals located in urban areas that are not large urban areas (as defined for purposes of subsection (d)).

''(III) Third, to other hospitals in a State if the residency training program involved is in a specialty for which there are not other residency training programs in the State.

Increases of residency limits within the same priority category under this clause shall be determined by the Secretary.

''(iv) LIMITATION.—In no case shall more than 25 full-time equivalent additional residency positions be made available under this subparagraph with respect to any hospital.

''(v) APPLICATION OF LOCALITY ADJUSTED NATIONAL AVERAGE PER RESIDENT AMOUNT.—With respect to additional residency positions in a hospital attributable to the increase provided under this subparagraph, notwithstanding any other provision of this subsection, the approved FTE resident amount is deemed to be equal to the locality adjusted national average per resident amount computed under paragraph (4)(E) for that hospital.

''(vi) CONSTRUCTION.—Nothing in this subparagraph shall be construed as permitting the redistribution of reductions in residency positions attributable to voluntary reduction programs under paragraph (6), under a demonstration project approved as of October 31, 2003, under the authority of section 402 of Public Law 90–248, or as affecting the ability of a hospital to establish new medical residency training programs under paragraph (4)(H).

''(C) RESIDENT LEVEL AND LIMIT DEFINED.—In this paragraph:

''(i) RESIDENT LEVEL.—The term 'resident level' means, with respect to a hospital, the total number of full-time equivalent residents, before the application of weighting factors (as determined under paragraph (4)), in the fields of allopathic and osteopathic medicine for the hospital.

''(ii) OTHERWISE APPLICABLE RESIDENT LIMIT.—The term 'otherwise applicable resident limit' means, with respect to a hospital, the limit otherwise applicable under subparagraphs (F)(i) and (H) of paragraph (4) on the resident level for the hospital determined without regard to this paragraph.

''(D) JUDICIAL REVIEW.—There shall be no administrative or judicial review under section 1869, 1878, or otherwise, with respect to determinations made under this paragraph.''.

(b) CONFORMING PROVISIONS.—(1) Section 1886(d)(5)(B) (42 U.S.C. 1395ww(d)(5)(B)) is amended—

(A) in the second sentence of clause (ii), by striking ''For discharges'' and inserting ''Subject to clause (ix), for discharges''; and

(B) in clause (v), by adding at the end the following: ''The provisions of subsection (h)(7) shall apply with respect to the first sentence of this clause in the same manner as it applies with respect to subsection (h)(4)(F)(i).''; and

(C) by adding at the end the following new clause:

''(ix) For discharges occurring on or after July 1, 2005, insofar as an additional payment amount under this subparagraph is attributable to resident positions redistributed to a hospital under subsection (h)(7)(B), in computing the indirect teaching adjustment factor under clause (ii) the adjustment shall be computed in a manner as if 'c' were equal to 0.66 with respect to such resident positions.''.

(2) Chapter 35 of title 44, United States Code, shall not apply with respect to applications under section 1886(h)(7) of the Social Security Act, as added by subsection (a)(3).

(c) REPORT ON EXTENSION OF APPLICATIONS UNDER REDISTRIBUTION PROGRAM.—Not later than July 1, 2005, the Secretary shall submit to Congress a report containing recommendations regarding whether to extend the deadline for applications for an increase in resident limits under section 1886(h)(4)(I)(ii)(II) of the Social Security Act (as added by subsection (a)).

Subtitle D—Other Provisions

SEC. 131. PROVIDING SAFE HARBOR FOR CERTAIN COLLABORATIVE EFFORTS THAT BENEFIT MEDICALLY UNDERSERVED POPULATIONS.

(a) IN GENERAL.—Section 1128B(b)(3) (42 U.S.C. 1320a–7(b)(3)), as amended by section 101(e)(2), is amended—

(1) in subparagraph (F), by striking ''and'' after the semicolon at the end;

(2) in subparagraph (G), by striking the period at the end and inserting ''; and''; and

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

''(H) any remuneration between a health center entity described under clause (i) or (ii) of section 1905(l)(2)(B) and any individual or entity providing goods, items, services, donations, loans, or a combination thereof, to such health center entity pursuant to a contract, lease, grant, loan, or other agreement, if such agreement contributes to the ability of the health center entity to maintain or increase the availability, or enhance the quality, of services provided to a medically underserved population served by the health center entity.''.

(b) RULEMAKING FOR EXCEPTION FOR HEALTH CENTER ENTITY ARRANGEMENTS.—

(1) ESTABLISHMENT.—

(A) IN GENERAL.—The Secretary shall establish, on an expedited basis, standards relating to the exception described in section 1128B(b)(3)(H) of the Social Security Act, as added by subsection (a), for health center entity arrangements to the antikickback penalties.

(B) FACTORS TO CONSIDER.—The Secretary shall consider the following factors, among others, in establishing standards relating to the exception for health center entity arrangements under subparagraph (A):

(i) Whether the arrangement between the health center entity and the other party results in savings of Federal grant funds or increased revenues to the health center entity.

(ii) Whether the arrangement between the health center entity and the other party restricts or limits an individual's freedom of choice.

(iii) Whether the arrangement between the health center entity and the other party protects a health care professional's independent medical judgment regarding medically appropriate treatment.

The Secretary may also include other standards and criteria that are consistent with the intent of Congress in enacting the exception established under this section.

(2) DEADLINE.—Not later than 1 year after the date of the enactment of this Act the Secretary shall publish final regulations establishing the standards described in paragraph (1).

SEC. 132. OFFICE OF RURAL HEALTH POLICY IMPROVEMENTS.

Section 711(b) (42 U.S.C. 912(b)) is amended—

(1) in paragraph (3), by striking ''and'' after the comma at the end;

(2) in paragraph (4), by striking the period at the end and inserting '', and''; and

(3) by inserting after paragraph (4) the following new paragraph:

''(5) administer grants, cooperative agreements, and contracts to provide technical assistance and other activities as necessary to support activities related to improving health care in rural areas.''.

SEC. 133. MEDPAC STUDY ON RURAL HOSPITAL PAYMENT ADJUSTMENTS.

(a) IN GENERAL.—The Medicare Payment Advisory Commission shall conduct a study of the impact of sections 401 through 406, 411, 416, and 505. The Commission shall analyze the effect on total payments, growth in costs, capital spending, and such other payment effects under those sections.

(b) REPORTS.—

(1) INTERIM REPORT.—Not later than 18 months after the date of the enactment of this Act, the Commission shall submit to Congress an interim report on the matters studied under subsection (a) with respect only to changes to the critical access hospital provisions under section 105.

(2) FINAL REPORT.—Not later than 3 years after the date of the enactment of this Act, the Commission shall submit to Congress a final report on all matters studied under subsection (a).

SEC. 134. FRONTIER EXTENDED STAY CLINIC DEMONSTRATION PROJECT.

(a) AUTHORITY TO CONDUCT DEMONSTRATION PROJECT.—The Secretary shall waive such provisions of the medicare program established under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) as are necessary to conduct a demonstration project under which frontier extended stay clinics described in subsection (b) in isolated rural areas are treated as providers of items and services under the medicare program.

(b) CLINICS DESCRIBED.—A frontier extended stay clinic is described in this subsection if the clinic—

(1) is located in a community where the closest short-term acute care hospital or critical access hospital is at least 75 miles away from the community or is inaccessible by public road; and

(2) is designed to address the needs of—

(A) seriously or critically ill or injured patients who, due to adverse weather conditions or other reasons, cannot be transferred quickly to acute care referral centers; or

(B) patients who need monitoring and observation for a limited period of time.

(c) SPECIFICATION OF CODES.—The Secretary shall determine the appropriate life-safety codes for such clinics that treat patients for needs referred to in subsection (b)(2).

(d) FUNDING.—

(1) IN GENERAL.—Subject to paragraph (2), there are authorized to be appropriated, in appropriate part from the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund, such sums as are necessary to conduct the demonstration project under this section.

(2) BUDGET NEUTRAL IMPLEMENTATION.—In conducting the demonstration project under this section, the Secretary shall ensure that the aggregate payments made by the Secretary under the medicare program do not exceed the amount which the Secretary would have paid under the medicare program if the demonstration project under this section was not implemented.

(e) 3-YEAR PERIOD.—The Secretary shall conduct the demonstration under this section for a 3-year period.

(f) REPORT.—Not later than the date that is 1 year after the date on which the demonstration project concludes, the Secretary shall submit to Congress a report on the demonstration project, together with such recommendations for legislation or administrative action as the Secretary determines appropriate.

(g) DEFINITIONS.—In this section, the terms ''hospital'' and ''critical access hospital'' have the meanings given such terms in subsections (e) and (mm), respectively, of section 1861 of the Social Security Act (42 U.S.C. 1395x).

TITLE II—PROVISIONS RELATING TO PART A

Subtitle A—Inpatient Hospital Services

SEC. 201. REVISION OF ACUTE CARE HOSPITAL PAYMENT UPDATES.

(a) IN GENERAL.—Section 1886(b)(3)(B)(i) (42 U.S.C. 1395ww(b)(3)(B)(i)) is amended—

(1) by striking ''and'' at the end of subclause (XVIII);

(2) by striking subclause (XIX); and

(3) by inserting after subclause (XVIII) the following new subclauses:

''(XIX) for each of fiscal years 2004 through 2007, subject to clause (vii), the market basket percentage increase for hospitals in all areas; and

''(XX) for fiscal year 2008 and each subsequent fiscal year, the market basket percentage increase for hospitals in all areas.''.

(b) SUBMISSION OF HOSPITAL QUALITY DATA.—Section 1886(b)(3)(B) (42 U.S.C. 1395ww(b)(3)(B)) is amended by adding at the end the following new clause:

''(vii)(I) For purposes of clause (i)(XIX) for each of fiscal years 2005 through 2007, in a case of a subsection (d) hospital that does not submit data to the Secretary in accordance with subclause (II) with respect to such a fiscal year, the applicable percentage increase under such clause for such fiscal year shall be reduced by 0.4 percentage points. Such reduction shall apply only with respect to the fiscal year involved, and the Secretary shall not take into account such reduction in computing the applicable percentage increase under clause (i)(XIX) for a subsequent fiscal year.

''(II) Each subsection (d) hospital shall submit to the Secretary quality data (for a set of 10 indicators established by the Secretary as of November 1, 2003) that relate to the quality of care furnished by the hospital in inpatient settings in a form and manner, and at a time, specified by the Secretary for purposes of this clause, but with respect to fiscal year 2005, the Secretary shall provide for a 30-day grace period for the submission of data by a hospital.''.

(c) GAO STUDY AND REPORT ON APPROPRIATENESS OF PAYMENTS UNDER THE PROSPECTIVE PAYMENT SYSTEM FOR INPATIENT HOSPITAL SERVICES.—

(1) STUDY.—The Comptroller General of the United States, using the most current data available, shall conduct a study to determine—

(A) the appropriate level and distribution of payments in relation to costs under the prospective payment system under section 1886 of the Social Security Act (42 U.S.C. 1395ww) for inpatient hospital services furnished by subsection (d) hospitals (as defined in subsection (d)(1)(B) of such section); and

(B) whether there is a need to adjust such payments under such system to reflect legitimate differences in costs across different geographic areas, kinds of hospitals, and types of cases.

(2) REPORT.—Not later than 24 months after the date of the enactment of this Act, the Comptroller General of the United States shall submit to Congress a report on the study conducted under paragraph (1) together with such recommendations for legislative and administrative action as the Comptroller General determines appropriate.

SEC. 202. REVISION OF THE INDIRECT MEDICAL EDUCATION (IME) ADJUSTMENT PERCENTAGE.

(a) IN GENERAL.—Section 1886(d)(5)(B)(ii) (42 U.S.C. 1395ww(d)(5)(B)(ii)) is amended—

(1) in subclause (VI), by striking ''and'' after the semicolon at the end;

(2) in subclause (VII)—

(A) by inserting ''and before April 1, 2004,'' after ''on or after October 1, 2002,''; and

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

(3) by adding at the end the following new subclauses:

''(VIII) on or after April 1, 2004, and before October 1, 2004, 'c' is equal to 1.47;

''(IX) during fiscal year 2005, 'c' is equal to 1.42;

''(X) during fiscal year 2006, 'c' is equal to 1.37;

''(XI) during fiscal year 2007, 'c' is equal to 1.32; and

''(XII) on or after October 1, 2007, 'c' is equal to 1.35.''.

(b) CONFORMING AMENDMENT RELATING TO DETERMINATION OF STANDARDIZED AMOUNT.—Section 1886(d)(2)(C)(i) (42 U.S.C. 1395ww(d)(2)(C)(i)) is amended—

(1) by striking ''1999 or'' and inserting ''1999,''; and

(2) by inserting '', or the Medicare Provider Restoration Act of 2003'' after ''2000''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to discharges occurring on or after April 1, 2004.

SEC. 203. RECOGNITION OF NEW MEDICAL TECHNOLOGIES UNDER INPATIENT HOSPITAL PROSPECTIVE PAYMENT SYSTEM.

(a) IMPROVING TIMELINESS OF DATA COLLECTION.—Section 1886(d)(5)(K) (42 U.S.C. 1395ww(d)(5)(K)) is amended by adding at the end the following new clause:

''(vii) Under the mechanism under this subparagraph, the Secretary shall provide for the addition of new diagnosis and procedure codes in April 1 of each year, but the addition of such codes shall not require the Secretary to adjust the payment (or diagnosis-related group classification) under this subsection until the fiscal year that begins after such date.''.

(b) ELIGIBILITY STANDARD FOR TECHNOLOGY OUTLIERS.—

(1) ADJUSTMENT OF THRESHOLD.—Section 1886(d)(5)(K)(ii)(I) (42 U.S.C. 1395ww(d)(5)(K)(ii)(I)) is amended by inserting ''(applying a threshold specified by the Secretary that is the lesser of 75 percent of the standardized amount (increased to reflect the difference between cost and charges) or 75 percent of one standard deviation for the diagnosis-related group involved)'' after ''is inadequate''.

(2) PROCESS FOR PUBLIC INPUT.—Section 1886(d)(5)(K) (42 U.S.C. 1395ww(d)(5)(K)), as amended by subsection (a), is amended—

(A) in clause (i), by adding at the end the following: ''Such mechanism shall be modified to meet the requirements of clause (viii).''; and

(B) by adding at the end the following new clause:

''(viii) The mechanism established pursuant to clause (i) shall be adjusted to provide, before publication of a proposed rule, for public input regarding whether a new service or technology represents an advance in medical technology that substantially improves the diagnosis or treatment of individuals entitled to benefits under part A as follows:

''(I) The Secretary shall make public and periodically update a list of all the services and technologies for which an application for additional payment under this subparagraph is pending.

''(II) The Secretary shall accept comments, recommendations, and data from the public regarding whether the service or technology represents a substantial improvement.

''(III) The Secretary shall provide for a meeting at which organizations representing hospitals, physicians, such individuals, manufacturers, and any other interested party may present comments, recommendations, and data to the clinical staff of the Centers for Medicare & Medicaid Services before publication of a notice of proposed rulemaking regarding whether service or technology represents a substantial improvement.''.

(c) PREFERENCE FOR USE OF DRG ADJUSTMENT.—Section 1886(d)(5)(K) (42 U.S.C. 1395ww(d)(5)(K)), as amended by subsections (a) and (b), is amended by adding at the end the following new clause:

''(ix) Before establishing any add-on payment under this subparagraph with respect to a new technology, the Secretary shall seek to identify one or more diagnosis-related groups associated with such technology, based on similar clinical or anatomical characteristics and the cost of the technology. Within such groups the Secretary shall assign an eligible new technology into a diagnosis-related group where the average costs of care most closely approximate the costs of care of using the new technology. No add-on payment under this subparagraph shall be made with respect to such new technology and this clause shall not affect the application of paragraph (4)(C)(iii).''.

(d) ESTABLISHMENT OF NEW FUNDING FOR HOSPITAL INPATIENT TECHNOLOGY.—

(1) IN GENERAL.—Section 1886(d)(5)(K)(ii)(III) (42 U.S.C. 1395ww(d)(5)(K)(ii)(III)) is amended by striking ''subject to paragraph (4)(C)(iii),''.

(2) NOT BUDGET NEUTRAL.—There shall be no reduction or other adjustment in payments under section 1886 of the Social Security Act because an additional payment is provided under subsection (d)(5)(K)(ii)(III) of such section.

(e) EFFECTIVE DATE.—

(1) IN GENERAL.—The Secretary shall implement the amendments made by this section so that they apply to classification for fiscal years beginning with fiscal year 2005.

(2) RECONSIDERATIONS OF APPLICATIONS FOR FISCAL YEAR 2004 THAT ARE DENIED.—In the case of an application for a classification of a medical service or technology as a new medical service or technology under section 1886(d)(5)(K) of the Social Security Act (42 U.S.C. 1395ww(d)(5)(K)) that was filed for fiscal year 2004 and that is denied—

(A) the Secretary shall automatically reconsider the application as an application for fiscal year 2005 under the amendments made by this section; and

(B) the maximum time period otherwise permitted for such classification of the service or technology shall be extended by 12 months.

SEC. 204. INCREASE IN FEDERAL RATE FOR HOSPITALS IN PUERTO RICO.

Section 1886(d)(9) (42 U.S.C. 1395ww(d)(9)) is amended—

(1) in subparagraph (A)—

(A) in clause (i), by striking ''for discharges beginning on or after October 1, 1997, 50 percent (and for discharges between October 1, 1987, and September 30, 1997, 75 percent)'' and inserting ''the applicable Puerto Rico percentage (specified in subparagraph (E))''; and

(B) in clause (ii), by striking ''for discharges beginning in a fiscal year beginning on or after October 1, 1997, 50 percent (and for discharges between October 1, 1987, and September 30, 1997, 25 percent)'' and inserting ''the applicable Federal percentage (specified in subparagraph (E))''; and

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

''(E) For purposes of subparagraph (A), for discharges occurring—

''(i) on or after October 1, 1987, and before October 1, 1997, the applicable Puerto Rico percentage is 75 percent and the applicable Federal percentage is 25 percent;

''(ii) on or after October 1, 1997, and before April 1, 2004, the applicable Puerto Rico percentage is 50 percent and the applicable Federal percentage is 50 percent;

''(iii) on or after April 1, 2004, and before October 1, 2004, the applicable Puerto Rico percentage is 37.5 percent and the applicable Federal percentage is 62.5 percent; and

''(iv) on or after October 1, 2004, the applicable Puerto Rico percentage is 25 percent and the applicable Federal percentage is 75 percent.''.

SEC. 205. WAGE INDEX ADJUSTMENT RECLASSIFICATION REFORM.

(a) IN GENERAL.—Section 1886(d) (42 U.S.C. 1395ww(d)), as amended by section 106, is amended by adding at the end the following new paragraph:

''(13)(A) In order to recognize commuting patterns among geographic areas, the Secretary shall establish a process through application or otherwise for an increase of the wage index applied under paragraph (3)(E) for subsection (d) hospitals located in a qualifying county described in subparagraph (B) in the amount computed under subparagraph (D) based on out-migration of hospital employees who reside in that county to any higher wage index area.

''(B) The Secretary shall establish criteria for a qualifying county under this subparagraph based on the out-migration referred to in subparagraph (A) and differences in the area wage indices. Under such criteria the Secretary shall, utilizing such data as the Secretary determines to be appropriate, establish—

''(i) a threshold percentage, established by the Secretary, of the weighted average of the area wage index or indices for the higher wage index areas involved;

''(ii) a threshold (of not less than 10 percent) for minimum out-migration to a higher wage index area or areas; and

''(iii) a requirement that the average hourly wage of the hospitals in the qualifying county equals or exceeds the average hourly wage of all the hospitals in the area in which the qualifying county is located.

''(C) For purposes of this paragraph, the term 'higher wage index area' means, with respect to a county, an area with a wage index that exceeds that of the county.

''(D) The increase in the wage index under subparagraph (A) for a qualifying county shall be equal to the percentage of the hospital employees residing in the qualifying county who are employed in any higher wage index area multiplied by the sum of the products, for each higher wage index area of—

''(i) the difference between—

''(I) the wage index for such higher wage index area, and

''(II) the wage index of the qualifying county; and

''(ii) the number of hospital employees residing in the qualifying county who are employed in such higher wage index area divided by the total number of hospital employees residing in the qualifying county who are employed in any higher wage index area.

''(E) The process under this paragraph may be based upon the process used by the Medicare Geographic Classification Review Board under paragraph (10). As the Secretary determines to be appropriate to carry out such process, the Secretary may require hospitals (including subsection (d) hospitals and other hospitals) and critical access hospitals, as required under section 1866(a)(1)(T), to submit data regarding the location of residence, or the Secretary may use data from other sources.

''(F) A wage index increase under this paragraph shall be effective for a period of 3 fiscal years, except that the Secretary shall establish procedures under which a subsection (d) hospital may elect to waive the application of such wage index increase.

''(G) A hospital in a county that has a wage index increase under this paragraph for a period and that has not waived the application of such an increase under subparagraph (F) is not eligible for reclassification under paragraph (8) or (10) during that period.

''(H) Any increase in a wage index under this paragraph for a county shall not be taken into account for purposes of—

''(i) computing the wage index for portions of the wage index area (not including the county) in which the county is located; or

''(ii) applying any budget neutrality adjustment with respect to such index under paragraph (8)(D).

''(I) The thresholds described in subparagraph (B), data on hospital employees used under this paragraph, and any determination of the Secretary under the process described in subparagraph (E) shall be final and shall not be subject to judicial review.''.

(b) CONFORMING AMENDMENTS.—Section 1866(a)(1) (42 U.S.C. 1395cc(a)(1)) is amended—

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

(2) in subparagraph (S), by striking the period at the end and inserting '', and''; and

(3) by inserting after subparagraph (S) the following new subparagraph:

''(T) in the case of hospitals and critical access hospitals, to furnish to the Secretary such data as the Secretary determines appropriate pursuant to subparagraph (E) of section 1886(d)(12) to carry out such section.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall first apply to the wage index for discharges occurring on or after October 1, 2004. In initially implementing such amendments, the Secretary may modify the deadlines otherwise applicable under clauses (ii) and (iii)(I) of section 1886(d)(10)(C) of the Social Security Act (42 U.S.C. 1395ww(d)(10)(C)), for submission of, and actions on, applications relating to changes in hospital geographic reclassification.

SEC. 206. LIMITATION ON CHARGES FOR INPATIENT HOSPITAL CONTRACT HEALTH SERVICES PROVIDED TO INDIANS BY MEDICARE PARTICIPATING HOSPITALS.

(a) IN GENERAL.—Section 1866(a)(1) (42 U.S.C. 1395cc(a)(1)), as amended by section 205(b), is amended—

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

(2) in subparagraph (T), by striking the period and inserting '', and''; and

(3) by inserting after subparagraph (T) the following new subparagraph:

''(U) in the case of hospitals which furnish inpatient hospital services for which payment may be made under this title, to be a participating provider of medical care both—

''(i) under the contract health services program funded by the Indian Health Service and operated by the Indian Health Service, an Indian tribe, or tribal organization (as those terms are defined in section 4 of the Indian Health Care Improvement Act), with respect to items and services that are covered under such program and furnished to an individual eligible for such items and services under such program; and

''(ii) under any program funded by the Indian Health Service and operated by an urban Indian organization with respect to the purchase of items and services for an eligible urban Indian (as those terms are defined in such section 4),

in accordance with regulations promulgated by the Secretary regarding admission practices, payment methodology, and rates of payment (including the acceptance of no more than such payment rate as payment in full for such items and services.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply as of a date specified by the Secretary of Health and Human Services (but in no case later than 1 year after the date of enactment of this Act) to medicare participation agreements in effect (or entered into) on or after such date.

(c) PROMULGATION OF REGULATIONS.—The Secretary shall promulgate regulations to carry out the amendments made by subsection (a).

SEC. 207. CLARIFICATIONS TO CERTAIN EXCEPTIONS TO MEDICARE LIMITS ON PHYSICIAN REFERRALS.

(a) LIMITS ON PHYSICIAN REFERRALS.—

(1) OWNERSHIP AND INVESTMENT INTERESTS IN WHOLE HOSPITALS.—

(A) IN GENERAL.—Section 1877(d)(3) (42 U.S.C. 1395nn(d)(3)) is amended—

(i) by striking '', and'' at the end of subparagraph (A) and inserting a semicolon; and

(ii) by redesignating subparagraph (B) as subparagraph (C) and inserting after subparagraph (A) the following new subparagraph:

''(B) effective for the 18-month period beginning on the date of the enactment of the Medicare Provider Restoration Act of 2003, the hospital is not a specialty hospital (as defined in subsection (h)(7)); and''.

(B) DEFINITION.—Section 1877(h) (42 U.S.C. 1395nn(h)) is amended by adding at the end the following:

''(7) SPECIALTY HOSPITAL.—

''(A) IN GENERAL.—For purposes of this section, except as provided in subparagraph (B), the term 'specialty hospital' means a subsection (d) hospital (as defined in section 1886(d)(1)(B)) that is primarily or exclusively engaged in the care and treatment of one of the following categories:

''(i) Patients with a cardiac condition.

''(ii) Patients with an orthopedic condition.

''(iii) Patients receiving a surgical procedure.

''(iv) Any other specialized category of services that the Secretary designates as inconsistent with the purpose of permitting physician ownership and investment interests in a hospital under this section.

''(B) EXCEPTION.—For purposes of this section, the term 'specialty hospital' does not include any hospital—

''(i) determined by the Secretary—

''(I) to be in operation before November 18, 2003; or

''(II) under development as of such date;

''(ii) for which the number of physician investors at any time on or after such date is no greater than the number of such investors as of such date;

''(iii) for which the type of categories described in subparagraph (A) at any time on or after such date is no different than the type of such categories as of such date;

''(iv) for which any increase in the number of beds occurs only in the facilities on the main campus of the hospital and does not exceed 50 percent of the number of beds in the hospital as of November 18, 2003, or 5 beds, whichever is greater; and

''(v) that meets such other requirements as the Secretary may specify.''.

(2) OWNERSHIP AND INVESTMENT INTERESTS IN A RURAL PROVIDER.—Section 1877(d)(2) (42 U.S.C. 1395nn(d)(2)) is amended to read as follows:

''(2) RURAL PROVIDERS.—In the case of designated health services furnished in a rural area (as defined in section 1886(d)(2)(D)) by an entity, if—

''(A) substantially all of the designated health services furnished by the entity are furnished to individuals residing in such a rural area; and

''(B) effective for the 18-month period beginning on the date of the enactment of the Medicare Provider Restoration Act of 2003, the entity is not a specialty hospital (as defined in subsection (h)(7)).''.

(b) APPLICATION OF EXCEPTION FOR HOSPITALS UNDER DEVELOPMENT.—For purposes of section 1877(h)(7)(B)(i)(II) of the Social Security Act, as added by subsection (a)(1)(B), in determining whether a hospital is under development as of November 18, 2003, the Secretary shall consider—

(1) whether architectural plans have been completed, funding has been received, zoning requirements have been met, and necessary approvals from appropriate State agencies have been received; and

(2) any other evidence the Secretary determines would indicate whether a hospital is under development as of such date.

(c) STUDIES.—

(1) MEDPAC STUDY.—The Medicare Payment Advisory Commission, in consultation with the Comptroller General of the United States, shall conduct a study to determine—

(A) any differences in the costs of health care services furnished to patients by physician-owned specialty hospitals and the costs of such services furnished by local full-service community hospitals within specific diagnosis-related groups;

(B) the extent to which specialty hospitals, relative to local full-service community hospitals, treat patients in certain diagnosis-related groups within a category, such as cardiology, and an analysis of the selection;

(C) the financial impact of physician-owned specialty hospitals on local full-service community hospitals;

(D) how the current diagnosis-related group system should be updated to better reflect the cost of delivering care in a hospital setting; and

(E) the proportions of payments received, by type of payer, between the specialty hospitals and local full-service community hospitals.

(2) HHS STUDY.—The Secretary shall conduct a study of a representative sample of specialty hospitals—

(A) to determine the percentage of patients admitted to physician-owned specialty hospitals who are referred by physicians with an ownership interest;

(B) to determine the referral patterns of physician owners, including the percentage of patients they referred to physician-owned specialty hospitals and the percentage of patients they referred to local full-service community hospitals for the same condition;

(C) to compare the quality of care furnished in physician-owned specialty hospitals and in local full-service community hospitals for similar conditions and patient satisfaction with such care; and

(D) to assess the differences in uncompensated care, as defined by the Secretary, between the specialty hospital and local full-service community hospitals, and the relative value of any tax exemption available to such hospitals.

(3) REPORTS.—Not later than 15 months after the date of the enactment of this Act, the Commission and the Secretary, respectively, shall each submit to Congress a report on the studies conducted under paragraphs (1) and (2), respectively, and shall include any recommendations for legislation or administrative changes.

SEC. 208. 1-TIME APPEALS PROCESS FOR HOSPITAL WAGE INDEX CLASSIFICATION.

(a) ESTABLISHMENT OF PROCESS.—

(1) IN GENERAL.—The Secretary shall establish not later than January 1, 2004, by instruction or otherwise a process under which a hospital may appeal the wage index classification otherwise applicable to the hospital and select another area within the State (or, at the discretion of the Secretary, within a contiguous State) to which to be reclassified.

(2) PROCESS REQUIREMENTS.—The process established under paragraph (1) shall be consistent with the following:

(A) Such an appeal may be filed as soon as possible after the date of the enactment of this Act but shall be filed by not later than February 15, 2004.

(B) Such an appeal shall be heard by the Medicare Geographic Reclassification Review Board.

(C) There shall be no further administrative or judicial review of a decision of such Board.

(3) RECLASSIFICATION UPON SUCCESSFUL APPEAL.—If the Medicare Geographic Reclassification Review Board determines that the hospital is a qualifying hospital (as defined in subsection (c)), the hospital shall be reclassified to the area selected under paragraph (1). Such reclassification shall apply with respect to discharges occurring during the 3-year period beginning with April 1, 2004.

(4) INAPPLICABILITY OF CERTAIN PROVISIONS.—Except as the Secretary may provide, the provisions of paragraphs (8) and (10) of section 1886(d) of the Social Security Act (42 U.S.C. 1395ww(d)) shall not apply to an appeal under this section.

(b) APPLICATION OF RECLASSIFICATION.—In the case of an appeal decided in favor of a qualifying hospital under subsection (a), the wage index reclassification shall not affect the wage index computation for any area or for any other hospital and shall not be effected in a budget neutral manner. The provisions of this section shall not affect payment for discharges occurring after the end of the 3-year-period referred to in subsection (a).

(c) QUALIFYING HOSPITAL DEFINED.—For purposes of this section, the term ''qualifying hospital'' means a subsection (d) hospital (as defined in section 1886(d)(1)(B) of the Social Security Act, 42 U.S.C. 1395ww(d)(1)(B)) that—

(1) does not qualify for a change in wage index classification under paragraph (8) or (10) of section 1886(d) of the Social Security Act (42 U.S.C. 1395ww(d)) on the basis of requirements relating to distance or commuting; and

(2) meets such other criteria, such as quality, as the Secretary may specify by instruction or otherwise.

The Secretary may modify the wage comparison guidelines promulgated under section 1886(d)(10)(D) of such Act (42 U.S.C. 1395ww(d)(10)(D)) in carrying out this section.

(d) WAGE INDEX CLASSIFICATION.—For purposes of this section, the term ''wage index classification'' means the geographic area in which it is classified for purposes of determining for a fiscal year the factor used to adjust the DRG prospective payment rate under section 1886(d) of the Social Security Act (42 U.S.C. 1395ww(d)) for area differences in hospital wage levels that applies to such hospital under paragraph (3)(E) of such section.

(e) LIMITATION ON EXPENDITURES.—The aggregate amount of additional expenditures resulting from the application of this section shall not exceed $900,000,000.

(f) TRANSITIONAL EXTENSION.—Any reclassification of a county or other area made by Act of Congress for purposes of making payments under section 1886(d) of the Social Security Act (42 U.S.C. 1395ww(d)) that expired on September 30, 2003, shall be deemed to be in effect during the period beginning on January 1, 2004, and ending on September 30, 2004.

Subtitle B—Other Provisions

SEC. 211. PAYMENT FOR COVERED SKILLED NURSING FACILITY SERVICES.

(a) ADJUSTMENT TO RUGS FOR AIDS RESIDENTS.—Paragraph (12) of section 1888(e) (42 U.S.C. 1395yy(e)) is amended to read as follows:

''(12) ADJUSTMENT FOR RESIDENTS WITH AIDS.—

''(A) IN GENERAL.—Subject to subparagraph (B), in the case of a resident of a skilled nursing facility who is afflicted with acquired immune deficiency syndrome (AIDS), the per diem amount of payment otherwise applicable (determined without regard to any increase under section 101 of the Medicare, Medicaid, and SCHIP Balanced Budget Refinement Act of 1999, or under section 314(a) of Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000), shall be increased by 128 percent to reflect increased costs associated with such residents.

''(B) SUNSET.—Subparagraph (A) shall not apply on and after such date as the Secretary certifies that there is an appropriate adjustment in the case mix under paragraph (4)(G)(i) to compensate for the increased costs associated with residents described in such subparagraph.''.

(b) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to services furnished on or after October 1, 2004.

SEC. 212. COVERAGE OF HOSPICE CONSULTATION SERVICES.

(a) COVERAGE OF HOSPICE CONSULTATION SERVICES.—Section 1812(a) (42 U.S.C. 1395d(a)) is amended—

(1) by striking ''and'' at the end of paragraph (3);

(2) by striking the period at the end of paragraph (4) and inserting ''; and''; and

(3) by inserting after paragraph (4) the following new paragraph:

''(5) for individuals who are terminally ill, have not made an election under subsection (d)(1), and have not previously received services under this paragraph, services that are furnished by a physician (as defined in section 1861(r)(1)) who is either the medical director or an employee of a hospice program and that—

''(A) consist of—

''(i) an evaluation of the individual's need for pain and symptom management, including the individual's need for hospice care; and

''(ii) counseling the individual with respect to hospice care and other care options; and

''(B) may include advising the individual regarding advanced care planning.''.

(b) PAYMENT.—Section 1814(i) (42 U.S.C. 1395f(i)) is amended by adding at the end the following new paragraph:

''(4) The amount paid to a hospice program with respect to the services under section 1812(a)(5) for which payment may be made under this part shall be equal to an amount established for an office or other outpatient visit for evaluation and management associated with presenting problems of moderate severity and requiring medical decision-making of low complexity under the fee schedule established under section 1848(b), other than the portion of such amount attributable to the practice expense component.''.

(c) CONFORMING AMENDMENT.—Section 1861(dd)(2)(A)(i) (42 U.S.C. 1395x(dd)(2)(A)(i)) is amended by inserting before the comma at the end the following: ''and services described in section 1812(a)(5)''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to services provided by a hospice program on or after January 1, 2005.

SEC. 213. STUDY ON PORTABLE DIAGNOSTIC ULTRASOUND SERVICES FOR BENEFICIARIES IN SKILLED NURSING FACILITIES.

(a) STUDY.—The Comptroller General of the United States shall conduct a study of portable diagnostic ultrasound services furnished to medicare beneficiaries in skilled nursing facilities. Such study shall consider the following:

(1) TYPES OF EQUIPMENT; TRAINING.—The types of portable diagnostic ultrasound services furnished to such beneficiaries, the types of portable ultrasound equipment used to furnish such services, and the technical skills, or training, or both, required for technicians to furnish such services.

(2) CLINICAL APPROPRIATENESS.—The clinical appropriateness of transporting portable diagnostic ultrasound diagnostic and technicians to patients in skilled nursing facilities as opposed to transporting such patients to a hospital or other facility that furnishes diagnostic ultrasound services.

(3) FINANCIAL IMPACT.—The financial impact if Medicare were make a separate payment for portable ultrasound diagnostic services, including the impact of separate payments—

(A) for transportation and technician services for residents during a resident in a part A stay, that would otherwise be paid for under the prospective payment system for covered skilled nursing facility services (under section 1888(e) of the Social Security Act (42 U.S.C. 1395yy(e)); and

(B) for such services for residents in a skilled nursing facility after a part A stay.

(4) CREDENTIALING REQUIREMENTS.—Whether the Secretary should establish credentialing or other requirements for technicians that furnish diagnostic ultrasound services to medicare beneficiaries.

(b) REPORT.—Not later than 2 years after the date of the enactment of this Act, the Comptroller General shall submit to Congress a report on the study conducted under subsection (a), and shall include any recommendations for legislation or administrative change as the Comptroller General determines appropriate.

TITLE III—PROVISIONS RELATING TO PART B

Subtitle A—Provisions Relating to Physicians' Services

SEC. 301. REVISION OF UPDATES FOR PHYSICIANS' SERVICES.

(a) UPDATE FOR 2004 AND 2005.—

(1) IN GENERAL.—Section 1848(d) (42 U.S.C. 1395w–4(d)) is amended by adding at the end the following new paragraph:

''(5) UPDATE FOR 2004 AND 2005.—The update to the single conversion factor established in paragraph (1)(C) for each of 2004 and 2005 shall be not less than 1.5 percent.''.

(2) CONFORMING AMENDMENT.—Paragraph (4)(B) of such section is amended, in the matter before clause (i), by inserting ''and paragraph (5)'' after ''subparagraph (D)''.

(3) NOT TREATED AS CHANGE IN LAW AND REGULATION IN SUSTAINABLE GROWTH RATE DETERMINATION.—The amendments made by this subsection shall not be treated as a change in law for purposes of applying section 1848(f)(2)(D) of the Social Security Act (42 U.S.C. 1395w–4(f)(2)(D)).

(b) USE OF 10-YEAR ROLLING AVERAGE IN COMPUTING GROSS DOMESTIC PRODUCT.—

(1) IN GENERAL.—Section 1848(f)(2)(C) (42 U.S.C. 1395w–4(f)(2)(C)) is amended—

(A) by striking ''projected'' and inserting ''annual average''; and

(B) by striking ''from the previous applicable period to the applicable period involved'' and inserting ''during the 10-year period ending with the applicable period involved''.

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall apply to computations of the sustainable growth rate for years beginning with 2003.

SEC. 302. TREATMENT OF PHYSICIANS' SERVICES FURNISHED IN ALASKA.

Section 1848(e)(1) (42 U.S.C. 1395w–4(e)(1)), as amended by section 121, is amended—

(1) in subparagraph (A), by striking ''subparagraphs (B), (C), (E), and (F)'' and inserting ''subparagraphs (B), (C), (E), (F) and (G)''; and

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

''(G) FLOOR FOR PRACTICE EXPENSE, MALPRACTICE, AND WORK GEOGRAPHIC INDICES FOR SERVICES FURNISHED IN ALASKA.—For purposes of payment for services furnished in Alaska on or after January 1, 2004, and before

January 1, 2006, after calculating the practice expense, malpractice, and work geographic indices in clauses (i), (ii), and (iii) of subparagraph (A) and in subparagraph (B), the Secretary shall increase any such index to 1.67 if such index would otherwise be less than 1.67.''.

SEC. 303. INCLUSION OF PODIATRISTS, DENTISTS, AND OPTOMETRISTS UNDER PRIVATE CONTRACTING AUTHORITY.

Section 1802(b)(5)(B) (42 U.S.C. 1395a(b)(5)(B)) is amended by striking ''section 1861(r)(1)'' and inserting ''paragraphs (1), (2), (3), and (4) of section 1861(r)''.

SEC. 304. GAO STUDY ON ACCESS TO PHYSICIANS' SERVICES.

(a) STUDY.—The Comptroller General of the United States shall conduct a study on access of medicare beneficiaries to physicians' services under the medicare program. The study shall include—

(1) an assessment of the use by beneficiaries of such services through an analysis of claims submitted by physicians for such services under part B of the medicare program;

(2) an examination of changes in the use by beneficiaries of physicians' services over time; and

(3) an examination of the extent to which physicians are not accepting new medicare beneficiaries as patients.

(b) REPORT.—Not later than 18 months after the date of the enactment of this Act, the Comptroller General shall submit to Congress a report on the study conducted under subsection (a). The report shall include a determination whether—

(1) data from claims submitted by physicians under part B of the medicare program indicate potential access problems for medicare beneficiaries in certain geographic areas; and

(2) access by medicare beneficiaries to physicians' services may have improved, remained constant, or deteriorated over time.

SEC. 305. COLLABORATIVE DEMONSTRATION-BASED REVIEW OF PHYSICIAN PRACTICE EXPENSE GEOGRAPHIC ADJUSTMENT DATA.

(a) IN GENERAL.—Not later than January 1, 2005, the Secretary shall, in collaboration with State and other appropriate organizations representing physicians, and other appropriate persons, review and consider alternative data sources than those currently used in establishing the geographic index for the practice expense component under the medicare physician fee schedule under section 1848(e)(1)(A)(i) of the Social Security Act (42 U.S.C. 1395w–4(e)(1)(A)(i)).

(b) SITES.—The Secretary shall select two physician payment localities in which to carry out subsection (a). One locality shall include rural areas and at least one locality shall be a statewide locality that includes both urban and rural areas.

(c) REPORT AND RECOMMENDATIONS.—

(1) REPORT.—Not later than January 1, 2006, the Secretary shall submit to Congress a report on the review and consideration conducted under subsection (a). Such report shall include information on the alternative developed data sources considered by the Secretary under subsection (a), including the accuracy and validity of the data as measures of the elements of the geographic index for practice expenses under the medicare physician fee schedule as well as the feasibility of using such alternative data nationwide in lieu of current proxy data used in such index, and the estimated impacts of using such alternative data.

(2) RECOMMENDATIONS.—The report submitted under paragraph (1) shall contain recommendations on which data sources reviewed and considered under subsection (a) are appropriate for use in calculating the geographic index for practice expenses under the medicare physician fee schedule.

SEC. 306. MEDPAC REPORT ON PAYMENT FOR PHYSICIANS' SERVICES.

(a) PRACTICE EXPENSE COMPONENT.—Not later than 1 year after the date of the enactment of this Act, the Medicare Payment Advisory Commission shall submit to Congress a report on the effect of refinements to the practice expense component of payments for physicians' services, after the transition to a full resource-based payment system in 2002, under section 1848 of the Social Security Act (42 U.S.C. 1395w–4). Such report shall examine the following matters by physician specialty:

(1) The effect of such refinements on payment for physicians' services.

(2) The interaction of the practice expense component with other components of and adjustments to payment for physicians' services under such section.

(3) The appropriateness of the amount of compensation by reason of such refinements.

(4) The effect of such refinements on access to care by medicare beneficiaries to physicians' services.

(5) The effect of such refinements on physician participation under the medicare program.

(b) VOLUME OF PHYSICIANS' SERVICES.—Not later than 1 year after the date of the enactment of this Act, the Medicare Payment Advisory Commission shall submit to Congress a report on the extent to which increases in the volume of physicians' services under part B of the medicare program are a result of care that improves the health and well-being of medicare beneficiaries. The study shall include the following:

(1) An analysis of recent and historic growth in the components that the Secretary includes under the sustainable growth rate (under section 1848(f) of the Social Security Act (42 U.S.C. 1395w–4(f))).

(2) An examination of the relative growth of volume in physicians' services between medicare beneficiaries and other populations.

(3) An analysis of the degree to which new technology, including coverage determinations of the Centers for Medicare & Medicaid Services, has affected the volume of physicians' services.

(4) An examination of the impact on volume of demographic changes.

(5) An examination of shifts in the site of service or services that influence the number and intensity of services furnished in physicians' offices and the extent to which changes in reimbursement rates to other providers have effected these changes.

(6) An evaluation of the extent to which the Centers for Medicare & Medicaid Services takes into account the impact of law and regulations on the sustainable growth rate.

Subtitle B—Preventive Services

SEC. 311. COVERAGE OF AN INITIAL PREVENTIVE PHYSICAL EXAMINATION.

(a) COVERAGE.—Section 1861(s)(2) (42 U.S.C. 1395x(s)(2)) is amended—

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

(2) in subparagraph (V)(iii), by inserting ''and'' at the end; and

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

''(W) an initial preventive physical examination (as defined in subsection (ww));''.

(b) SERVICES DESCRIBED.—Section 1861 (42 U.S.C. 1395x) is amended by adding at the end the following new subsection:

''Initial Preventive Physical Examination

''(ww)(1) The term 'initial preventive physical examination' means physicians' services consisting of a physical examination (including measurement of height, weight, and blood pressure, and an electrocardiogram) with the goal of health promotion and disease detection and includes education, counseling, and referral with respect to screening and other preventive services described in paragraph (2), but does not include clinical laboratory tests.

''(2) The screening and other preventive services described in this paragraph include the following:

''(A) Pneumococcal, influenza, and hepatitis B vaccine and administration under subsection (s)(10).

''(B) Screening mammography as defined in subsection (jj).

''(C) Screening pap smear and screening pelvic exam as defined in subsection (nn).

''(D) Prostate cancer screening tests as defined in subsection (oo).

''(E) Colorectal cancer screening tests as defined in subsection (pp).

''(F) Diabetes outpatient self-management training services as defined in subsection (qq)(1).

''(G) Bone mass measurement as defined in subsection (rr).

''(H) Screening for glaucoma as defined in subsection (uu).

''(I) Medical nutrition therapy services as defined in subsection (vv).

''(J) Cardiovascular screening blood tests as defined in subsection (xx)(1).

''(K) Diabetes screening tests as defined in subsection (yy).''.

(c) PAYMENT AS PHYSICIANS' SERVICES.—Section 1848(j)(3) (42 U.S.C. 1395w–4(j)(3)) is amended by inserting ''(2)(W),'' after ''(2)(S),''.

(d) OTHER CONFORMING AMENDMENTS.—(1) Section 1862(a) (42 U.S.C. 1395y(a)), as amended by section 303(i)(3)(B), is amended—

(A) in paragraph (1)—

(i) by striking ''and'' at the end of subparagraph (I);

(ii) by striking the semicolon at the end of subparagraph (J) and inserting '', and''; and

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

''(K) in the case of an initial preventive physical examination, which is performed not later than 6 months after the date the individual's first coverage period begins under part B;''; a

(B) in paragraph (7), by striking ''or (H)'' and inserting ''(H), or (K)''.

(2) Clauses (i) and (ii) of section 1861(s)(2)(K) (42 U.S.C. 1395x(s)(2)(K)) are each amended by inserting ''and services described in subsection (ww)(1)'' after ''services which would be physicians' services''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to services furnished on or after January 1, 2005, but only for individuals whose coverage period under part B begins on or after such date.

SEC. 312. COVERAGE OF CARDIOVASCULAR SCREENING BLOOD TESTS.

(a) COVERAGE.—Section 1861(s)(2) (42 U.S.C. 1395x(s)(2)), as amended by section 311(a), is amended—

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

(2) in subparagraph (W), by inserting ''and'' at the end; and

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

''(X) cardiovascular screening blood tests (as defined in subsection (xx)(1));''.

(b) SERVICES DESCRIBED.—Section 1861 (42 U.S.C. 1395x) is amended by adding at the end the following new subsection:

''Cardiovascular Screening Blood Test

''(xx)(1) The term 'cardiovascular screening blood test' means a blood test for the early detection of cardiovascular disease (or abnormalities associated with an elevated

risk of cardiovascular disease) that tests for the following:

''(A) Cholesterol levels and other lipid or triglyceride levels.

''(B) Such other indications associated with the presence of, or an elevated risk for, cardiovascular disease as the Secretary may approve for all individuals (or for some individuals determined by the Secretary to be at risk for cardiovascular disease), including indications measured by noninvasive testing.

The Secretary may not approve an indication under subparagraph (B) for any individual unless a blood test for such is recommended by the United States Preventive Services Task Force.

''(2) The Secretary shall establish standards, in consultation with appropriate organizations, regarding the frequency for each type of cardiovascular screening blood tests, except that such frequency may not be more often than once every 2 years.''.

(c) FREQUENCY.—Section 1862(a)(1) (42 U.S.C. 1395y(a)(1)), as amended by section 311(d), is amended—

(1) by striking ''and'' at the end of subparagraph (K);

(2) by striking the semicolon at the end of subparagraph (L) and inserting '', and''; and

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

''(M) in the case of cardiovascular screening blood tests (as defined in section 1861(xx)(1)), which are performed more frequently than is covered under section 1861(xx)(2);''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to tests furnished on or after January 1, 2005.

SEC. 313. COVERAGE OF DIABETES SCREENING TESTS.

(a) COVERAGE.—Section 1861(s)(2) (42 U.S.C. 1395x(s)(2)), as amended by section 312(a), is amended—

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

(2) in subparagraph (X), by adding ''and'' at the end; and

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

''(Y) diabetes screening tests (as defined in subsection (yy));''.

(b) SERVICES DESCRIBED.—Section 1861 (42 U.S.C. 1395x), as amended by section 312(b), is amended by adding at the end the following new subsection:

''Diabetes Screening Tests

''(yy)(1) The term 'diabetes screening tests' means testing furnished to an individual at risk for diabetes (as defined in paragraph (2)) for the purpose of early detection of diabetes, including—

''(A) a fasting plasma glucose test; and

''(B) such other tests, and modifications to tests, as the Secretary determines appropriate, in consultation with appropriate organizations.

''(2) For purposes of paragraph (1), the term 'individual at risk for diabetes' means an individual who has any of the following risk factors for diabetes:

''(A) Hypertension.

''(B) Dyslipidemia.

''(C) Obesity, defined as a body mass index greater than or equal to 30 kg/m^2.

''(D) Previous identification of an elevated impaired fasting glucose.

''(E) Previous identification of impaired glucose tolerance.

''(F) A risk factor consisting of at least 2 of the following characteristics:

''(i) Overweight, defined as a body mass index greater than 25, but less than 30, kg/m^2.

''(ii) A family history of diabetes.

''(iii) A history of gestational diabetes mellitus or delivery of a baby weighing greater than 9 pounds.

''(iv) 65 years of age or older.

''(3) The Secretary shall establish standards, in consultation with appropriate organizations, regarding the frequency of diabetes screening tests, except that such frequency may not be more often than twice within the 12-month period following the date of the most recent diabetes screening test of that individual.''.

(c) FREQUENCY.—Section 1862(a)(1) (42 U.S.C. 1395y(a)(1)), as amended by section 312(c), is amended—

(1) by striking ''and'' at the end of subparagraph (L);

(2) by striking the semicolon at the end of subparagraph (M) and inserting '', and''; and

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

''(N) in the case of a diabetes screening test (as defined in section 1861(yy)(1)), which is performed more frequently than is covered under section 1861(yy)(3);''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to tests furnished on or after January 1, 2005.

SEC. 314. IMPROVED PAYMENT FOR CERTAIN MAMMOGRAPHY SERVICES.

(a) EXCLUSION FROM OPD FEE SCHEDULE.—Section 1833(t)(1)(B)(iv) (42 U.S.C. 1395l(t)(1)(B)(iv)) is amended by inserting before the period at the end the following: ''and does not include screening mammography (as defined in section 1861(jj)) and diagnostic mammography''.

(b) CONFORMING AMENDMENT.—Section 1833(a)(2)(E)(i) (42 U.S.C. 1395l(a)(2)(E)(i)) is amended by inserting ''and, for services furnished on or after January 1, 2005, diagnostic mammography'' after ''screening mammography''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply—

(1) in the case of screening mammography, to services furnished on or after the date of the enactment of this Act; and

(2) in the case of diagnostic mammography, to services furnished on or after January 1, 2005.

Subtitle C—Other Provisions

SEC. 321. HOSPITAL OUTPATIENT DEPARTMENT (HOPD) PAYMENT REFORM.

(a) PAYMENT FOR DRUGS.—

(1) SPECIAL RULES FOR CERTAIN DRUGS AND BIOLOGICALS.—Section 1833(t) (42 U.S.C. 1395l(t)), as amended by section 111(b), is amended by inserting after paragraph (13) the following new paragraphs:

''(14) DRUG APC PAYMENT RATES.—

''(A) IN GENERAL.—The amount of payment under this subsection for a specified covered outpatient drug (defined in subparagraph (B)) that is furnished as part of a covered OPD service (or group of services)—

''(i) in 2004, in the case of—

''(I) a sole source drug shall in no case be less than 88 percent, or exceed 95 percent, of the reference average wholesale price for the drug;

''(II) an innovator multiple source drug shall in no case exceed 68 percent of the reference average wholesale price for the drug; or

''(III) a noninnovator multiple source drug shall in no case exceed 46 percent of the reference average wholesale price for the drug;

''(ii) in 2005, in the case of—

''(I) a sole source drug shall in no case be less than 83 percent, or exceed 95 percent, of the reference average wholesale price for the drug;

''(II) an innovator multiple source drug shall in no case exceed 68 percent of the reference average wholesale price for the drug; or

''(III) a noninnovator multiple source drug shall in no case exceed 46 percent of the reference average wholesale price for the drug; or

''(iii) in a subsequent year, shall be equal, subject to subparagraph (E)—

''(I) to the average acquisition cost for the drug for that year (which, at the option of the Secretary, may vary by hospital group (as defined by the Secretary based on volume of covered OPD services or other relevant characteristics)), as determined by the Secretary taking into account the hospital acquisition cost survey data under subparagraph (D); or

''(II) if hospital acquisition cost data are not available, the average price for the drug in the year established under section 1842(o), section 1847A, or section 1847B, as the case may be, as calculated and adjusted by the Secretary as necessary for purposes of this paragraph.

''(B) SPECIFIED COVERED OUTPATIENT DRUG DEFINED.—

''(i) IN GENERAL.—In this paragraph, the term 'specified covered outpatient drug' means, subject to clause (ii), a covered outpatient drug (as defined in section 1927(k)(2)) for which a separate ambulatory payment classification group (APC) has been established and that is—

''(I) a radiopharmaceutical; or

''(II) a drug or biological for which payment was made under paragraph (6) (relating to pass-through payments) on or before December 31, 2002.

''(ii) EXCEPTION.—Such term does not include—

''(I) a drug or biological for which payment is first made on or after January 1, 2003, under paragraph (6);

''(II) a drug or biological for which a temporary HCPCS code has not been assigned; or

''(III) during 2004 and 2005, an orphan drug (as designated by the Secretary).

''(C) PAYMENT FOR DESIGNATED ORPHAN DRUGS DURING 2004 AND 2005.—The amount of payment under this subsection for an orphan drug designated by the Secretary under subparagraph (B)(ii)(III) that is furnished as part of a covered OPD service (or group of services) during 2004 and 2005 shall equal such amount as the Secretary may specify.

''(D) ACQUISITION COST SURVEY FOR HOSPITAL OUTPATIENT DRUGS.—

''(i) ANNUAL GAO SURVEYS IN 2004 AND 2005.—

''(I) IN GENERAL.—The Comptroller General of the United States shall conduct a survey in each of 2004 and 2005 to determine the hospital acquisition cost for each specified covered outpatient drug. Not later than April 1, 2005, the Comptroller General shall furnish data from such surveys to the Secretary for use in setting the payment rates under subparagraph (A) for 2006.

''(II) RECOMMENDATIONS.—Upon the completion of such surveys, the Comptroller General shall recommend to the Secretary the frequency and methodology of subsequent surveys to be conducted by the Secretary under clause (ii).

''(ii) SUBSEQUENT SECRETARIAL SURVEYS.—The Secretary, taking into account such recommendations, shall conduct periodic subsequent surveys to determine the hospital acquisition cost for each specified covered outpatient drug for use in setting the payment rates under subparagraph (A).

''(iii) SURVEY REQUIREMENTS.—The surveys conducted under clauses (i) and (ii) shall have a large sample of hospitals that is sufficient to generate a statistically significant estimate of the average hospital acquisition cost for each specified covered outpatient drug. With respect to the surveys conducted under clause (i), the Comptroller General shall report to Congress on the justification for the size of the sample used in order to assure the validity of such estimates.

''(iv) DIFFERENTIATION IN COST.—In conducting surveys under clause (i), the Comptroller General shall determine and report to

Congress if there is (and the extent of any) variation in hospital acquisition costs for drugs among hospitals based on the volume of covered OPD services performed by such hospitals or other relevant characteristics of such hospitals (as defined by the Comptroller General).

''(v) COMMENT ON PROPOSED RATES.—Not later than 30 days after the date the Secretary promulgated proposed rules setting forth the payment rates under subparagraph (A) for 2006, the Comptroller General shall evaluate such proposed rates and submit to Congress a report regarding the appropriateness of such rates based on the surveys the Comptroller General has conducted under clause (i).

''(E) ADJUSTMENT IN PAYMENT RATES FOR OVERHEAD COSTS.—

''(i) MEDPAC REPORT ON DRUG APC DESIGN.—The Medicare Payment Advisory Commission shall submit to the Secretary, not later than July 1, 2005, a report on adjustment of payment for ambulatory payment classifications for specified covered outpatient drugs to take into account overhead and related expenses, such as pharmacy services and handling costs. Such report shall include—

''(I) a description and analysis of the data available with regard to such expenses;

''(II) a recommendation as to whether such a payment adjustment should be made; and

''(III) if such adjustment should be made, a recommendation regarding the methodology for making such an adjustment.

''(ii) ADJUSTMENT AUTHORIZED.—The Secretary may adjust the weights for ambulatory payment classifications for specified covered outpatient drugs to take into account the recommendations contained in the report submitted under clause (i).

''(F) CLASSES OF DRUGS.—For purposes of this paragraph:

''(i) SOLE SOURCE DRUGS.—The term 'sole source drug' means—

''(I) a biological product (as defined under section 1861(t)(1)); or

''(II) a single source drug (as defined in section 1927(k)(7)(A)(iv)).

''(ii) INNOVATOR MULTIPLE SOURCE DRUGS.—The term 'innovator multiple source drug' has the meaning given such term in section 1927(k)(7)(A)(ii).

''(iii) NONINNOVATOR MULTIPLE SOURCE DRUGS.—The term 'noninnovator multiple source drug' has the meaning given such term in section 1927(k)(7)(A)(iii).

''(G) REFERENCE AVERAGE WHOLESALE PRICE.—The term 'reference average wholesale price' means, with respect to a specified covered outpatient drug, the average wholesale price for the drug as determined under section 1842(o) as of May 1, 2003.

''(H) INAPPLICABILITY OF EXPENDITURES IN DETERMINING CONVERSION, WEIGHTING, AND OTHER ADJUSTMENT FACTORS.—Additional expenditures resulting from this paragraph shall not be taken into account in establishing the conversion, weighting, and other adjustment factors for 2004 and 2005 under paragraph (9), but shall be taken into account for subsequent years.

''(15) PAYMENT FOR NEW DRUGS AND BIOLOGICALS UNTIL HCPCS CODE ASSIGNED.—With respect to payment under this part for an outpatient drug or biological that is covered under this part and is furnished as part of covered OPD services for which a HCPCS code has not been assigned, the amount provided for payment for such drug or biological under this part shall be equal to 95 percent of the average wholesale price for the drug or biological.''.

(2) REDUCTION IN THRESHOLD FOR SEPARATE APCS FOR DRUGS.—Section 1833(t)(16), as redesignated section 111(b), is amended by adding at the end the following new subparagraph:

''(B) THRESHOLD FOR ESTABLISHMENT OF SEPARATE APCS FOR DRUGS.—The Secretary shall reduce the threshold for the establishment of separate ambulatory payment classification groups (APCs) with respect to drugs or biologicals to $50 per administration for drugs and biologicals furnished in 2005 and 2006.''.

(3) EXCLUSION OF SEPARATE DRUG APCS FROM OUTLIER PAYMENTS.—Section 1833(t)(5) is amended by adding at the end the following new subparagraph:

''(E) EXCLUSION OF SEPARATE DRUG AND BIOLOGICAL APCS FROM OUTLIER PAYMENTS.—No additional payment shall be made under subparagraph (A) in the case of ambulatory payment classification groups established separately for drugs or biologicals.''.

(4) PAYMENT FOR PASS THROUGH DRUGS.—Section 1833(t)(6)(D)(i) (42 U.S.C. 1395l(t)(6)(D)(i)) is amended by inserting after ''under section 1842(o)'' the following: ''(or if the drug or biological is covered under a competitive acquisition contract under section 1847B, an amount determined by the Secretary equal to the average price for the drug or biological for all competitive acquisition areas and year established under such section as calculated and adjusted by the Secretary for purposes of this paragraph)''.

(5) CONFORMING AMENDMENT TO BUDGET NEUTRALITY REQUIREMENT.—Section 1833(t)(9)(B) (42 U.S.C. 1395l(t)(9)(B)) is amended by adding at the end the following: ''In determining adjustments under the preceding sentence for 2004 and 2005, the Secretary shall not take into account under this subparagraph or paragraph (2)(E) any expenditures that would not have been made but for the application of paragraph (14).''.

(6) EFFECTIVE DATE.—The amendments made by this subsection shall apply to items and services furnished on or after January 1, 2004.

(b) SPECIAL PAYMENT FOR BRACHYTHERAPY.—

(1) IN GENERAL.—Section 1833(t)(16), as redesignated by section 111(b) and as amended by subsection (a)(2), is amended by adding at the end the following new subparagraph:

''(C) PAYMENT FOR DEVICES OF BRACHYTHERAPY AT CHARGES ADJUSTED TO COST.—Notwithstanding the preceding provisions of this subsection, for a device of brachytherapy consisting of a seed or seeds (or radioactive source) furnished on or after January 1, 2004, and before January 1, 2007, the payment basis for the device under this subsection shall be equal to the hospital's charges for each device furnished, adjusted to cost. Charges for such devices shall not be included in determining any outlier payment under this subsection.''.

(2) SPECIFICATION OF GROUPS FOR BRACHYTHERAPY DEVICES.—Section 1833(t)(2) (42 U.S.C. 1395l(t)(2)) is amended—

(A) in subparagraph (F), by striking ''and'' at the end;

(B) in subparagraph (G), by striking the period at the end and inserting ''; and''; and

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

''(H) with respect to devices of brachytherapy consisting of a seed or seeds (or radioactive source), the Secretary shall create additional groups of covered OPD services that classify such devices separately from the other services (or group of services) paid for under this subsection in a manner reflecting the number, isotope, and radioactive intensity of such devices furnished, including separate groups for palladium-103 and iodine-125 devices.''.

(3) GAO REPORT.—The Comptroller General of the United States shall conduct a study to determine appropriate payment amounts under section 1833(t)(16)(C) of the Social Security Act, as added by paragraph (1), for devices of brachytherapy. Not later than January 1, 2005, the Comptroller General shall submit to Congress and the Secretary a report on the study conducted under this paragraph, and shall include specific recommendations for appropriate payments for such devices.

SEC. 322. LIMITATION OF APPLICATION OF FUNCTIONAL EQUIVALENCE STANDARD.

Section 1833(t)(6) (42 U.S.C. 1395l(t)(6)) is amended by adding at the end the following new subparagraph:

''(F) LIMITATION OF APPLICATION OF FUNCTIONAL EQUIVALENCE STANDARD.—

''(i) IN GENERAL.—The Secretary may not publish regulations that apply a functional equivalence standard to a drug or biological under this paragraph.

''(ii) APPLICATION.—Clause (i) shall apply to the application of a functional equivalence standard to a drug or biological on or after the date of enactment of the Medicare Provider Restoration Act of 2003 unless—

''(I) such application was being made to such drug or biological prior to such date of enactment; and

''(II) the Secretary applies such standard to such drug or biological only for the purpose of determining eligibility of such drug or biological for additional payments under this paragraph and not for the purpose of any other payments under this title.

''(iii) RULE OF CONSTRUCTION.—Nothing in this subparagraph shall be construed to effect the Secretary's authority to deem a particular drug to be identical to another drug if the 2 products are pharmaceutically equivalent and bioequivalent, as determined by the Commissioner of Food and Drugs.''.

SEC. 323. PAYMENT FOR RENAL DIALYSIS SERVICES.

(a) INCREASE IN RENAL DIALYSIS COMPOSITE RATE FOR SERVICES FURNISHED.—The last sentence of section 1881(b)(7) (42 U.S.C. 1395rr(b)(7)) is amended—

(1) by striking ''and'' before ''for such services'' the second place it appears;

(2) by inserting ''and before January 1, 2005,'' after ''January 1, 2001,''; and

(3) by inserting before the period at the end the following: '', and for such services furnished on or after January 1, 2005, by 1.6 percent above such composite rate payment amounts for such services furnished on December 31, 2004''.

(b) RESTORING COMPOSITE RATE EXCEPTIONS FOR PEDIATRIC FACILITIES.—

(1) IN GENERAL.—Section 422(a)(2) of BIPA is amended—

(A) in subparagraph (A), by striking ''and (C)'' and inserting '', (C), and (D)'';

(B) in subparagraph (B), by striking ''In the case'' and inserting ''Subject to subparagraph (D), in the case''; and

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

''(D) INAPPLICABILITY TO PEDIATRIC FACILITIES.—Subparagraphs (A) and (B) shall not apply, as of October 1, 2002, to pediatric facilities that do not have an exception rate described in subparagraph (C) in effect on such date. For purposes of this subparagraph, the term 'pediatric facility' means a renal facility at least 50 percent of whose patients are individuals under 18 years of age.''.

(2) CONFORMING AMENDMENT.—The fourth sentence of section 1881(b)(7) (42 U.S.C. 1395rr(b)(7)) is amended by striking ''The Secretary'' and inserting ''Subject to section 422(a)(2) of the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000, the Secretary''.

(c) INSPECTOR GENERAL STUDIES ON ESRD DRUGS.—

(1) IN GENERAL.—The Inspector General of the Department of Health and Human Services shall conduct two studies with respect

to drugs and biologicals (including erythropoietin) furnished to end-stage renal disease patients under the medicare program which are separately billed by end stage renal disease facilities.

(2) STUDIES ON ESRD DRUGS.—

(A) EXISTING DRUGS.—The first study under paragraph (1) shall be conducted with respect to such drugs and biologicals for which a billing code exists prior to January 1, 2004.

(B) NEW DRUGS.—The second study under paragraph (1) shall be conducted with respect to such drugs and biologicals for which a billing code does not exist prior to January 1, 2004.

(3) MATTERS STUDIED.—Under each study conducted under paragraph (1), the Inspector General shall—

(A) determine the difference between the amount of payment made to end stage renal disease facilities under title XVIII of the Social Security Act for such drugs and biologicals and the acquisition costs of such facilities for such drugs and biologicals and which are separately billed by end stage renal disease facilities, and

(B) estimate the rates of growth of expenditures for such drugs and biologicals billed by such facilities.

(4) REPORTS.—

(A) EXISTING ESRD DRUGS.—Not later than April 1, 2004, the Inspector General shall report to the Secretary on the study described in paragraph (2)(A).

(B) NEW ESRD DRUGS.—Not later than April 1, 2006, the Inspector General shall report to the Secretary on the study described in paragraph (2)(B).

(d) BASIC CASE-MIX ADJUSTED COMPOSITE RATE FOR RENAL DIALYSIS FACILITY SERVICES.—(1) Section 1881(b) (42 U.S.C. 1395rr(b)) is amended by adding at the end the following new paragraphs:

''(12)(A) In lieu of payment under paragraph (7) beginning with services furnished on January 1, 2005, the Secretary shall establish a basic case-mix adjusted prospective payment system for dialysis services furnished by providers of services and renal dialysis facilities in a year to individuals in a facility and to such individuals at home. The case-mix under such system shall be for a limited number of patient characteristics.

''(B) The system described in subparagraph (A) shall include—

''(i) the services comprising the composite rate established under paragraph (7); and

''(ii) the difference between payment amounts under this title for separately billed drugs and biologicals (including erythropoietin) and acquisition costs of such drugs and biologicals, as determined by the Inspector General reports to the Secretary as required by section 323(c) of the Medicare Provider Restoration Act of 2003—

''(I) beginning with 2005, for such drugs and biologicals for which a billing code exists prior to January 1, 2004; and

''(II) beginning with 2007, for such drugs and biologicals for which a billing code does not exist prior to January 1, 2004,

adjusted to 2005, or 2007, respectively, as determined to be appropriate by the Secretary.

''(C)(i) In applying subparagraph (B)(ii) for 2005, such payment amounts under this title shall be determined using the methodology specified in paragraph (13)(A)(i).

''(ii) For 2006, the Secretary shall provide for an adjustment to the payments under clause (i) to reflect the difference between the payment amounts using the methodology under paragraph (13)(A)(i) and the payment amount determined using the methodology applied by the Secretary under paragraph (13)(A)(iii) of such paragraph, as estimated by the Secretary.

''(D) The Secretary shall adjust the payment rates under such system by a geographic index as the Secretary determines to be appropriate. If the Secretary applies a geographic index under this paragraph that differs from the index applied under paragraph (7) the Secretary shall phase-in the application of the index under this paragraph over a multiyear period.

''(E)(i) Such system shall be designed to result in the same aggregate amount of expenditures for such services, as estimated by the Secretary, as would have been made for 2005 if this paragraph did not apply.

''(ii) The adjustment made under subparagraph (B)(ii)(II) shall be done in a manner to result in the same aggregate amount of expenditures after such adjustment as would otherwise have been made for such services for 2006 or 2007, respectively, as estimated by the Secretary, if this paragraph did not apply.

''(F) Beginning with 2006, the Secretary shall annually increase the basic case-mix adjusted payment amounts established under this paragraph, by an amount determined by—

''(i) applying the estimated growth in expenditures for drugs and biologicals (including erythropoietin) that are separately billable to the component of the basic case-mix adjusted system described in subparagraph (B)(ii); and

''(ii) converting the amount determined in clause (i) to an increase applicable to the basic case-mix adjusted payment amounts established under subparagraph (B).

Nothing in this paragraph shall be construed as providing for an update to the composite rate component of the basic case-mix adjusted system under subparagraph (B).

''(G) There shall be no administrative or judicial review under section 1869, section 1878, or otherwise, of the case-mix system, relative weights, payment amounts, the geographic adjustment factor, or the update for the system established under this paragraph, or the determination of the difference between medicare payment amounts and acquisition costs for separately billed drugs and biologicals (including erythropoietin) under this paragraph and paragraph (13).

''(13)(A) The payment amounts under this title for separately billed drugs and biologicals furnished in a year, beginning with 2004, are as follows:

''(i) For such drugs and biologicals (other than erythropoietin) furnished in 2004, the amount determined under section 1842(o)(1)(A)(v) for the drug or biological.

''(ii) For such drugs and biologicals (including erythropoietin) furnished in 2005, the acquisition cost of the drug or biological, as determined by the Inspector General reports to the Secretary as required by section 323(c) of the Medicare Provider Restoration Act of 2003. Insofar as the Inspector General has not determined the acquisition cost with respect to a drug or biological, the Secretary shall determine the payment amount for such drug or biological.

''(iii) For such drugs and biologicals (including erythropoietin) furnished in 2006 and subsequent years, such acquisition cost or the amount determined under section 1847A for the drug or biological, as the Secretary may specify.

''(B)(i) Drugs and biologicals (including erythropoietin) which were separately billed under this subsection on the day before the date of the enactment of the Medicare Provider Restoration Act of 2003 shall continue to be separately billed on and after such date.

''(ii) Nothing in this paragraph, section 1842(o), section 1847A, or section 1847B shall be construed as requiring or authorizing the bundling of payment for drugs and biologicals into the basic case-mix adjusted payment system under this paragraph.''.

(2) Paragraph (7) of such section is amended in the first sentence by striking ''The Secretary'' and inserting ''Subject to paragraph (12), the Secretary''.

(3) Paragraph (11)(B) of such section is amended by inserting ''subject to paragraphs (12) and (13)'' before ''payment for such item''.

(e) DEMONSTRATION OF BUNDLED CASE-MIX ADJUSTED PAYMENT SYSTEM FOR ESRD SERVICES.—

(1) IN GENERAL.—The Secretary shall establish a demonstration project of the use of a fully case-mix adjusted payment system for end stage renal disease services under section 1881 of the Social Security Act (42 U.S.C. 1395rr) for patient characteristics identified in the report under subsection (f) that bundles into such payment rates amounts for—

(A) drugs and biologicals (including erythropoietin) furnished to end-stage renal disease patients under the medicare program which are separately billed by end stage renal disease facilities (as of the date of the enactment of this Act); and

(B) clinical laboratory tests related to such drugs and biologicals.

(2) FACILITIES INCLUDED IN THE DEMONSTRATION.—In conducting the demonstration under this subsection, the Secretary shall ensure the participation of a sufficient number of providers of dialysis services and renal dialysis facilities, but in no case to exceed 500. In selecting such providers and facilities, the Secretary shall ensure that the following types of providers are included in the demonstration:

(A) Urban providers and facilities.

(B) Rural providers and facilities.

(C) Not-for-profit providers and facilities.

(D) For-profit providers and facilities.

(E) Independent providers and facilities.

(F) Specialty providers and facilities, including pediatric providers and facilities and small providers and facilities.

(3) TEMPORARY ADD-ON PAYMENT FOR DIALYSIS SERVICES FURNISHED UNDER THE DEMONSTRATION.—

(A) IN GENERAL.—During the period of the demonstration project, the Secretary shall increase payment rates that would otherwise apply under section 1881(b) of such Act (42 U.S.C. 1395rr(b)) by 1.6 percent for dialysis services furnished in facilities in the demonstration site.

(B) RULES OF CONSTRUCTION.—Nothing in this subsection shall be construed as—

(i) as an annual update under section 1881(b) of the Social Security Act (42 U.S.C. 1395rr(b));

(ii) as increasing the baseline for payments under such section; or

(iii) requiring the budget neutral implementation of the demonstration project under this subsection.

(4) 3-YEAR PERIOD.—The Secretary shall conduct the demonstration under this subsection for the 3-year period beginning on January 1, 2006.

(5) USE OF ADVISORY BOARD.—

(A) IN GENERAL.—In carrying out the demonstration under this subsection, the Secretary shall establish an advisory board comprised of representatives described in subparagraph (B) to provide advice and recommendations with respect to the establishment and operation of such demonstration.

(B) REPRESENTATIVES.—Representatives referred to in subparagraph (A) include representatives of the following:

(i) Patient organizations.

(ii) Individuals with expertise in end-stage renal dialysis services, such as clinicians, economists, and researchers.

(iii) The Medicare Payment Advisory Commission, established under section 1805 of the Social Security Act (42 U.S.C. 1395b–6).

(iv) The National Institutes of Health.

(v) Network organizations under section 1881(c) of the Social Security Act (42 U.S.C. 1395rr(c)).

(vi) Medicare contractors to monitor quality of care.

(vii) Providers of services and renal dialysis facilities furnishing end-stage renal disease services.

(C) TERMINATION OF ADVISORY PANEL.—The advisory panel shall terminate on December 31, 2008.

(6) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated, in appropriate part from the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund, $5,000,000 in fiscal year 2006 to conduct the demonstration under this subsection.

(f) REPORT ON A BUNDLED PROSPECTIVE PAYMENT SYSTEM FOR END STAGE RENAL DISEASE SERVICES.—

(1) REPORT.—

(A) IN GENERAL.—Not later than October 1, 2005, the Secretary shall submit to Congress a report detailing the elements and features for the design and implementation of a bundled prospective payment system for services furnished by end stage renal disease facilities including, to the maximum extent feasible, bundling of drugs, clinical laboratory tests, and other items that are separately billed by such facilities. The report shall include a description of the methodology to be used for the establishment of payment rates, including components of the new system described in paragraph (2).

(B) RECOMMENDATIONS.—The Secretary shall include in such report recommendations on elements, features, and methodology for a bundled prospective payment system or other issues related to such system as the Secretary determines to be appropriate.

(2) ELEMENTS AND FEATURES OF A BUNDLED PROSPECTIVE PAYMENT SYSTEM.—The report required under paragraph (1) shall include the following elements and features of a bundled prospective payment system:

(A) BUNDLE OF ITEMS AND SERVICES.—A description of the bundle of items and services to be included under the prospective payment system.

(B) CASE MIX.—A description of the case-mix adjustment to account for the relative resource use of different types of patients.

(C) WAGE INDEX.—A description of an adjustment to account for geographic differences in wages.

(D) RURAL AREAS.—The appropriateness of establishing a specific payment adjustment to account for additional costs incurred by rural facilities.

(E) OTHER ADJUSTMENTS.—Such other adjustments as may be necessary to reflect the variation in costs incurred by facilities in caring for patients with end stage renal disease.

(F) UPDATE FRAMEWORK.—A methodology for appropriate updates under the prospective payment system.

(G) ADDITIONAL RECOMMENDATIONS.—Such other matters as the Secretary determines to be appropriate.

SEC. 324. 2-YEAR MORATORIUM ON THERAPY CAPS; PROVISIONS RELATING TO REPORTS.

(a) ADDITIONAL MORATORIUM ON THERAPY CAPS.—

(1) 2004 AND 2005.—Section 1833(g)(4) (42 U.S.C. 1395l(g)(4)) is amended by striking ''and 2002'' and inserting ''2002, 2004, and 2005''.

(2) REMAINDER OF 2003.—For the period beginning on the date of the enactment of this Act and ending of December 31, 2003, the Secretary shall not apply the provisions of paragraphs (1), (2), and (3) of section 1833(g) to expenses incurred with respect to services described in such paragraphs during such period. Nothing in the preceding sentence shall be construed as affecting the application of such paragraphs by the Secretary before the date of the enactment of this Act.

(b) PROMPT SUBMISSION OF OVERDUE REPORTS ON PAYMENT AND UTILIZATION OF OUTPATIENT THERAPY SERVICES.—Not later than March 31, 2004, the Secretary shall submit to Congress the reports required under section 4541(d)(2) of the Balanced Budget Act of 1997 (Public Law 105–33; 111 Stat. 457) (relating to alternatives to a single annual dollar cap on outpatient therapy) and under section 221(d) of the Medicare, Medicaid, and SCHIP Balanced Budget Refinement Act of 1999 (Appendix F, 113 Stat. 1501A–352), as enacted into law by section 1000(a)(6) of Public Law 106–113 (relating to utilization patterns for outpatient therapy).

(c) GAO REPORT IDENTIFYING CONDITIONS AND DISEASES JUSTIFYING WAIVER OF THERAPY CAP.—

(1) STUDY.—The Comptroller General of the United States shall identify conditions or diseases that may justify waiving the application of the therapy caps under section 1833(g) of the Social Security Act (42 U.S.C. 1395l(g)) with respect to such conditions or diseases.

(2) REPORT TO CONGRESS.—Not later than October 1, 2004, the Comptroller General shall submit to Congress a report on the conditions and diseases identified under paragraph (1), and shall include a recommendation of criteria, with respect to such conditions and disease, under which a waiver of the therapy caps would apply.

SEC. 325. WAIVER OF PART B LATE ENROLLMENT PENALTY FOR CERTAIN MILITARY RETIREES; SPECIAL ENROLLMENT PERIOD.

(a) WAIVER OF PENALTY.—

(1) IN GENERAL.—Section 1839(b) (42 U.S.C. 1395r(b)) is amended by adding at the end the following new sentence: ''No increase in the premium shall be effected for a month in the case of an individual who enrolls under this part during 2001, 2002, 2003, or 2004 and who demonstrates to the Secretary before December 31, 2004, that the individual is a covered beneficiary (as defined in section 1072(5) of title 10, United States Code). The Secretary of Health and Human Services shall consult with the Secretary of Defense in identifying individuals described in the previous sentence.''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to premiums for months beginning with January 2004. The Secretary shall establish a method for providing rebates of premium penalties paid for months on or after January 2004 for which a penalty does not apply under such amendment but for which a penalty was previously collected.

(b) MEDICARE PART B SPECIAL ENROLLMENT PERIOD.—

(1) IN GENERAL.—In the case of any individual who, as of the date of the enactment of this Act, is eligible to enroll but is not enrolled under part B of title XVIII of the Social Security Act and is a covered beneficiary (as defined in section 1072(5) of title 10, United States Code), the Secretary of Health and Human Services shall provide for a special enrollment period during which the individual may enroll under such part. Such period shall begin as soon as possible after the date of the enactment of this Act and shall end on December 31, 2004.

(2) COVERAGE PERIOD.—In the case of an individual who enrolls during the special enrollment period provided under paragraph (1), the coverage period under part B of title XVIII of the Social Security Act shall begin on the first day of the month following the month in which the individual enrolls.

SEC. 326. PAYMENT FOR SERVICES FURNISHED IN AMBULATORY SURGICAL CENTERS.

(a) REDUCTIONS IN PAYMENT UPDATES.—Section 1833(i)(2)(C) (42 U.S.C. 13951(i)(2)(C)) is amended to read as follows:

''(C)(i) Notwithstanding the second sentence of each of subparagraphs (A) and (B), except as otherwise specified in clauses (ii), (iii), and (iv), if the Secretary has not updated amounts established under such subparagraphs or under subparagraph (D), with respect to facility services furnished during a fiscal year (beginning with fiscal year 1986 or a calendar year (beginning with 2006)), such amounts shall be increased by the percentage increase in the Consumer Price Index for all urban consumers (U.S. city average) as estimated by the Secretary for the 12-month period ending with the midpoint of the year involved.

''(ii) In each of the fiscal years 1998 through 2002, the increase under this subparagraph shall be reduced (but not below zero) by 2.0 percentage points.

''(iii) In fiscal year 2004, beginning with April 1, 2004, the increase under this subparagraph shall be the Consumer Price Index for all urban consumers (U.S. city average) as estimated by the Secretary for the 12-month period ending with March 31, 2003, minus 3.0 percentage points.

''(iv) In fiscal year 2005, the last quarter of calendar year 2005, and each of calendar years 2006 through 2009, the increase under this subparagraph shall be 0 percent.''.

(b) REPEAL OF SURVEY REQUIREMENT AND IMPLEMENTATION OF NEW SYSTEM.—Section 1833(i)(2) (42 U.S.C. 13951(i)(2)) is amended—

(1) in subparagraph (A)—

(A) in the matter preceding clause (i), by striking ''The'' and inserting ''For services furnished prior to the implementation of the system described in subparagraph (D), the''; and

(B) in clause (i), by striking ''taken not later than January 1, 1995, and every 5 years thereafter,''; and

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

''(D)(i) Taking into account the recommendations in the report under section 326(d) of Medicare Provider Restoration Act of 2003, the Secretary shall implement a revised payment system for payment of surgical services furnished in ambulatory surgical centers.

''(ii) In the year the system described in clause (i) is implemented, such system shall be designed to result in the same aggregate amount of expenditures for such services as would be made if this subparagraph did not apply, as estimated by the Secretary.

''(iii) The Secretary shall implement the system described in clause (i) for periods in a manner so that it is first effective beginning on or after January 1, 2006, and not later than January 1, 2008.

''(iv) There shall be no administrative or judicial review under section 1869, 1878, or otherwise, of the classification system, the relative weights, payment amounts, and the geographic adjustment factor, if any, under this subparagraph.''.

(c) CONFORMING AMENDMENT.—Section 1833(a)(1) (42 U.S.C. 13951(a)(1)) is amended by adding the following new subparagraph:

''(G) with respect to facility services furnished in connection with a surgical procedure specified pursuant to subsection (i)(1)(A) and furnished to an individual in an ambulatory surgical center described in such subsection, for services furnished beginning with the implementation date of a revised payment system for such services in such facilities specified in subsection (i)(2)(D), the amounts paid shall be 80 percent of the lesser of the actual charge for the services or the

amount determined by the Secretary under such revised payment system,''.

(d) GAO STUDY OF AMBULATORY SURGICAL CENTER PAYMENTS.—

(1) STUDY.—

(A) IN GENERAL.—The Comptroller General of the United States shall conduct a study that compares the relative costs of procedures furnished in ambulatory surgical centers to the relative costs of procedures furnished in hospital outpatient departments under section 1833(t) of the Social Security Act (42 U.S.C. 1395l(t)). The study shall also examine how accurately ambulatory payment categories reflect procedures furnished in ambulatory surgical centers.

(B) CONSIDERATION OF ASC DATA.—In conducting the study under paragraph (1), the Comptroller General shall consider data submitted by ambulatory surgical centers regarding the matters described in clauses (i) through (iii) of paragraph (2)(B).

(2) REPORT AND RECOMMENDATIONS.—

(A) REPORT.—Not later than January 1, 2005, the Comptroller General shall submit to Congress a report on the study conducted under paragraph (1).

(B) RECOMMENDATIONS.—The report submitted under subparagraph (A) shall include recommendations on the following matters:

(i) The appropriateness of using the groups of covered services and relative weights established under the outpatient prospective payment system as the basis of payment for ambulatory surgical centers.

(ii) If the relative weights under such hospital outpatient prospective payment system are appropriate for such purpose—

(I) whether the payment rates for ambulatory surgical centers should be based on a uniform percentage of the payment rates or weights under such outpatient system; or

(II) whether the payment rates for ambulatory surgical centers should vary, or the weights should be revised, based on specific procedures or types of services (such as ophthalmology and pain management services).

(iii) Whether a geographic adjustment should be used for payment of services furnished in ambulatory surgical centers, and if so, the labor and nonlabor shares of such payment.

SEC. 327. PAYMENT FOR CERTAIN SHOES AND INSERTS UNDER THE FEE SCHEDULE FOR ORTHOTICS AND PROSTHETICS.

(a) IN GENERAL.—Section 1833(o) (42 U.S.C. 1395l(o)) is amended—

(1) in paragraph (1)(B), by striking ''no more than the limits established under paragraph (2)'' and inserting ''no more than the amount of payment applicable under paragraph (2)''; and

(2) in paragraph (2), to read as follows:

''(2)(A) Except as provided by the Secretary under subparagraphs (B) and (C), the amount of payment under this paragraph for custom molded shoes, extra-depth shoes, and inserts shall be the amount determined for such items by the Secretary under section 1834(h).

''(B) The Secretary may establish payment amounts for shoes and inserts that are lower than the amount established under section 1834(h) if the Secretary finds that shoes and inserts of an appropriate quality are readily available at or below the amount established under such section.

''(C) In accordance with procedures established by the Secretary, an individual entitled to benefits with respect to shoes described in section 1861(s)(12) may substitute modification of such shoes instead of obtaining one (or more, as specified by the Secretary) pair of inserts (other than the original pair of inserts with respect to such shoes). In such case, the Secretary shall substitute, for the payment amount established under section 1834(h), a payment amount that the Secretary estimates will assure that there is no net increase in expenditures under this subsection as a result of this subparagraph.''.

(b) CONFORMING AMENDMENTS.—(1) Section 1834(h)(4)(C) (42 U.S.C. 1395m(h)(4)(C)) is amended by inserting ''(and includes shoes described in section 1861(s)(12))'' after ''in section 1861(s)(9)''.

(2) Section 1842(s)(2) (42 U.S.C. 1395u(s)(2)) is amended by striking subparagraph (C).

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to items furnished on or after January 1, 2005.

SEC. 329. 5-YEAR AUTHORIZATION OF REIMBURSEMENT FOR ALL MEDICARE PART B SERVICES FURNISHED BY CERTAIN INDIAN HOSPITALS AND CLINICS.

Section 1880(e)(1)(A) (42 U.S.C. 1395qq(e)(1)(A)) is amended by inserting ''(and for items and services furnished during the 5-year period beginning on January 1, 2005, all items and services for which payment may be made under part B)'' after ''for services described in paragraph (2)''.

Subtitle D—Additional Demonstrations, Studies, and Other Provisions

SEC. 341. DEMONSTRATION PROJECT FOR COVERAGE OF CERTAIN PRESCRIPTION DRUGS AND BIOLOGICALS.

(a) DEMONSTRATION PROJECT.—The Secretary shall conduct a demonstration project under part B of title XVIII of the Social Security Act under which payment is made for drugs or biologicals that are prescribed as replacements for drugs and biologicals described in section 1861(s)(2)(A) or 1861(s)(2)(Q) of such Act (42 U.S.C. 1395x(s)(2)(A), 1395x(s)(2)(Q)), or both, for which payment is made under such part. Such project shall provide for cost-sharing applicable with respect to such drugs or biologicals.

(b) DEMONSTRATION PROJECT SITES.—The project established under this section shall be conducted in sites selected by the Secretary.

(c) DURATION.—The Secretary shall conduct the demonstration project for the 2-year period beginning on the date that is 90 days after the date of the enactment of this Act, but in no case may the project extend beyond December 31, 2005.

(d) LIMITATION.—Under the demonstration project over the duration of the project, the Secretary may not provide—

(1) coverage for more than 50,000 patients; and

(2) more than $500,000,000 in funding.

(e) REPORT.—Not later than July 1, 2006, the Secretary shall submit to Congress a report on the project. The report shall include an evaluation of patient access to care and patient outcomes under the project, as well as an analysis of the cost effectiveness of the project, including an evaluation of the costs savings (if any) to the medicare program attributable to reduced physicians' services and hospital outpatient departments services for administration of the biological.

SEC. 342. EXTENSION OF COVERAGE OF INTRAVENOUS IMMUNE GLOBULIN (IVIG) FOR THE TREATMENT OF PRIMARY IMMUNE DEFICIENCY DISEASES IN THE HOME.

(a) IN GENERAL.—Section 1861 (42 U.S.C. 1395x), as amended by sections 611(a) and 612(a) is amended—

(1) in subsection (s)(2)—

(A) by striking ''and'' at the end of subparagraph (X);

(B) by adding ''and'' at the end of subparagraph (Y); and

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

''(Z) intravenous immune globulin for the treatment of primary immune deficiency diseases in the home (as defined in subsection (zz));''; and

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

''Intravenous Immune Globulin

''(zz) The term 'intravenous immune globulin' means an approved pooled plasma derivative for the treatment in the patient's home of a patient with a diagnosed primary immune deficiency disease, but not including items or services related to the administration of the derivative, if a physician determines administration of the derivative in the patient's home is medically appropriate.''.

(b) PAYMENT AS A DRUG OR BIOLOGICAL.—Section 1833(a)(1)(S) (42 U.S.C. 1395l(a)(1)(S)) is amended by inserting ''(including intravenous immune globulin (as defined in section 1861(zz)))'' after ''with respect to drugs and biologicals''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to items furnished administered on or after January 1, 2004.

SEC. 343. MEDPAC STUDY OF COVERAGE OF SURGICAL FIRST ASSISTING SERVICES OF CERTIFIED REGISTERED NURSE FIRST ASSISTANTS.

(a) STUDY.—The Medicare Payment Advisory Commission (in this section referred to as the ''Commission'') shall conduct a study on the feasibility and advisability of providing for payment under part B of title XVIII of the Social Security Act for surgical first assisting services furnished by a certified registered nurse first assistant to medicare beneficiaries.

(b) REPORT.—Not later than January 1, 2005, the Commission shall submit to Congress a report on the study conducted under subsection (a) together with recommendations for such legislation or administrative action as the Commission determines to be appropriate.

(c) DEFINITIONS.—In this section:

(1) SURGICAL FIRST ASSISTING SERVICES.—The term ''surgical first assisting services'' means services consisting of first assisting a physician with surgery and related preoperative, intraoperative, and postoperative care (as determined by the Secretary) furnished by a certified registered nurse first assistant (as defined in paragraph (2)) which the certified registered nurse first assistant is legally authorized to perform by the State in which the services are performed.

(2) CERTIFIED REGISTERED NURSE FIRST ASSISTANT.—The term ''certified registered nurse first assistant'' means an individual who—

(A) is a registered nurse and is licensed to practice nursing in the State in which the surgical first assisting services are performed;

(B) has completed a minimum of 2,000 hours of first assisting a physician with surgery and related preoperative, intraoperative, and postoperative care; and

(C) is certified as a registered nurse first assistant by an organization recognized by the Secretary.

SEC. 344. MEDPAC STUDY OF PAYMENT FOR CARDIO-THORACIC SURGEONS.

(a) STUDY.—The Medicare Payment Advisory Commission (in this section referred to as the ''Commission'') shall conduct a study on the practice expense relative values established by the Secretary of Health and Human Services under the medicare physician fee schedule under section 1848 of the Social Security Act (42 U.S.C. 1395w–4) for physicians in the specialties of thoracic and cardiac surgery to determine whether such values adequately take into account the attendant costs that such physicians incur in providing clinical staff for patient care in hospitals.

(b) REPORT.—Not later than January 1, 2005, the Commission shall submit to Congress a report on the study conducted under

subsection (a) together with recommendations for such legislation or administrative action as the Commission determines to be appropriate.

SEC. 345. STUDIES RELATING TO VISION IMPAIRMENTS.

(a) COVERAGE OF OUTPATIENT VISION SERVICES FURNISHED BY VISION REHABILITATION PROFESSIONALS UNDER PART B.—

(1) STUDY.—The Secretary shall conduct a study to determine the feasibility and advisability of providing for payment for vision rehabilitation services furnished by vision rehabilitation professionals.

(2) REPORT.—Not later than January 1, 2005, the Secretary shall submit to Congress a report on the study conducted under paragraph (1) together with recommendations for such legislation or administrative action as the Secretary determines to be appropriate.

(3) VISION REHABILITATION PROFESSIONAL DEFINED.—In this subsection, the term ''vision rehabilitation professional'' means an orientation and mobility specialist, a rehabilitation teacher, or a low vision therapist.

(b) REPORT ON APPROPRIATENESS OF A DEMONSTRATION PROJECT TO TEST FEASIBILITY OF USING PPO NETWORKS TO REDUCE COSTS OF ACQUIRING EYEGLASSES FOR MEDICARE BENEFICIARIES AFTER CATARACT SURGERY.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall submit to Congress a report on the feasibility of establishing a two-year demonstration project under which the Secretary enters into arrangements with vision care preferred provider organization networks to furnish and pay for conventional eyeglasses subsequent to each cataract surgery with insertion of an intraocular lens on behalf of Medicare beneficiaries. In such report, the Secretary shall include an estimate of potential cost savings to the Medicare program through the use of such networks, taking into consideration quality of service and beneficiary access to services offered by vision care preferred provider organization networks.

SEC. 346. MEDICARE HEALTH CARE QUALITY DEMONSTRATION PROGRAMS.

Title XVIII (42 U.S.C. 1395 et seq.) is amended by inserting after section 1866B the following new section:

''SEC. 1866C. HEALTH CARE QUALITY DEMONSTRATION PROGRAM.

''SEC. (a) DEFINITIONS.—In this section:

''(1) BENEFICIARY.—The term 'beneficiary' means an individual who is entitled to benefits under part A and enrolled under part B, including any individual who is enrolled in a Medicare Advantage plan under part C.

''(2) HEALTH CARE GROUP.—

''(A) IN GENERAL.—The term 'health care group' means—

''(i) a group of physicians that is organized at least in part for the purpose of providing physician's services under this title;

''(ii) an integrated health care delivery system that delivers care through coordinated hospitals, clinics, home health agencies, ambulatory surgery centers, skilled nursing facilities, rehabilitation facilities and clinics, and employed, independent, or contracted physicians; or

''(iii) an organization representing regional coalitions of groups or systems described in clause (i) or (ii).

''(B) INCLUSION.—As the Secretary determines appropriate, a health care group may include a hospital or any other individual or entity furnishing items or services for which payment may be made under this title that is affiliated with the health care group under an arrangement structured so that such hospital, individual, or entity participates in a demonstration project under this section.

''(3) PHYSICIAN.—Except as otherwise provided for by the Secretary, the term 'physician' means any individual who furnishes services that may be paid for as physicians' services under this title.

''(b) DEMONSTRATION PROJECTS.—The Secretary shall establish a 5-year demonstration program under which the Secretary shall approve demonstration projects that examine health delivery factors that encourage the delivery of improved quality in patient care, including—

''(1) the provision of incentives to improve the safety of care provided to beneficiaries;

''(2) the appropriate use of best practice guidelines by providers and services by beneficiaries;

''(3) reduced scientific uncertainty in the delivery of care through the examination of variations in the utilization and allocation of services, and outcomes measurement and research;

''(4) encourage shared decision making between providers and patients;

''(5) the provision of incentives for improving the quality and safety of care and achieving the efficient allocation of resources;

''(6) the appropriate use of culturally and ethnically sensitive health care delivery; and

''(7) the financial effects on the health care marketplace of altering the incentives for care delivery and changing the allocation of resources.

''(c) ADMINISTRATION BY CONTRACT.—

''(1) IN GENERAL.—Except as otherwise provided in this section, the Secretary may administer the demonstration program established under this section in a manner that is similar to the manner in which the demonstration program established under section 1866A is administered in accordance with section 1866B.

''(2) ALTERNATIVE PAYMENT SYSTEMS.—A health care group that receives assistance under this section may, with respect to the demonstration project to be carried out with such assistance, include proposals for the use of alternative payment systems for items and services provided to beneficiaries by the group that are designed to—

''(A) encourage the delivery of high quality care while accomplishing the objectives described in subsection (b); and

''(B) streamline documentation and reporting requirements otherwise required under this title.

''(3) BENEFITS.—A health care group that receives assistance under this section may, with respect to the demonstration project to be carried out with such assistance, include modifications to the package of benefits available under the original medicare fee-for-service program under parts A and B or the package of benefits available through a Medicare Advantage plan under part C. The criteria employed under the demonstration program under this section to evaluate outcomes and determine best practice guidelines and incentives shall not be used as a basis for the denial of medicare benefits under the demonstration program to patients against their wishes (or if the patient is incompetent, against the wishes of the patient's surrogate) on the basis of the patient's age or expected length of life or of the patient's present or predicted disability, degree of medical dependency, or quality of life.

''(d) ELIGIBILITY CRITERIA.—To be eligible to receive assistance under this section, an entity shall—

''(1) be a health care group;

''(2) meet quality standards established by the Secretary, including—

''(A) the implementation of continuous quality improvement mechanisms that are aimed at integrating community-based support services, primary care, and referral care;

''(B) the implementation of activities to increase the delivery of effective care to beneficiaries;

''(C) encouraging patient participation in preference-based decisions;

''(D) the implementation of activities to encourage the coordination and integration of medical service delivery; and

''(E) the implementation of activities to measure and document the financial impact on the health care marketplace of altering the incentives of health care delivery and changing the allocation of resources; and

''(3) meet such other requirements as the Secretary may establish.

''(e) WAIVER AUTHORITY.—The Secretary may waive such requirements of titles XI and XVIII as may be necessary to carry out the purposes of the demonstration program established under this section.

''(f) BUDGET NEUTRALITY.—With respect to the 5-year period of the demonstration program under subsection (b), the aggregate expenditures under this title for such period shall not exceed the aggregate expenditures that would have been expended under this title if the program established under this section had not been implemented.

''(g) NOTICE REQUIREMENTS.—In the case of an individual that receives health care items or services under a demonstration program carried out under this section, the Secretary shall ensure that such individual is notified of any waivers of coverage or payment rules that are applicable to such individual under this title as a result of the participation of the individual in such program.

''(h) PARTICIPATION AND SUPPORT BY FEDERAL AGENCIES.—In carrying out the demonstration program under this section, the Secretary may direct—

''(1) the Director of the National Institutes of Health to expand the efforts of the Institutes to evaluate current medical technologies and improve the foundation for evidence-based practice;

''(2) the Administrator of the Agency for Healthcare Research and Quality to, where possible and appropriate, use the program under this section as a laboratory for the study of quality improvement strategies and to evaluate, monitor, and disseminate information relevant to such program; and

''(3) the Administrator of the Centers for Medicare & Medicaid Services and the Administrator of the Center for Medicare Choices to support linkages of relevant medicare data to registry information from participating health care groups for the beneficiary populations served by the participating groups, for analysis supporting the purposes of the demonstration program, consistent with the applicable provisions of the Health Insurance Portability and Accountability Act of 1996.''.

SEC. 347. MEDPAC STUDY ON DIRECT ACCESS TO PHYSICAL THERAPY SERVICES.

(a) STUDY.—The Medicare Payment Advisory Commission (in this section referred to as the ''Commission'') shall conduct a study on the feasibility and advisability of allowing medicare fee-for-service beneficiaries direct access to outpatient physical therapy services and physical therapy services furnished as comprehensive rehabilitation facility services.

(b) REPORT.—Not later than January 1, 2005, the Commission shall submit to Congress a report on the study conducted under subsection (a) together with recommendations for such legislation or administrative action as the Commission determines to be appropriate.

(c) DIRECT ACCESS DEFINED.—The term ''direct access'' means, with respect to outpatient physical therapy services and physical therapy services furnished as comprehensive outpatient rehabilitation facility

services, coverage of and payment for such services in accordance with the provisions of title XVIII of the Social Security Act, except that sections 1835(a)(2), 1861(p), and 1861(cc) of such Act (42 U.S.C. 1395n(a)(2), 1395x(p), and 1395x(cc), respectively) shall be applied—

(1) without regard to any requirement that—

(A) an individual be under the care of (or referred by) a physician; or

(B) services be provided under the supervision of a physician; and

(2) by allowing a physician or a qualified physical therapist to satisfy any requirement for—

(A) certification and recertification; and

(B) establishment and periodic review of a plan of care.

SEC. 348. DEMONSTRATION PROJECT FOR CONSUMER-DIRECTED CHRONIC OUTPATIENT SERVICES.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—Subject to the succeeding provisions of this section, the Secretary shall establish demonstration projects (in this section referred to as ''demonstration projects'') under which the Secretary shall evaluate methods that improve the quality of care provided to individuals with chronic conditions and that reduce expenditures that would otherwise be made under the medicare program on behalf of such individuals for such chronic conditions, such methods to include permitting those beneficiaries to direct their own health care needs and services.

(2) INDIVIDUALS WITH CHRONIC CONDITIONS DEFINED.—In this section, the term ''individuals with chronic conditions'' means an individual entitled to benefits under part A of title XVIII of the Social Security Act, and enrolled under part B of such title, but who is not enrolled under part C of such title who is diagnosed as having one or more chronic conditions (as defined by the Secretary), such as diabetes.

(b) DESIGN OF PROJECTS.—

(1) EVALUATION BEFORE IMPLEMENTATION OF PROJECT.—

(A) IN GENERAL.—In establishing the demonstration projects under this section, the Secretary shall evaluate best practices employed by group health plans and practices under State plans for medical assistance under the medicaid program under title XIX of the Social Security Act, as well as best practices in the private sector or other areas, of methods that permit patients to self-direct the provision of personal care services. The Secretary shall evaluate such practices for a 1-year period and, based on such evaluation, shall design the demonstration project.

(B) REQUIREMENT FOR ESTIMATE OF BUDGET NEUTRAL COSTS.—As part of the evaluation under subparagraph (A), the Secretary shall evaluate the costs of furnishing care under the projects. The Secretary may not implement the demonstration projects under this section unless the Secretary determines that the costs of providing care to individuals with chronic conditions under the project will not exceed the costs, in the aggregate, of furnishing care to such individuals under title XVIII of the Social Security Act, that would otherwise be paid without regard to the demonstration projects for the period of the project.

(2) SCOPE OF SERVICES.—The Secretary shall determine the appropriate scope of personal care services that would apply under the demonstration projects.

(c) VOLUNTARY PARTICIPATION.—Participation of providers of services and suppliers, and of individuals with chronic conditions, in the demonstration projects shall be voluntary.

(d) DEMONSTRATION PROJECTS SITES.—Not later than 2 years after the date of the enactment of this Act, the Secretary shall conduct a demonstration project in at least one area that the Secretary determines has a population of individuals entitled to benefits under part A of title XVIII of the Social Security Act, and enrolled under part B of such title, with a rate of incidence of diabetes that significantly exceeds the national average rate of all areas.

(e) EVALUATION AND REPORT.—

(1) EVALUATIONS.—The Secretary shall conduct evaluations of the clinical and cost effectiveness of the demonstration projects.

(2) REPORTS.—Not later than 2 years after the commencement of the demonstration projects, and biannually thereafter, the Secretary shall submit to Congress a report on the evaluation, and shall include in the report the following:

(A) An analysis of the patient outcomes and costs of furnishing care to the individuals with chronic conditions participating in the projects as compared to such outcomes and costs to other individuals for the same health conditions.

(B) Evaluation of patient satisfaction under the demonstration projects.

(C) Such recommendations regarding the extension, expansion, or termination of the projects as the Secretary determines appropriate.

(f) WAIVER AUTHORITY.—The Secretary shall waive compliance with the requirements of title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) to such extent and for such period as the Secretary determines is necessary to conduct demonstration projects.

(g) AUTHORIZATION OF APPROPRIATIONS.—(1) Payments for the costs of carrying out the demonstration project under this section shall be made from the Federal Supplementary Medical Insurance Trust Fund under section 1841 of such Act (42 U.S.C. 1395t).

(2) There are authorized to be appropriated from such Trust Fund such sums as may be necessary for the Secretary to enter into contracts with appropriate organizations for the deign, implementation, and evaluation of the demonstration project.

(3) In no case may expenditures under this section exceed the aggregate expenditures that would otherwise have been made for the provision of personal care services.

SEC. 349. MEDICARE CARE MANAGEMENT PERFORMANCE DEMONSTRATION.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—The Secretary shall establish a pay-for-performance demonstration program with physicians to meet the needs of eligible beneficiaries through the adoption and use of health information technology and evidence-based outcomes measures for—

(A) promoting continuity of care;

(B) helping stabilize medical conditions;

(C) preventing or minimizing acute exacerbations of chronic conditions; and

(D) reducing adverse health outcomes, such as adverse drug interactions related to polypharmacy.

(2) SITES.—The Secretary shall designate no more than 4 sites at which to conduct the demonstration program under this section, of which—

(A) 2 shall be in an urban area;

(B) 1 shall be in a rural area; and

(C) 1 shall be in a State with a medical school with a Department of Geriatrics that manages rural outreach sites and is capable of managing patients with multiple chronic conditions, one of which is dementia.

(3) DURATION.—The Secretary shall conduct the demonstration program under this section for a 3-year period.

(4) CONSULTATION.—In carrying out the demonstration program under this section, the Secretary shall consult with private sector and non-profit groups that are undertaking similar efforts to improve quality and reduce avoidable hospitalizations for chronically ill patients.

(b) PARTICIPATION.—

(1) IN GENERAL.—A physician who provides care for a minimum number of eligible beneficiaries (as specified by the Secretary) may participate in the demonstration program under this section if such physician agrees, to phase-in over the course of the 3-year demonstration period and with the assistance provided under subsection (d)(2)—

(A) the use of health information technology to manage the clinical care of eligible beneficiaries consistent with paragraph (3); and

(B) the electronic reporting of clinical quality and outcomes measures in accordance with requirements established by the Secretary under the demonstration program.

(2) SPECIAL RULE.—In the case of the sites referred to in subparagraphs (B) and (C) of subsection (a)(2), a physician who provides care for a minimum number of beneficiaries with two or more chronic conditions, including dementia (as specified by the Secretary), may participate in the program under this section if such physician agrees to the requirements in subparagraphs (A) and (B) of paragraph (1).

(3) PRACTICE STANDARDS.—Each physician participating in the demonstration program under this section must demonstrate the ability—

(A) to assess each eligible beneficiary for conditions other than chronic conditions, such as impaired cognitive ability and comorbidities, for the purposes of developing care management requirements;

(B) to serve as the primary contact of eligible beneficiaries in accessing items and services for which payment may be made under the medicare program;

(C) to establish and maintain health care information system for such beneficiaries;

(D) to promote continuity of care across providers and settings;

(E) to use evidence-based guidelines and meet such clinical quality and outcome measures as the Secretary shall require;

(F) to promote self-care through the provision of patient education and support for patients or, where appropriate, family caregivers;

(G) when appropriate, to refer such beneficiaries to community service organizations; and

(H) to meet such other complex care management requirements as the Secretary may specify.

The guidelines and measures required under subparagraph (E) shall be designed to take into account beneficiaries with multiple chronic conditions.

(c) PAYMENT METHODOLOGY.—Under the demonstration program under this section the Secretary shall pay a per beneficiary amount to each participating physician who meets or exceeds specific performance standards established by the Secretary with respect to the clinical quality and outcome measures reported under subsection (b)(1)(B). Such amount may vary based on different levels of performance or improvement.

(d) ADMINISTRATION.—

(1) USE OF QUALITY IMPROVEMENT ORGANIZATIONS.—The Secretary shall contract with quality improvement organizations or such other entities as the Secretary deems appropriate to enroll physicians and evaluate their performance under the demonstration program under this section.

(2) TECHNICAL ASSISTANCE.—The Secretary shall require in such contracts that the contractor be responsible for technical assistance and education as needed to physicians

enrolled in the demonstration program under this section for the purpose of aiding their adoption of health information technology, meeting practice standards, and implementing required clinical and outcomes measures.

(e) FUNDING.—

(1) IN GENERAL.—The Secretary shall provide for the transfer from the Federal Supplementary Medical Insurance Trust Fund established under section 1841 of the Social Security Act (42 U.S.C. 1395t) of such funds as are necessary for the costs of carrying out the demonstration program under this section.

(2) BUDGET NEUTRALITY.—In conducting the demonstration program under this section, the Secretary shall ensure that the aggregate payments made by the Secretary do not exceed the amount which the Secretary estimates would have been paid if the demonstration program under this section was not implemented.

(f) WAIVER AUTHORITY.—The Secretary may waive such requirements of titles XI and XVIII of the Social Security Act (42 U.S.C. 1301 et seq.; 1395 et seq.) as may be necessary for the purpose of carrying out the demonstration program under this section.

(g) REPORT.—Not later than 12 months after the date of completion of the demonstration program under this section, the Secretary shall submit to Congress a report on such program, together with recommendations for such legislation and administrative action as the Secretary determines to be appropriate.

(h) DEFINITIONS.—In this section:

(1) ELIGIBLE BENEFICIARY.—The term ''eligible beneficiary'' means any individual who—

(A) is entitled to benefits under part A and enrolled for benefits under part B of title XVIII of the Social Security Act and is not enrolled in a plan under part C of such title; and

(B) has one or more chronic medical conditions specified by the Secretary (one of which may be cognitive impairment).

(2) HEALTH INFORMATION TECHNOLOGY.—The term ''health information technology'' means email communication, clinical alerts and reminders, and other information technology that meets such functionality, interoperability, and other standards as prescribed by the Secretary.

SEC. 350. GAO STUDY AND REPORT ON THE PROPAGATION OF CONCIERGE CARE.

(a) STUDY.—

(1) IN GENERAL.—The Comptroller General of the United States shall conduct a study on concierge care (as defined in paragraph (2)) to determine the extent to which such care—

(A) is used by medicare beneficiaries (as defined in section 1802(b)(5)(A) of the Social Security Act (42 U.S.C. 1395a(b)(5)(A))); and

(B) has impacted upon the access of medicare beneficiaries (as so defined) to items and services for which reimbursement is provided under the medicare program under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.).

(2) CONCIERGE CARE.—In this section, the term ''concierge care'' means an arrangement under which, as a prerequisite for the provision of a health care item or service to an individual, a physician, practitioner (as described in section 1842(b)(18)(C) of the Social Security Act (42 U.S.C. 1395u(b)(18)(C))), or other individual—

(A) charges a membership fee or another incidental fee to an individual desiring to receive the health care item or service from such physician, practitioner, or other individual; or

(B) requires the individual desiring to receive the health care item or service from such physician, practitioner, or other individual to purchase an item or service.

(b) REPORT.—Not later than the date that is 12 months after the date of enactment of this Act, the Comptroller General of the United States shall submit to Congress a report on the study conducted under subsection (a)(1) together with such recommendations for legislative or administrative action as the Comptroller General determines to be appropriate.

SEC. 351. DEMONSTRATION OF COVERAGE OF CHIROPRACTIC SERVICES UNDER MEDICARE.

(a) DEFINITIONS.—In this section:

(1) CHIROPRACTIC SERVICES.—The term ''chiropractic services'' has the meaning given that term by the Secretary for purposes of the demonstration projects, but shall include, at a minimum—

(A) care for neuromusculoskeletal conditions typical among eligible beneficiaries; and

(B) diagnostic and other services that a chiropractor is legally authorized to perform by the State or jurisdiction in which such treatment is provided.

(2) DEMONSTRATION PROJECT.—The term ''demonstration project'' means a demonstration project established by the Secretary under subsection (b)(1).

(3) ELIGIBLE BENEFICIARY.—The term ''eligible beneficiary'' means an individual who is enrolled under part B of the medicare program.

(4) MEDICARE PROGRAM.—The term ''medicare program'' means the health benefits program under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.).

(b) DEMONSTRATION OF COVERAGE OF CHIROPRACTIC SERVICES UNDER MEDICARE.—

(1) ESTABLISHMENT.—The Secretary shall establish demonstration projects in accordance with the provisions of this section for the purpose of evaluating the feasibility and advisability of covering chiropractic services under the medicare program (in addition to the coverage provided for services consisting of treatment by means of manual manipulation of the spine to correct a subluxation described in section 1861(r)(5) of the Social Security Act (42 U.S.C. 1395x(r)(5))).

(2) NO PHYSICIAN APPROVAL REQUIRED.—In establishing the demonstration projects, the Secretary shall ensure that an eligible beneficiary who participates in a demonstration project, including an eligible beneficiary who is enrolled for coverage under a Medicare+Choice plan (or, on and after January 1, 2006, under a Medicare Advantage plan), is not required to receive approval from a physician or other health care provider in order to receive a chiropractic service under a demonstration project.

(3) CONSULTATION.—In establishing the demonstration projects, the Secretary shall consult with chiropractors, organizations representing chiropractors, eligible beneficiaries, and organizations representing eligible beneficiaries.

(4) PARTICIPATION.—Any eligible beneficiary may participate in the demonstration projects on a voluntary basis.

(c) CONDUCT OF DEMONSTRATION PROJECTS.—

(1) DEMONSTRATION SITES.—

(A) SELECTION OF DEMONSTRATION SITES.—The Secretary shall conduct demonstration projects at 4 demonstration sites.

(B) GEOGRAPHIC DIVERSITY.—Of the sites described in subparagraph (A)—

(i) 2 shall be in rural areas; and

(ii) 2 shall be in urban areas.

(C) SITES LOCATED IN HPSAS.—At least 1 site described in clause (i) of subparagraph (B) and at least 1 site described in clause (ii) of such subparagraph shall be located in an area that is designated under section 332(a)(1)(A) of the Public Health Service Act (42 U.S.C. 254e(a)(1)(A)) as a health professional shortage area.

(2) IMPLEMENTATION; DURATION.—

(A) IMPLEMENTATION.—The Secretary shall not implement the demonstration projects before October 1, 2004.

(B) DURATION.—The Secretary shall complete the demonstration projects by the date that is 2 years after the date on which the first demonstration project is implemented.

(d) EVALUATION AND REPORT.—

(1) EVALUATION.—The Secretary shall conduct an evaluation of the demonstration projects—

(A) to determine whether eligible beneficiaries who use chiropractic services use a lesser overall amount of items and services for which payment is made under the medicare program than eligible beneficiaries who do not use such services;

(B) to determine the cost of providing payment for chiropractic services under the medicare program;

(C) to determine the satisfaction of eligible beneficiaries participating in the demonstration projects and the quality of care received by such beneficiaries; and

(D) to evaluate such other matters as the Secretary determines is appropriate.

(2) REPORT.—Not later than the date that is 1 year after the date on which the demonstration projects conclude, the Secretary shall submit to Congress a report on the evaluation conducted under paragraph (1) together with such recommendations for legislation or administrative action as the Secretary determines is appropriate.

(e) WAIVER OF MEDICARE REQUIREMENTS.—The Secretary shall waive compliance with such requirements of the medicare program to the extent and for the period the Secretary finds necessary to conduct the demonstration projects.

(f) FUNDING.—

(1) DEMONSTRATION PROJECTS.—

(A) IN GENERAL.—Subject to subparagraph (B) and paragraph (2), the Secretary shall provide for the transfer from the Federal Supplementary Insurance Trust Fund under section 1841 of the Social Security Act (42 U.S.C. 1395t) of such funds as are necessary for the costs of carrying out the demonstration projects under this section.

(B) LIMITATION.—In conducting the demonstration projects under this section, the Secretary shall ensure that the aggregate payments made by the Secretary under the medicare program do not exceed the amount which the Secretary would have paid under the medicare program if the demonstration projects under this section were not implemented.

(2) EVALUATION AND REPORT.—There are authorized to be appropriated such sums as are necessary for the purpose of developing and submitting the report to Congress under subsection (d).

TITLE IV—PROVISIONS RELATING TO PARTS A AND B

Subtitle A—Home Health Services

SEC. 401. DEMONSTRATION PROJECT TO CLARIFY THE DEFINITION OF HOMEBOUND.

(a) DEMONSTRATION PROJECT.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall conduct a 2-year demonstration project under part B of title XVIII of the Social Security Act under which medicare beneficiaries with chronic conditions described in subsection (b) are deemed to be homebound for purposes of receiving home health services under the medicare program.

(b) MEDICARE BENEFICIARY DESCRIBED.—For purposes of subsection (a), a medicare beneficiary is eligible to be deemed to be homebound, without regard to the purpose, frequency, or duration of absences from the home, if—

(1) the beneficiary has been certified by one physician as an individual who has a permanent and severe, disabling condition that is not expected to improve;

(2) the beneficiary is dependent upon assistance from another individual with at least 3 out of the 5 activities of daily living for the rest of the beneficiary's life;

(3) the beneficiary requires skilled nursing services for the rest of the beneficiary's life and the skilled nursing is more than medication management;

(4) an attendant is required to visit the beneficiary on a daily basis to monitor and treat the beneficiary's medical condition or to assist the beneficiary with activities of daily living;

(5) the beneficiary requires technological assistance or the assistance of another person to leave the home; and

(6) the beneficiary does not regularly work in a paid position full-time or part-time outside the home.

(c) DEMONSTRATION PROJECT SITES.—The demonstration project established under this section shall be conducted in 3 States selected by the Secretary to represent the Northeast, Midwest, and Western regions of the United States.

(d) LIMITATION ON NUMBER OF PARTICIPANTS.—The aggregate number of such beneficiaries that may participate in the project may not exceed 15,000.

(e) DATA.—The Secretary shall collect such data on the demonstration project with respect to the provision of home health services to medicare beneficiaries that relates to quality of care, patient outcomes, and additional costs, if any, to the medicare program.

(f) REPORT TO CONGRESS.—Not later than 1 year after the date of the completion of the demonstration project under this section, the Secretary shall submit to Congress a report on the project using the data collected under subsection (e). The report shall include the following:

(1) An examination of whether the provision of home health services to medicare beneficiaries under the project has had any of the following effects:

(A) Has adversely affected the provision of home health services under the medicare program.

(B) Has directly caused an increase of expenditures under the medicare program for the provision of such services that is directly attributable to such clarification.

(2) The specific data evidencing the amount of any increase in expenditures that is directly attributable to the demonstration project (expressed both in absolute dollar terms and as a percentage) above expenditures that would otherwise have been incurred for home health services under the medicare program.

(3) Specific recommendations to exempt permanently and severely disabled homebound beneficiaries from restrictions on the length, frequency, and purpose of their absences from the home to qualify for home health services without incurring additional costs to the medicare program.

(g) WAIVER AUTHORITY.—The Secretary shall waive compliance with the requirements of title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) to such extent and for such period as the Secretary determines is necessary to conduct demonstration projects.

(h) CONSTRUCTION.—Nothing in this section shall be construed as waiving any applicable civil monetary penalty, criminal penalty, or other remedy available to the Secretary under title XI or title XVIII of the Social Security Act for acts prohibited under such titles, including penalties for false certifications for purposes of receipt of items or services under the medicare program.

(i) AUTHORIZATION OF APPROPRIATIONS.—Payments for the costs of carrying out the demonstration project under this section shall be made from the Federal Supplementary Medical Insurance Trust Fund under section 1841 of such Act (42 U.S.C. 1395t).

(j) DEFINITIONS.—In this section:

(1) MEDICARE BENEFICIARY.—The term ''medicare beneficiary'' means an individual who is enrolled under part B of title XVIII of the Social Security Act.

(2) HOME HEALTH SERVICES.—The term ''home health services'' has the meaning given such term in section 1861(m) of the Social Security Act (42 U.S.C. 1395x(m)).

(3) ACTIVITIES OF DAILY LIVING DEFINED.—The term ''activities of daily living'' means eating, toileting, transferring, bathing, and dressing.

SEC. 402. DEMONSTRATION PROJECT FOR MEDICAL ADULT DAY-CARE SERVICES.

(a) ESTABLISHMENT.—Subject to the succeeding provisions of this section, the Secretary shall establish a demonstration project (in this section referred to as the ''demonstration project'') under which the Secretary shall, as part of a plan of an episode of care for home health services established for a medicare beneficiary, permit a home health agency, directly or under arrangements with a medical adult day-care facility, to provide medical adult day-care services as a substitute for a portion of home health services that would otherwise be provided in the beneficiary's home.

(b) PAYMENT.—

(1) IN GENERAL.—Subject to paragraph (2), the amount of payment for an episode of care for home health services, a portion of which consists of substitute medical adult day-care services, under the demonstration project shall be made at a rate equal to 95 percent of the amount that would otherwise apply for such home health services under section 1895 of the Social Security Act (42 U.S.C. 1395fff). In no case may a home health agency, or a medical adult day-care facility under arrangements with a home health agency, separately charge a beneficiary for medical adult day-care services furnished under the plan of care.

(2) ADJUSTMENT IN CASE OF OVERUTILIZATION OF SUBSTITUTE ADULT DAY-CARE SERVICES TO ENSURE BUDGET NEUTRALITY.—The Secretary shall monitor the expenditures under the demonstration project and under title XVIII of the Social Security Act for home health services. If the Secretary estimates that the total expenditures under the demonstration project and under such title XVIII for home health services for a period determined by the Secretary exceed expenditures that would have been made under such title XVIII for home health services for such period if the demonstration project had not been conducted, the Secretary shall adjust the rate of payment to medical adult day-care facilities under paragraph (1) in order to eliminate such excess.

(c) DEMONSTRATION PROJECT SITES.—The demonstration project established under this section shall be conducted in not more than 5 sites in States selected by the Secretary that license or certify providers of services that furnish medical adult day-care services.

(d) DURATION.—The Secretary shall conduct the demonstration project for a period of 3 years.

(e) VOLUNTARY PARTICIPATION.—Participation of medicare beneficiaries in the demonstration project shall be voluntary. The total number of such beneficiaries that may participate in the project at any given time may not exceed 15,000.

(f) PREFERENCE IN SELECTING AGENCIES.—In selecting home health agencies to participate under the demonstration project, the Secretary shall give preference to those agencies that are currently licensed or certified through common ownership and control to furnish medical adult day-care services.

(g) WAIVER AUTHORITY.—The Secretary may waive such requirements of title XVIII of the Social Security Act as may be necessary for the purposes of carrying out the demonstration project, other than waiving the requirement that an individual be homebound in order to be eligible for benefits for home health services.

(h) EVALUATION AND REPORT.—The Secretary shall conduct an evaluation of the clinical and cost-effectiveness of the demonstration project. Not later than 6 months after the completion of the project, the Secretary shall submit to Congress a report on the evaluation, and shall include in the report the following:

(1) An analysis of the patient outcomes and costs of furnishing care to the medicare beneficiaries participating in the project as compared to such outcomes and costs to beneficiaries receiving only home health services for the same health conditions.

(2) Such recommendations regarding the extension, expansion, or termination of the project as the Secretary determines appropriate.

(i) DEFINITIONS.—In this section:

(1) HOME HEALTH AGENCY.—The term ''home health agency'' has the meaning given such term in section 1861(o) of the Social Security Act (42 U.S.C. 1395x(o)).

(2) MEDICAL ADULT DAY-CARE FACILITY.—The term ''medical adult day-care facility'' means a facility that—

(A) has been licensed or certified by a State to furnish medical adult day-care services in the State for a continuous 2-year period;

(B) is engaged in providing skilled nursing services and other therapeutic services directly or under arrangement with a home health agency;

(C) is licensed and certified by the State in which it operates or meets such standards established by the Secretary to assure quality of care and such other requirements as the Secretary finds necessary in the interest of the health and safety of individuals who are furnished services in the facility; and

(D) provides medical adult day-care services.

(3) MEDICAL ADULT DAY-CARE SERVICES.—The term ''medical adult day-care services'' means—

(A) home health service items and services described in paragraphs (1) through (7) of section 1861(m) furnished in a medical adult day-care facility;

(B) a program of supervised activities furnished in a group setting in the facility that—

(i) meet such criteria as the Secretary determines appropriate; and

(ii) is designed to promote physical and mental health of the individuals; and

(C) such other services as the Secretary may specify.

(4) MEDICARE BENEFICIARY.—The term ''medicare beneficiary'' means an individual entitled to benefits under part A of this title, enrolled under part B of this title, or both.

SEC. 403. TEMPORARY SUSPENSION OF OASIS REQUIREMENT FOR COLLECTION OF DATA ON NON-MEDICARE AND NON-MEDICAID PATIENTS.

(a) IN GENERAL.—During the period described in subsection (b), the Secretary may

not require, under section 4602(e) of the Balanced Budget Act of 1997 (Public Law 105–33; 111 Stat. 467) or otherwise under OASIS, a home health agency to gather or submit information that relates to an individual who is not eligible for benefits under either title XVIII or title XIX of the Social Security Act (such information in this section referred to as ''non-medicare/medicaid OASIS information'').

(b) PERIOD OF SUSPENSION.—The period described in this subsection—

(1) begins on the date of the enactment of this Act; and

(2) ends on the last day of the second month beginning after the date as of which the Secretary has published final regulations regarding the collection and use by the Centers for Medicare & Medicaid Services of non-medicare/medicaid OASIS information following the submission of the report required under subsection (c).

(c) REPORT.—

(1) STUDY.—The Secretary shall conduct a study on how non-medicare/medicaid OASIS information is and can be used by large home health agencies. Such study shall examine—

(A) whether there are unique benefits from the analysis of such information that cannot be derived from other information available to, or collected by, such agencies; and

(B) the value of collecting such information by small home health agencies compared to the administrative burden related to such collection.

In conducting the study the Secretary shall obtain recommendations from quality assessment experts in the use of such information and the necessity of small, as well as large, home health agencies collecting such information.

(2) REPORT.—The Secretary shall submit to Congress a report on the study conducted under paragraph (1) by not later than 18 months after the date of the enactment of this Act.

(d) CONSTRUCTION.—Nothing in this section shall be construed as preventing home health agencies from collecting non-medicare/medicaid OASIS information for their own use.

SEC. 404. MEDPAC STUDY ON MEDICARE MARGINS OF HOME HEALTH AGENCIES.

(a) STUDY.—The Medicare Payment Advisory Commission shall conduct a study of payment margins of home health agencies under the home health prospective payment system under section 1895 of the Social Security Act (42 U.S.C. 1395fff). Such study shall examine whether systematic differences in payment margins are related to differences in case mix (as measured by home health resource groups (HHRGs)) among such agencies. The study shall use the partial or full-year cost reports filed by home health agencies.

(b) REPORT.—Not later than 2 years after the date of the enactment of this Act, the Commission shall submit to Congress a report on the study under subsection (a).

SEC. 405. COVERAGE OF RELIGIOUS NONMEDICAL HEALTH CARE INSTITUTION SERVICES FURNISHED IN THE HOME.

(a) IN GENERAL.—Section 1821(a) (42 U.S.C. 1395i–5(a)) is amended—

(1) in the matter preceding paragraph (1), by inserting ''and for home health services furnished an individual by a religious nonmedical health care institution'' after ''religious nonmedical health care institution''; and

(2) in paragraph (2)—

(A) by striking ''or extended care services'' and inserting '', extended care services, or home health services''; and

(B) by inserting '', or receiving services from a home health agency,'' after ''skilled nursing facility''.

(b) DEFINITION.—Section 1861 (42 U.S.C. 1395x), as amended by section 342, is amended by adding at the end the following new section:

''Extended Care in Religious Nonmedical Health Care Institutions

''(aaa)(1) The term 'home health agency' also includes a religious nonmedical health care institution (as defined in subsection (ss)(1)), but only with respect to items and services ordinarily furnished by such an institution to individuals in their homes, and that are comparable to items and services furnished to individuals by a home health agency that is not religious nonmedical health care institution.

''(2)(A) Subject to subparagraphs (B), payment may be made with respect to services provided by such an institution only to such extent and under such conditions, limitations, and requirements (in addition to or in lieu of the conditions, limitations, and requirements otherwise applicable) as may be provided in regulations consistent with section 1821.

''(B) Notwithstanding any other provision of this title, payment may not be made under subparagraph (A)—

''(i) in a year insofar as such payments exceed $700,000; and

''(ii) after December 31, 2006.''.

Subtitle B—Graduate Medical Education

SEC. 411. EXCEPTION TO INITIAL RESIDENCY PERIOD FOR GERIATRIC RESIDENCY OR FELLOWSHIP PROGRAMS.

(a) CLARIFICATION OF CONGRESSIONAL INTENT.—Congress intended section 1886(h)(5)(F)(ii) of the Social Security Act (42 U.S.C. 1395ww(h)(5)(F)(ii)), as added by section 9202 of the Consolidated Omnibus Budget Reconciliation Act of 1985 (Public Law 99–272), to provide an exception to the initial residency period for geriatric residency or fellowship programs such that, where a particular approved geriatric training program requires a resident to complete 2 years of training to initially become board eligible in the geriatric specialty, the 2 years spent in the geriatric training program are treated as part of the resident's initial residency period, but are not counted against any limitation on the initial residency period.

(b) INTERIM FINAL REGULATORY AUTHORITY AND EFFECTIVE DATE.—The Secretary shall promulgate interim final regulations consistent with the congressional intent expressed in this section after notice and pending opportunity for public comment to be effective for cost reporting periods beginning on or after October 1, 2003.

SEC. 412. TREATMENT OF VOLUNTEER SUPERVISION.

(a) MORATORIUM ON CHANGES IN TREATMENT.—During the 1-year period beginning on January 1, 2004, for purposes of applying subsections (d)(5)(B) and (h) of section 1886 of the Social Security Act (42 U.S.C. 1395ww), the Secretary shall allow all hospitals to count residents in osteopathic and allopathic family practice programs in existence as of January 1, 2002, who are training at non-hospital sites, without regard to the financial arrangement between the hospital and the teaching physician practicing in the non-hospital site to which the resident has been assigned.

(b) STUDY AND REPORT.—

(1) STUDY.—The Inspector General of the Department of Health and Human Services shall conduct a study of the appropriateness of alternative payment methodologies under such sections for the costs of training residents in non-hospital settings.

(2) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Inspector General shall submit to Congress a report on the study conducted under paragraph (1), together with such recommendations as the Inspector General determines appropriate.

Subtitle C—Chronic Care Improvement

SEC. 421. VOLUNTARY CHRONIC CARE IMPROVEMENT UNDER TRADITIONAL FEE-FOR-SERVICE.

(a) IN GENERAL.—Title XVIII is amended by inserting after section 1806 the following new section:

''CHRONIC CARE IMPROVEMENT

''SEC. 1807. (a) IMPLEMENTATION OF CHRONIC CARE IMPROVEMENT PROGRAMS.—

''(1) IN GENERAL.—The Secretary shall provide for the phased-in development, testing, evaluation, and implementation of chronic care improvement programs in accordance with this section. Each such program shall be designed to improve clinical quality and beneficiary satisfaction and achieve spending targets with respect to expenditures under this title for targeted beneficiaries with one or more threshold conditions.

''(2) DEFINITIONS.—For purposes of this section:

''(A) CHRONIC CARE IMPROVEMENT PROGRAM.—The term 'chronic care improvement program' means a program described in paragraph (1) that is offered under an agreement under subsection (b) or (c).

''(B) CHRONIC CARE IMPROVEMENT ORGANIZATION.—The term 'chronic care improvement organization' means an entity that has entered into an agreement under subsection (b) or (c) to provide, directly or through contracts with subcontractors, a chronic care improvement program under this section. Such an entity may be a disease management organization, health insurer, integrated delivery system, physician group practice, a consortium of such entities, or any other legal entity that the Secretary determines appropriate to carry out a chronic care improvement program under this section.

''(C) CARE MANAGEMENT PLAN.—The term 'care management plan' means a plan established under subsection (d) for a participant in a chronic care improvement program.

''(D) THRESHOLD CONDITION.—The term 'threshold condition' means a chronic condition, such as congestive heart failure, diabetes, chronic obstructive pulmonary disease (COPD), or other diseases or conditions, as selected by the Secretary as appropriate for the establishment of a chronic care improvement program.

''(E) TARGETED BENEFICIARY.—The term 'targeted beneficiary' means, with respect to a chronic care improvement program, an individual who—

''(i) is entitled to benefits under part A and enrolled under part B, but not enrolled in a plan under part C;

''(ii) has one or more threshold conditions covered under such program; and

''(iii) has been identified under subsection (d)(1) as a potential participant in such program.

''(3) CONSTRUCTION.—Nothing in this section shall be construed as—

''(A) expanding the amount, duration, or scope of benefits under this title;

''(B) providing an entitlement to participate in a chronic care improvement program under this section;

''(C) providing for any hearing or appeal rights under section 1869, 1878, or otherwise, with respect to a chronic care improvement program under this section; or

''(D) providing benefits under a chronic care improvement program for which a claim may be submitted to the Secretary by any provider of services or supplier (as defined in section 1861(d)).

''(b) DEVELOPMENTAL PHASE (PHASE I).—

''(1) IN GENERAL.—In carrying out this section, the Secretary shall enter into agreements consistent with subsection (f) with chronic care improvement organizations for the development, testing, and evaluation of chronic care improvement programs using randomized controlled trials. The first such agreement shall be entered into not later than 12 months after the date of the enactment of this section.

''(2) AGREEMENT PERIOD.—The period of an agreement under this subsection shall be for 3 years.

''(3) MINIMUM PARTICIPATION.—

''(A) IN GENERAL.—The Secretary shall enter into agreements under this subsection in a manner so that chronic care improvement programs offered under this section are offered in geographic areas that, in the aggregate, consist of areas in which at least 10 percent of the aggregate number of medicare beneficiaries reside.

''(B) MEDICARE BENEFICIARY DEFINED.—In this paragraph, the term 'medicare beneficiary' means an individual who is entitled to benefits under part A, enrolled under part B, or both, and who resides in the United States.

''(4) SITE SELECTION.—In selecting geographic areas in which agreements are entered into under this subsection, the Secretary shall ensure that each chronic care improvement program is conducted in a geographic area in which at least 10,000 targeted beneficiaries reside among other individuals entitled to benefits under part A, enrolled under part B, or both to serve as a control population.

''(5) INDEPENDENT EVALUATIONS OF PHASE I PROGRAMS.—The Secretary shall contract for an independent evaluation of the programs conducted under this subsection. Such evaluation shall be done by a contractor with knowledge of chronic care management programs and demonstrated experience in the evaluation of such programs. Each evaluation shall include an assessment of the following factors of the programs:

''(A) Quality improvement measures, such as adherence to evidence-based guidelines and rehospitalization rates.

''(B) Beneficiary and provider satisfaction.

''(C) Health outcomes.

''(D) Financial outcomes, including any cost savings to the program under this title.

''(c) EXPANDED IMPLEMENTATION PHASE (PHASE II).—

''(1) IN GENERAL.—With respect to chronic care improvement programs conducted under subsection (b), if the Secretary finds that the results of the independent evaluation conducted under subsection (b)(6) indicate that the conditions specified in paragraph (2) have been met by a program (or components of such program), the Secretary shall enter into agreements consistent with subsection (f) to expand the implementation of the program (or components) to additional geographic areas not covered under the program as conducted under subsection (b), which may include the implementation of the program on a national basis. Such expansion shall begin not earlier than 2 years after the program is implemented under subsection (b) and not later than 6 months after the date of completion of such program.

''(2) CONDITIONS FOR EXPANSION OF PROGRAMS.—The conditions specified in this paragraph are, with respect to a chronic care improvement program conducted under subsection (b) for a threshold condition, that the program is expected to—

''(A) improve the clinical quality of care;

''(B) improve beneficiary satisfaction; and

''(C) achieve targets for savings to the program under this title specified by the Secretary in the agreement within a range determined to be appropriate by the Secretary, subject to the application of budget neutrality with respect to the program and not taking into account any payments by the organization under the agreement under the program for risk under subsection (f)(3)(B).

''(3) INDEPENDENT EVALUATIONS OF PHASE II PROGRAMS.—The Secretary shall carry out evaluations of programs expanded under this subsection as the Secretary determines appropriate. Such evaluations shall be carried out in the similar manner as is provided under subsection (b)(5).

''(d) IDENTIFICATION AND ENROLLMENT OF PROSPECTIVE PROGRAM PARTICIPANTS.—

''(1) IDENTIFICATION OF PROSPECTIVE PROGRAM PARTICIPANTS.—The Secretary shall establish a method for identifying targeted beneficiaries who may benefit from participation in a chronic care improvement program.

''(2) INITIAL CONTACT BY SECRETARY.—The Secretary shall communicate with each targeted beneficiary concerning participation in a chronic care improvement program. Such communication may be made by the Secretary and shall include information on the following:

''(A) A description of the advantages to the beneficiary in participating in a program.

''(B) Notification that the organization offering a program may contact the beneficiary directly concerning such participation.

''(C) Notification that participation in a program is voluntary.

''(D) A description of the method for the beneficiary to participate or for declining to participate and the method for obtaining additional information concerning such participation.

''(3) VOLUNTARY PARTICIPATION.—A targeted beneficiary may participate in a chronic care improvement program on a voluntary basis and may terminate participation at any time.

''(e) CHRONIC CARE IMPROVEMENT PROGRAMS.—

''(1) IN GENERAL.—Each chronic care improvement program shall—

''(A) have a process to screen each targeted beneficiary for conditions other than threshold conditions, such as impaired cognitive ability and co-morbidities, for the purposes of developing an individualized, goal-oriented care management plan under paragraph (2);

''(B) provide each targeted beneficiary participating in the program with such plan; and

''(C) carry out such plan and other chronic care improvement activities in accordance with paragraph (3).

''(2) ELEMENTS OF CARE MANAGEMENT PLANS.—A care management plan for a targeted beneficiary shall be developed with the beneficiary and shall, to the extent appropriate, include the following:

''(A) A designated point of contact responsible for communications with the beneficiary and for facilitating communications with other health care providers under the plan.

''(B) Self-care education for the beneficiary (through approaches such as disease management or medical nutrition therapy) and education for primary caregivers and family members.

''(C) Education for physicians and other providers and collaboration to enhance communication of relevant clinical information.

''(D) The use of monitoring technologies that enable patient guidance through the exchange of pertinent clinical information, such as vital signs, symptomatic information, and health self-assessment.

''(E) The provision of information about hospice care, pain and palliative care, and end-of-life care.

''(3) CONDUCT OF PROGRAMS.—In carrying out paragraph (1)(C) with respect to a participant, the chronic care improvement organization shall—

''(A) guide the participant in managing the participant's health (including all co-morbidities, relevant health care services, and pharmaceutical needs) and in performing activities as specified under the elements of the care management plan of the participant;

''(B) use decision-support tools such as evidence-based practice guidelines or other criteria as determined by the Secretary; and

''(C) develop a clinical information database to track and monitor each participant across settings and to evaluate outcomes.

''(4) ADDITIONAL RESPONSIBILITIES.—

''(A) OUTCOMES REPORT.—Each chronic care improvement organization offering a chronic care improvement program shall monitor and report to the Secretary, in a manner specified by the Secretary, on health care quality, cost, and outcomes.

''(B) ADDITIONAL REQUIREMENTS.—Each such organization and program shall comply with such additional requirements as the Secretary may specify.

''(5) ACCREDITATION.—The Secretary may provide that chronic care improvement programs and chronic care improvement organizations that are accredited by qualified organizations (as defined by the Secretary) may be deemed to meet such requirements under this section as the Secretary may specify.

''(f) TERMS OF AGREEMENTS.—

''(1) TERMS AND CONDITIONS.—

''(A) IN GENERAL.—An agreement under this section with a chronic care improvement organization shall contain such terms and conditions as the Secretary may specify consistent with this section.

''(B) CLINICAL, QUALITY IMPROVEMENT, AND FINANCIAL REQUIREMENTS.—The Secretary may not enter into an agreement with such an organization under this section for the operation of a chronic care improvement program unless—

''(i) the program and organization meet the requirements of subsection (e) and such clinical, quality improvement, financial, and other requirements as the Secretary deems to be appropriate for the targeted beneficiaries to be served; and

''(ii) the organization demonstrates to the satisfaction of the Secretary that the organization is able to assume financial risk for performance under the agreement (as applied under paragraph (3)(B)) with respect to payments made to the organization under such agreement through available reserves, reinsurance, withholds, or such other means as the Secretary determines appropriate.

''(2) MANNER OF PAYMENT.—Subject to paragraph (3)(B), the payment under an agreement under—

''(A) subsection (b) shall be computed on a per-member per-month basis; or

''(B) subsection (c) may be on a per-member per-month basis or such other basis as the Secretary and organization may agree.

''(3) APPLICATION OF PERFORMANCE STANDARDS.—

''(A) SPECIFICATION OF PERFORMANCE STANDARDS.—Each agreement under this section with a chronic care improvement organization shall specify performance standards for each of the factors specified in subsection (c)(2), including clinical quality and spending targets under this title, against which the performance of the chronic care improvement organization under the agreement is measured.

''(B) ADJUSTMENT OF PAYMENT BASED ON PERFORMANCE.—

''(i) IN GENERAL.—Each such agreement shall provide for adjustments in payment

rates to an organization under the agreement insofar as the Secretary determines that the organization failed to meet the performance standards specified in the agreement under subparagraph (A).

''(ii) FINANCIAL RISK FOR PERFORMANCE.—In the case of an agreement under subsection (b) or (c), the agreement shall provide for a full recovery for any amount by which the fees paid to the organization under the agreement exceed the estimated savings to the programs under this title attributable to implementation of such agreement.

''(4) BUDGET NEUTRAL PAYMENT CONDITION.—Under this section, the Secretary shall ensure that the aggregate sum of medicare program benefit expenditures for beneficiaries participating in chronic care improvement programs and funds paid to chronic care improvement organizations under this section, shall not exceed the medicare program benefit expenditures that the Secretary estimates would have been made for such targeted beneficiaries in the absence of such programs.

''(g) FUNDING.—(1) Subject to paragraph (2), there are appropriated to the Secretary, in appropriate part from the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund, such sums as may be necessary to provide for agreements with chronic care improvement programs under this section.

''(2) In no case shall the funding under this section exceed $100,000,000 in aggregate increased expenditures under this title (after taking into account any savings attributable to the operation of this section) over the 3-fiscal-year period beginning on October 1, 2003.''.

(b) REPORTS.—The Secretary shall submit to Congress reports on the operation of section 1807 of the Social Security Act, as added by subsection (a), as follows:

(1) Not later than 2 years after the date of the implementation of such section, the Secretary shall submit to Congress an interim report on the scope of implementation of the programs under subsection (b) of such section, the design of the programs, and preliminary cost and quality findings with respect to those programs based on the following measures of the programs:

(A) Quality improvement measures, such as adherence to evidence-based guidelines and rehospitalization rates.

(B) Beneficiary and provider satisfaction.

(C) Health outcomes.

(D) Financial outcomes.

(2) Not later than 3 years and 6 months after the date of the implementation of such section the Secretary shall submit to Congress an update to the report required under paragraph (1) on the results of such programs.

(3) The Secretary shall submit to Congress 2 additional biennial reports on the chronic care improvement programs conducted under such section. The first such report shall be submitted not later than 2 years after the report is submitted under paragraph (2). Each such report shall include information on—

(A) the scope of implementation (in terms of both regions and chronic conditions) of the chronic care improvement programs;

(B) the design of the programs; and

(C) the improvements in health outcomes and financial efficiencies that result from such implementation.

SEC. 422. MEDICARE ADVANTAGE QUALITY IMPROVEMENT PROGRAMS.

(a) IN GENERAL.—Section 1852(e) (42 U.S.C. 1395w–22(e)) is amended—

(1) in the heading, by striking ''ASSURANCE'' and inserting ''IMPROVEMENT'';

(2) by amending paragraphs (1) through (3) to read as follows:

''(1) IN GENERAL.—Each MA organization shall have an ongoing quality improvement program for the purpose of improving the quality of care provided to enrollees in each MA plan offered by such organization (other than an MA private fee-for-service plan or an MSA plan).

''(2) CHRONIC CARE IMPROVEMENT PROGRAMS.—As part of the quality improvement program under paragraph (1), each MA organization shall have a chronic care improvement program. Each chronic care improvement program shall have a method for monitoring and identifying enrollees with multiple or sufficiently severe chronic conditions that meet criteria established by the organization for participation under the program.

''(3) DATA.—

''(A) COLLECTION, ANALYSIS, AND REPORTING.—

''(i) IN GENERAL.—Except as provided in clauses (ii) and (iii) with respect to plans described in such clauses and subject to subparagraph (B), as part of the quality improvement program under paragraph (1), each MA organization shall provide for the collection, analysis, and reporting of data that permits the measurement of health outcomes and other indices of quality.

''(ii) APPLICATION TO MA REGIONAL PLANS.—The Secretary shall establish as appropriate by regulation requirements for the collection, analysis, and reporting of data that permits the measurement of health outcomes and other indices of quality for MA organizations with respect to MA regional plans. Such requirements may not exceed the requirements under this subparagraph with respect to MA local plans that are preferred provider organization plans.

''(iii) APPLICATION TO PREFERRED PROVIDER ORGANIZATIONS.—Clause (i) shall apply to MA organizations with respect to MA local plans that are preferred provider organization plans only insofar as services are furnished by providers or services, physicians, and other health care practitioners and suppliers that have contracts with such organization to furnish services under such plans.

''(iv) DEFINITION OF PREFERRED PROVIDER ORGANIZATION PLAN.—In this subparagraph, the term 'preferred provider organization plan' means an MA plan that—

''(I) has a network of providers that have agreed to a contractually specified reimbursement for covered benefits with the organization offering the plan;

''(II) provides for reimbursement for all covered benefits regardless of whether such benefits are provided within such network of providers; and

''(III) is offered by an organization that is not licensed or organized under State law as a health maintenance organization.

''(B) LIMITATIONS.—

''(i) TYPES OF DATA.—The Secretary shall not collect under subparagraph (A) data on quality, outcomes, and beneficiary satisfaction to facilitate consumer choice and program administration other than the types of data that were collected by the Secretary as of November 1, 2003.

''(ii) CHANGES IN TYPES OF DATA.—Subject to subclause (iii), the Secretary may only change the types of data that are required to be submitted under subparagraph (A) after submitting to Congress a report on the reasons for such changes that was prepared in consultation with MA organizations and private accrediting bodies.

''(iii) CONSTRUCTION.—Nothing in the subsection shall be construed as restricting the ability of the Secretary to carry out the duties under section 1851(d)(4)(D).'';

(3) in paragraph (4)(B), by amending clause (i) to read as follows:

''(i) Paragraphs (1) through (3) of this subsection (relating to quality improvement programs).''; and

(4) by striking paragraph (5).

(b) CONFORMING AMENDMENT.—Section 1852(c)(1)(I) (42 U.S.C. 1395w–22(c)(1)(I)) is amended to read as follows:

''(I) QUALITY IMPROVEMENT PROGRAM.—A description of the organization's quality improvement program under subsection (e).''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to contract years beginning on and after January 1, 2006.

SEC. 423. CHRONICALLY ILL MEDICARE BENEFICIARY RESEARCH, DATA, DEMONSTRATION STRATEGY.

(a) DEVELOPMENT OF PLAN.—Not later than 6 months after the date of the enactment of this Act, the Secretary shall develop a plan to improve quality of care and reduce the cost of care for chronically ill medicare beneficiaries.

(b) PLAN REQUIREMENTS.—The plan will utilize existing data and identify data gaps, develop research initiatives, and propose intervention demonstration programs to provide better health care for chronically ill medicare beneficiaries. The plan shall—

(1) integrate existing data sets including, the Medicare Current Beneficiary Survey (MCBS), Minimum Data Set (MDS), Outcome and Assessment Information Set (OASIS), data from Quality Improvement Organizations (QIO), and claims data;

(2) identify any new data needs and a methodology to address new data needs;

(3) plan for the collection of such data in a data warehouse; and

(4) develop a research agenda using such data.

(c) CONSULTATION.—In developing the plan under this section, the Secretary shall consult with experts in the fields of care for the chronically ill (including clinicians).

(d) IMPLEMENTATION.—Not later than 2 years after the date of the enactment of this Act, the Secretary shall implement the plan developed under this section. The Secretary may contract with appropriate entities to implement such plan.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary such sums as may be necessary in fiscal years 2004 and 2005 to carry out this section.

Subtitle D—Other Provisions

SEC. 431. IMPROVEMENTS IN NATIONAL AND LOCAL COVERAGE DETERMINATION PROCESS TO RESPOND TO CHANGES IN TECHNOLOGY.

(a) NATIONAL AND LOCAL COVERAGE DETERMINATION PROCESS.—

(1) IN GENERAL.—Section 1862 (42 U.S.C. 1395y), as amended by sections 948 and 950, is amended—

(A) in the third sentence of subsection (a), by inserting ''consistent with subsection (l)'' after ''the Secretary shall ensure''; and

(B) by adding at the end the following new subsection:

''(l) NATIONAL AND LOCAL COVERAGE DETERMINATION PROCESS.—

''(1) FACTORS AND EVIDENCE USED IN MAKING NATIONAL COVERAGE DETERMINATIONS.—The Secretary shall make available to the public the factors considered in making national coverage determinations of whether an item or service is reasonable and necessary. The Secretary shall develop guidance documents to carry out this paragraph in a manner similar to the development of guidance documents under section 701(h) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 371(h)).

''(2) TIMEFRAME FOR DECISIONS ON REQUESTS FOR NATIONAL COVERAGE DETERMINATIONS.—In

the case of a request for a national coverage determination that—

''(A) does not require a technology assessment from an outside entity or deliberation from the Medicare Coverage Advisory Committee, the decision on the request shall be made not later than 6 months after the date of the request; or

''(B) requires such an assessment or deliberation and in which a clinical trial is not requested, the decision on the request shall be made not later than 9 months after the date of the request.

''(3) PROCESS FOR PUBLIC COMMENT IN NATIONAL COVERAGE DETERMINATIONS.—

''(A) PERIOD FOR PROPOSED DECISION.—Not later than the end of the 6-month period (or 9-month period for requests described in paragraph (2)(B)) that begins on the date a request for a national coverage determination is made, the Secretary shall make a draft of proposed decision on the request available to the public through the Internet website of the Centers for Medicare & Medicaid Services or other appropriate means.

''(B) 30-DAY PERIOD FOR PUBLIC COMMENT.—Beginning on the date the Secretary makes a draft of the proposed decision available under subparagraph (A), the Secretary shall provide a 30-day period for public comment on such draft.

''(C) 60-DAY PERIOD FOR FINAL DECISION.—Not later than 60 days after the conclusion of the 30-day period referred to under subparagraph (B), the Secretary shall—

''(i) make a final decision on the request;

''(ii) include in such final decision summaries of the public comments received and responses to such comments;

''(iii) make available to the public the clinical evidence and other data used in making such a decision when the decision differs from the recommendations of the Medicare Coverage Advisory Committee; and

''(iv) in the case of a final decision under clause (i) to grant the request for the national coverage determination, the Secretary shall assign a temporary or permanent code (whether existing or unclassified) and implement the coding change.

''(4) CONSULTATION WITH OUTSIDE EXPERTS IN CERTAIN NATIONAL COVERAGE DETERMINATIONS.—With respect to a request for a national coverage determination for which there is not a review by the Medicare Coverage Advisory Committee, the Secretary shall consult with appropriate outside clinical experts.

''(5) LOCAL COVERAGE DETERMINATION PROCESS.—

''(A) PLAN TO PROMOTE CONSISTENCY OF COVERAGE DETERMINATIONS.—The Secretary shall develop a plan to evaluate new local coverage determinations to determine which determinations should be adopted nationally and to what extent greater consistency can be achieved among local coverage determinations.

''(B) CONSULTATION.—The Secretary shall require the fiscal intermediaries or carriers providing services within the same area to consult on all new local coverage determinations within the area.

''(C) DISSEMINATION OF INFORMATION.—The Secretary should serve as a center to disseminate information on local coverage determinations among fiscal intermediaries and carriers to reduce duplication of effort.

''(6) NATIONAL AND LOCAL COVERAGE DETERMINATION DEFINED.—For purposes of this subsection—

''(A) NATIONAL COVERAGE DETERMINATION.—The term 'national coverage determination' means a determination by the Secretary with respect to whether or not a particular item or service is covered nationally under this title.

''(B) LOCAL COVERAGE DETERMINATION.—The term 'local coverage determination' has the meaning given that in section 1869(f)(2)(B).''.

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall apply to national coverage determinations as of January 1, 2004, and section 1862(l)(5) of the Social Security Act, as added by such paragraph, shall apply to local coverage determinations made on or after July 1, 2004.

(b) MEDICARE COVERAGE OF ROUTINE COSTS ASSOCIATED WITH CERTAIN CLINICAL TRIALS OF CATEGORY A DEVICES.—

(1) IN GENERAL.—Section 1862 (42 U.S.C. 1395y), as amended by subsection (a), is amended by adding at the end the following new subsection:

''(m) COVERAGE OF ROUTINE COSTS ASSOCIATED WITH CERTAIN CLINICAL TRIALS OF CATEGORY A DEVICES.—

''(1) IN GENERAL.—In the case of an individual entitled to benefits under part A, or enrolled under part B, or both who participates in a category A clinical trial, the Secretary shall not exclude under subsection (a)(1) payment for coverage of routine costs of care (as defined by the Secretary) furnished to such individual in the trial.

''(2) CATEGORY A CLINICAL TRIAL.—For purposes of paragraph (1), a 'category A clinical trial' means a trial of a medical device if—

''(A) the trial is of an experimental/investigational (category A) medical device (as defined in regulations under section 405.201(b) of title 42, Code of Federal Regulations (as in effect as of September 1, 2003));

''(B) the trial meets criteria established by the Secretary to ensure that the trial conforms to appropriate scientific and ethical standards; and

''(C) in the case of a trial initiated before January 1, 2010, the device involved in the trial has been determined by the Secretary to be intended for use in the diagnosis, monitoring, or treatment of an immediately life-threatening disease or condition.''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to routine costs incurred on and after January 1, 2005, and, as of such date, section 411.15(o) of title 42, Code of Federal Regulations, is superseded to the extent inconsistent with section 1862(m) of the Social Security Act, as added by such paragraph.

(3) RULE OF CONSTRUCTION.—Nothing in the amendment made by paragraph (1) shall be construed as applying to, or affecting, coverage or payment for a nonexperimental/investigational (category B) device.

(c) ISSUANCE OF TEMPORARY NATIONAL CODES.—Not later than July 1, 2004, the Secretary shall implement revised procedures for the issuance of temporary national HCPCS codes under part B of title XVIII of the Social Security Act.

SEC. 432. EXTENSION OF TREATMENT OF CERTAIN PHYSICIAN PATHOLOGY SERVICES UNDER MEDICARE.

Section 542(c) of BIPA (114 Stat. 2763A–551) is amended by inserting '', and for services furnished during 2005 and 2006'' before the period at the end.

SEC. 433. PAYMENT FOR PANCREATIC ISLET CELL INVESTIGATIONAL TRANSPLANTS FOR MEDICARE BENEFICIARIES IN CLINICAL TRIALS.

(a) CLINICAL TRIAL.—

(1) IN GENERAL.—The Secretary, acting through the National Institute of Diabetes and Digestive and Kidney Disorders, shall conduct a clinical investigation of pancreatic islet cell transplantation which includes medicare beneficiaries.

(2) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary such sums as may be necessary to conduct the clinical investigation under paragraph (1).

(b) MEDICARE PAYMENT.—Not earlier than October 1, 2004, the Secretary shall pay for the routine costs as well as transplantation and appropriate related items and services (as described in subsection (c)) in the case of medicare beneficiaries who are participating in a clinical trial described in subsection (a) as if such transplantation were covered under title XVIII of such Act and as would be paid under part A or part B of such title for such beneficiary.

(c) SCOPE OF PAYMENT.—For purposes of subsection (b):

(1) The term ''routine costs'' means reasonable and necessary routine patient care costs (as defined in the Centers for Medicare & Medicaid Services Coverage Issues Manual, section 30–1), including immunosuppressive drugs and other followup care.

(2) The term ''transplantation and appropriate related items and services'' means items and services related to the acquisition and delivery of the pancreatic islet cell transplantation, notwithstanding any national noncoverage determination contained in the Centers for Medicare & Medicaid Services Coverage Issues Manual.

(3) The term ''medicare beneficiary'' means an individual who is entitled to benefits under part A of title XVIII of the Social Security Act, or enrolled under part B of such title, or both.

(d) CONSTRUCTION.—The provisions of this section shall not be construed—

(1) to permit payment for partial pancreatic tissue or islet cell transplantation under title XVIII of the Social Security Act other than payment as described in subsection (b); or

(2) as authorizing or requiring coverage or payment conveying—

(A) benefits under part A of such title to a beneficiary not entitled to such part A; or

(B) benefits under part B of such title to a beneficiary not enrolled in such part B.

SEC. 434. RESTORATION OF MEDICARE TRUST FUNDS.

(a) DEFINITIONS.—In this section:

(1) CLERICAL ERROR.—The term ''clerical error'' means a failure that occurs on or after April 15, 2001, to have transferred the correct amount from the general fund of the Treasury to a Trust Fund.

(2) TRUST FUND.—The term ''Trust Fund'' means the Federal Hospital Insurance Trust Fund established under section 1817 of the Social Security Act (42 U.S.C. 1395i) and the Federal Supplementary Medical Insurance Trust Fund established under section 1841 of such Act (42 U.S.C. 1395t).

(b) CORRECTION OF TRUST FUND HOLDINGS.—

(1) IN GENERAL.—The Secretary of the Treasury shall take the actions described in paragraph (2) with respect to the Trust Fund with the goal being that, after such actions are taken, the holdings of the Trust Fund will replicate, to the extent practicable in the judgment of the Secretary of the Treasury, in consultation with the Secretary, the holdings that would have been held by the Trust Fund if the clerical error involved had not occurred.

(2) OBLIGATIONS ISSUED AND REDEEMED.—The Secretary of the Treasury shall—

(A) issue to the Trust Fund obligations under chapter 31 of title 31, United States Code, that bear issue dates, interest rates, and maturity dates that are the same as those for the obligations that—

(i) would have been issued to the Trust Fund if the clerical error involved had not occurred; or

(ii) were issued to the Trust Fund and were redeemed by reason of the clerical error involved; and

(B) redeem from the Trust Fund obligations that would have been redeemed from

the Trust Fund if the clerical error involved had not occurred.

(c) APPROPRIATION.—There is appropriated to the Trust Fund, out of any money in the Treasury not otherwise appropriated, an amount determined by the Secretary of the Treasury, in consultation with the Secretary, to be equal to the interest income lost by the Trust Fund through the date on which the appropriation is being made as a result of the clerical error involved.

(d) CONGRESSIONAL NOTICE.—In the case of a clerical error that occurs after April 15, 2001, the Secretary of the Treasury, before taking action to correct the error under this section, shall notify the appropriate committees of Congress concerning such error and the actions to be taken under this section in response to such error.

(e) DEADLINE.—With respect to the clerical error that occurred on April 15, 2001, not later than 120 days after the date of the enactment of this Act—

(1) the Secretary of the Treasury shall take the actions under subsection (b)(1); and

(2) the appropriation under subsection (c) shall be made.

SEC. 435. MODIFICATIONS TO MEDICARE PAYMENT ADVISORY COMMISSION (MEDPAC).

(a) EXAMINATION OF BUDGET CONSEQUENCES.—Section 1805(b) (42 U.S.C. 1395b–6(b)) is amended by adding at the end the following new paragraph:

''(8) EXAMINATION OF BUDGET CONSEQUENCES.—Before making any recommendations, the Commission shall examine the budget consequences of such recommendations, directly or through consultation with appropriate expert entities.''.

(b) CONSIDERATION OF EFFICIENT PROVISION OF SERVICES.—Section 1805(b)(2)(B)(i) (42 U.S.C. 1395b–6(b)(2)(B)(i)) is amended by inserting ''the efficient provision of'' after ''expenditures for''.

(c) APPLICATION OF DISCLOSURE REQUIREMENTS.—

(1) IN GENERAL.—Section 1805(c)(2)(D) (42 U.S.C. 1395b–6(c)(2)(D)) is amended by adding at the end the following: ''Members of the Commission shall be treated as employees of Congress for purposes of applying title I of the Ethics in Government Act of 1978 (Public Law 95–521).''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect on January 1, 2004.

(d) ADDITIONAL REPORTS.—

(1) DATA NEEDS AND SOURCES.—The Medicare Payment Advisory Commission shall conduct a study, and submit a report to Congress by not later than June 1, 2004, on the need for current data, and sources of current data available, to determine the solvency and financial circumstances of hospitals and other medicare providers of services.

(2) USE OF TAX-RELATED RETURNS.—Using return information provided under Form 990 of the Internal Revenue Service, the Commission shall submit to Congress, by not later than June 1, 2004, a report on the following:

(A) Investments, endowments, and fundraising of hospitals participating under the medicare program and related foundations.

(B) Access to capital financing for private and for not-for-profit hospitals.

(e) REPRESENTATION OF EXPERTS IN PRESCRIPTION DRUGS.—

(1) IN GENERAL.—Section 1805(c)(2)(B) (42 U.S.C. 1395b–6(c)(2)(B)) is amended by inserting ''experts in the area of pharmaco-economics or prescription drug benefit programs,'' after ''other health professionals,''.

(2) APPOINTMENT.—The Comptroller General of the United States shall ensure that the membership of the Commission complies with the amendment made by paragraph (1) with respect to appointments made on or after the date of the enactment of this Act.

SEC. 436. TECHNICAL AMENDMENTS.

(a) PART A.—(1) Section 1814(a) (42 U.S.C. 1395f(a)) is amended—

(A) by striking the seventh sentence, as added by section 322(a)(1) of BIPA (114 Stat. 2763A–501); and

(B) in paragraph (7)(A)—

(i) in clause (i), by inserting before the comma at the end the following: ''based on the physician's or medical director's clinical judgment regarding the normal course of the individual's illness''; and

(ii) in clause (ii), by inserting before the semicolon at the end the following: ''based on such clinical judgment''.

(2) Section 1814(b) (42 U.S.C. 1395f(b)), in the matter preceding paragraph (1), is amended by inserting a comma after ''1813''.

(3) Section 1815(e)(1)(B) (42 U.S.C. 1395g(e)(1)(B)), in the matter preceding clause (i), is amended by striking ''of hospital'' and inserting ''of a hospital''.

(4) Section 1816(c)(2)(B)(ii) (42 U.S.C. 1395h(c)(2)(B)(ii)) is amended—

(A) by striking ''and'' at the end of subclause (III); and

(B) by striking the period at the end of subclause (IV) and inserting '', and''.

(5) Section 1817(k)(3)(A) (42 U.S.C. 1395i(k)(3)(A)) is amended—

(A) in clause (i)(I), by striking the comma at the end and inserting a semicolon; and

(B) in clause (ii), by striking ''the Medicare and medicaid programs'' and inserting ''the programs under this title and title XIX''.

(6) Section 1817(k)(6)(B) (42 U.S.C. 1395i(k)(6)(B)) is amended by striking ''Medicare program under title XVIII'' and inserting ''program under this title''.

(7) Section 1818 (42 U.S.C. 1395i–2) is amended—

(A) in subsection (d)(6)(A) is amended by inserting ''of such Code'' after ''3111(b)''; and

(B) in subsection (g)(2)(B) is amended by striking ''subsection (b).'' and inserting ''subsection (b)''.

(8) Section 1819 (42 U.S.C. 1395i–3) is amended—

(A) in subsection (b)(4)(C)(i), by striking ''at least at least'' and inserting ''at least'';

(B) in subsection (d)(1)(A), by striking ''physical mental'' and inserting ''physical, mental''; and

(C) in subsection (f)(2)(B)(iii), by moving the last sentence 2 ems to the left.

(9) Section 1886(b)(3)(I)(i)(I) (42 U.S.C. 1395ww(b)(3)(I)(i)(I)) is amended by striking ''the the'' and inserting ''the''.

(10) The heading of subsection (mm) of section 1861 (42 U.S.C. 1395x) is amended to read as follows:

''Critical Access Hospital; Critical Access Hospital Services''.

(11) Paragraphs (1) and (2) of section 1861(tt) (42 U.S.C. 1395x(tt)) are each amended by striking ''rural primary care'' and inserting ''critical access''.

(12) Section 1865(b)(3)(B) (42 U.S.C. 1395bb(b)(3)(B)) is amended by striking ''section 1819 and 1861(j)'' and inserting ''sections 1819 and 1861(j)''.

(13) Section 1866(b)(2) (42 U.S.C. 1395cc(b)(2)) is amended by moving subparagraph (D) 2 ems to the left.

(14) Section 1867 (42 U.S.C. 1395dd) is amended—

(A) in the matter following clause (ii) of subsection (d)(1)(B), by striking ''is is'' and inserting ''is'';

(B) in subsection (e)(1)(B), by striking ''a pregnant women'' and inserting ''a pregnant woman''; and

(C) in subsection (e)(2), by striking ''means hospital'' and inserting ''means a hospital''.

(15) Section 1886(g)(3)(B) (42 U.S.C. 1395ww(g)(3)(B)) is amended by striking ''(as defined in subsection (d)(5)(D)(iii)'' and inserting ''(as defined in subsection (d)(5)(D)(iii))''.

(b) PART B.—(1) Section 1833(h)(5)(D) (42 U.S.C. 13951(h)(5)(D)) is amended by striking ''clinic,,'' and inserting ''clinic,''.

(2) Section 1833(t)(3)(C)(ii) (42 U.S.C. 13951(t)(3)(C)(ii)) is amended by striking ''clause (iii)'' and inserting ''clause (iv)''.

(3) Section 1861(v)(1)(S)(ii)(III) (42 U.S.C. 1395x(v)(1)(S)(ii)(III)) is amended by striking ''(as defined in section 1886(d)(5)(D)(iii)'' and inserting ''(as defined in section 1886(d)(5)(D)(iii))''.

(4) Section 1834(b)(4)(D)(iv) (42 U.S.C. 1395m(b)(4)(D)(iv)) is amended by striking ''clauses (vi)'' and inserting ''clause (vi)''.

(5) Section 1834(m)(4)(C)(ii)(III) (42 U.S.C. 1395m(m)(4)(C)(ii)(III)) is amended by striking ''1861(aa)(s)'' and inserting ''1861(aa)(2)''.

(6) Section 1838(a)(1) (42 U.S.C. 1395q(a)(1)) is amended by inserting a comma after ''1966''.

(7) The second sentence of section 1839(a)(4) (42 U.S.C. 1395r(a)(4)) is amended by striking ''which will'' and inserting ''will''.

(8) Section 1842(c)(2)(B)(ii) (42 U.S.C. 1395u(c)(2)(B)(ii)) is amended—

(A) by striking ''and'' at the end of subclause (III); and

(B) by striking the period at the end of subclause (IV) and inserting '', and''.

(9) Section 1842(i)(2) (42 U.S.C. 1395u(i)(2)) is amended by striking ''services, a physician'' and inserting ''services, to a physician''.

(10) Section 1848(i)(3)(A) (42 U.S.C. 1395w–4(i)(3)(A)) is amended by striking ''a comparable services'' and inserting ''comparable services''.

(11) Section 1861(s)(2)(K)(i) (42 U.S.C. 1395x(s)(2)(K)(i)) is amended by striking ''; and but'' and inserting '', but''.

(12) Section 1861(aa)(1)(B) (42 U.S.C. 1395x(aa)(1)(B)) is amended by striking '',,'' and inserting a comma.

(13) Section 128(b)(2) of BIPA (114 Stat. 2763A–480) is amended by striking ''Not later that'' and inserting ''Not later than'' each place it appears.

(c) PARTS A AND B.—(1) Section 1812(a)(3) (42 U.S.C. 1395d(a)(3)) is amended—

(A) by striking ''for individuals not'' and inserting ''in the case of individuals not''; and

(B) by striking ''for individuals so'' and inserting ''in the case of individuals so''.

(2)(A) Section 1814(a) (42 U.S.C. 1395f(a)) is amended in the sixth sentence by striking ''leave home,'' and inserting ''leave home and''.

(B) Section 1835(a) (42 U.S.C. 1395n(a)) is amended in the seventh sentence by striking ''leave home,'' and inserting ''leave home and''.

(3) Section 1891(d)(1) (42 U.S.C. 1395bbb(d)(1)) is amended by striking ''subsection (c)(2)(C)(I)'' and inserting ''subsection (c)(2)(C)(i)(I)''.

(4) Section 1861(v) (42 U.S.C. 1395x(v)) is amended by moving paragraph (8) (including clauses (i) through (v) of such paragraph) 2 ems to the left.

(5) Section 1866B(b)(7)(D) (42 U.S.C. 1395cc–2(b)(7)(D)) is amended by striking ''(c)(2)(A)(ii)'' and inserting ''(c)(2)(B)''.

(6) Section 1886(h)(3)(D)(ii)(III) (42 U.S.C. 1395ww(h)(3)(D)(ii)(III)) is amended by striking ''and'' after the comma at the end.

(7) Section 1893(a) (42 U.S.C. 1395ddd(a)) is amended by striking ''Medicare program'' and inserting ''medicare program''.

(8) Section 1896(b)(4) (42 U.S.C. 1395ggg(b)(4)) is amended by striking ''701(f)'' and inserting ''712(f)''.

(d) PART C.—(1) Section 1853 (42 U.S.C. 1395w–23), as amended by section 307 of BIPA (114 Stat. 2763A–558), is amended—

(A) in subsection (a)(3)(C)(ii), by striking ''clause (iii)'' and inserting ''clause (iv)'';

(B) in subsection (a)(3)(C), by redesignating the clause (iii) added by such section 307 as clause (iv); and

(C) in subsection (c)(5), by striking ''(a)(3)(C)(iii)'' and inserting ''(a)(3)(C)(iv)''.

(2) Section 1876 (42 U.S.C. 1395mm) is amended—

(A) in subsection (c)(2)(B), by striking ''signifcant'' and inserting ''significant''; and

(B) in subsection (j)(2), by striking ''this setion'' and inserting ''this section''.

(e) MEDIGAP.—Section 1882 (42 U.S.C. 1395ss) is amended—

(1) in subsection (d)(3)(A)(i)(II), by striking ''plan a medicare supplemental policy'' and inserting ''plan, a medicare supplemental policy'';

(2) in subsection (d)(3)(B)(iii)(II), by striking ''to the best of the issuer or seller's knowledge'' and inserting ''to the best of the issuer's or seller's knowledge'';

(3) in subsection (g)(2)(A), by striking ''medicare supplement policies'' and inserting ''medicare supplemental policies'';

(4) in subsection (p)(2)(B), by striking '', and'' and inserting ''; and''; and

(5) in subsection (s)(3)(A)(iii), by striking ''pre-existing'' and inserting ''preexisting''.

TITLE V—ADMINISTRATIVE IMPROVEMENTS, REGULATORY REDUCTION, AND CONTRACTING REFORM

SEC. 500. ADMINISTRATIVE IMPROVEMENTS WITHIN THE CENTERS FOR MEDICARE & MEDICAID SERVICES (CMS).

(a) COORDINATED ADMINISTRATION OF MEDICARE PRESCRIPTION DRUG AND MEDICARE ADVANTAGE PROGRAMS.—Title XVIII (42 U.S.C. 1395 et seq.), as amended by section 421, is amended by inserting after 1807 the following new section:

''PROVISIONS RELATING TO ADMINISTRATION

''SEC. 1808. (a) COORDINATED ADMINISTRATION OF MEDICARE PRESCRIPTION DRUG AND MEDICARE ADVANTAGE PROGRAMS.—

''(1) IN GENERAL.—There is within the Centers for Medicare & Medicaid Services a center to carry out the duties described in paragraph (3).

''(2) DIRECTOR.—Such center shall be headed by a director who shall report directly to the Administrator of the Centers for Medicare & Medicaid Services.

''(3) DUTIES.—The duties described in this paragraph are the following:

''(A) The administration of parts C and D.

''(B) The provision of notice and information under section 1804.

''(C) Such other duties as the Secretary may specify.

''(4) DEADLINE.—The Secretary shall ensure that the center is carrying out the duties described in paragraph (3) by not later than January 1, 2008.''.

(b) MANAGEMENT STAFF FOR THE CENTERS FOR MEDICARE & MEDICAID SERVICES.—Such section is further amended by adding at the end the following new subsection:

''(b) EMPLOYMENT OF MANAGEMENT STAFF.—

''(1) IN GENERAL.—The Secretary may employ, within the Centers for Medicare & Medicaid Services, such individuals as management staff as the Secretary determines to be appropriate. With respect to the administration of parts C and D, such individuals shall include individuals with private sector expertise in negotiations with health benefits plans.

''(2) ELIGIBILITY.—To be eligible for employment under paragraph (1) an individual shall be required to have demonstrated, by their education and experience (either in the public or private sector), superior expertise in at least one of the following areas:

''(A) The review, negotiation, and administration of health care contracts.

''(B) The design of health care benefit plans.

''(C) Actuarial sciences.

''(D) Compliance with health plan contracts.

''(E) Consumer education and decision making.

''(F) Any other area specified by the Secretary that requires specialized management or other expertise.

''(3) RATES OF PAYMENT.—

''(A) PERFORMANCE-RELATED PAY.—Subject to subparagraph (B), the Secretary shall establish the rate of pay for an individual employed under paragraph (1). Such rate shall take into account expertise, experience, and performance.

''(B) LIMITATION.—In no case may the rate of compensation determined under subparagraph (A) exceed the highest rate of basic pay for the Senior Executive Service under section 5382(b) of title 5, United States Code.''.

(c) REQUIREMENT FOR DEDICATED ACTUARY FOR PRIVATE HEALTH PLANS.—Section 1117(b) (42 U.S.C. 1317(b)) is amended by adding at the end the following new paragraph:

''(3) In the office of the Chief Actuary there shall be an actuary whose duties relate exclusively to the programs under parts C and D of title XVIII and related provisions of such title.''.

(d) INCREASE IN GRADE TO EXECUTIVE LEVEL III FOR THE ADMINISTRATOR OF THE CENTERS FOR MEDICARE & MEDICAID SERVICES.—

(1) IN GENERAL.—Section 5314 of title 5, United States Code, is amended by adding at the end the following:

''Administrator of the Centers for Medicare & Medicaid Services.''.

(2) CONFORMING AMENDMENT.—Section 5315 of such title is amended by striking ''Administrator of the Health Care Financing Administration.''.

(3) EFFECTIVE DATE.—The amendments made by this subsection take effect on January 1, 2004.

(e) CONFORMING AMENDMENTS RELATING TO HEALTH CARE FINANCING ADMINISTRATION.—

(1) AMENDMENTS TO THE SOCIAL SECURITY ACT.—The Social Security Act is amended—

(A) in section 1117 (42 U.S.C. 1317)—

(i) in the heading to read as follows:

''APPOINTMENT OF THE ADMINISTRATOR AND CHIEF ACTUARY OF THE CENTERS FOR MEDICARE & MEDICAID SERVICES'';

(ii) in subsection (a), by striking ''Health Care Financing Administration'' and inserting ''Centers for Medicare & Medicaid Services''; and

(iii) in subsection (b)(1)—

(I) by striking ''Health Care Financing Administration'' and inserting ''Centers for Medicare & Medicaid Services''; and

(II) by striking ''Administration'' and inserting ''Centers'';

(B) in section 1140(a) (42 U.S.C. 1320b–10(a))—

(i) in paragraph (1), by striking ''Health Care Financing Administration'' both places it appears in the

matter following subparagraph (B) and inserting ''Centers for Medicare & Medicaid Services'';

(ii) in paragraph (1)(A)—

(I) by striking ''Health Care Financing Administration'' and inserting ''Centers for Medicare & Medicaid Services''; and

(II) by striking ''HCFA'' and inserting ''CMS''; and

(iii) in paragraph (1)(B), by striking ''Health Care Financing Administration'' both places it appears and inserting ''Centers for Medicare & Medicaid Services'';

(C) in section 1142(b)(3) (42 U.S.C. 1320b–12(b)(3)), by striking ''Health Care Financing Administration'' and inserting ''Centers for Medicare & Medicaid Services'';

(D) in section 1817(b) (42 U.S.C. 1395i(b))—

(i) by striking ''Health Care Financing Administration'', both in the fifth sentence of the matter preceding paragraph (1) and in the second sentence of the

matter following paragraph (4), and inserting ''Centers for Medicare & Medicaid Services''; and

(ii) by striking ''Chief Actuarial Officer'' in the second sentence of the

matter following paragraph (4) and inserting ''Chief Actuary'';

(E) in section 1841(b) (42 U.S.C. 1395t(b))—

(i) by striking ''Health Care Financing Administration'', both in the fifth sentence of the matter preceding paragraph (1) and in the second sentence of the

matter following paragraph (4), and inserting ''Centers for Medicare & Medicaid Services''; and

(ii) by striking ''Chief Actuarial Officer'' in the second sentence of the

matter following paragraph (4) and inserting ''Chief Actuary'';

(F) in section 1852(a)(5) (42 U.S.C. 1395w–22(a)(5)), by striking ''Health Care Financing Administration'' in the

matter following subparagraph (B) and inserting ''Centers for Medicare & Medicaid Services'';

(G) in section 1853 (42 U.S.C. 1395w–23)—

(i) in subsection (b)(4), by striking ''Health Care Financing Administration'' in the first sentence and inserting ''Centers for Medicare & Medicaid Services''; and

(ii) in subsection (c)(7), by striking ''Health Care Financing Administration'' in the last sentence and inserting ''Centers for Medicare & Medicaid Services'';

(H) in section 1854(a)(5)(A) (42 U.S.C. 1395w–24(a)(5)(A)), by striking ''Health Care Financing Administration''and inserting ''Centers for Medicare & Medicaid Services'';

(I) in section 1857(d)(4)(A)(ii) (42 U.S.C. 1395w–27(d)(4)(A)(ii)), by striking ''Health Care Financing Administration'' and inserting ''Secretary'';

(J) in section 1862(b)(5)(A)(ii) (42 U.S.C. 1395y(b)(5)(A)(ii)), by striking ''Health Care Financing Administration'' and inserting ''Centers for Medicare & Medicaid Services'';

(K) in section 1927(e)(4) (42 U.S.C. 1396r–8(e)(4)), by striking ''HCFA'' and inserting ''The Secretary'';

(L) in section 1927(f)(2) (42 U.S.C. 1396r–8(f)(2)), by striking ''HCFA'' and inserting ''The Secretary''; and

(M) in section 2104(g)(3) (42 U.S.C. 1397dd(g)(3)) by inserting ''or CMS Form 64 or CMS Form 21, as the case may be,'' after ''HCFA Form 64 or HCFA Form 21''

(2) AMENDMENTS TO THE PUBLIC HEALTH SERVICE ACT.—The Public Health Service Act is amended—

(A) in section 501(d)(18) (42 U.S.C. 290aa(d)(18)), by striking ''Health Care Financing Administration'' and inserting ''Centers for Medicare & Medicaid Services'';

(B) in section 507(b)(6) (42 U.S.C. 290bb(b)(6)), by striking ''Health Care Financing Administration'' and inserting ''Centers for Medicare & Medicaid Services'';

(C) in section 916 (42 U.S.C. 299b–5)—

(i) in subsection (b)(2), by striking ''Health Care Financing Administration'' and inserting ''Centers for Medicare & Medicaid Services''; and

(ii) in subsection (c)(2), by striking ''Health Care Financing Administration'' and inserting ''Centers for Medicare & Medicaid Services'';

(D) in section 921(c)(3)(A) (42 U.S.C. 299c(c)(3)(A)), by striking ''Health Care Financing Administration'' and inserting ''Centers for Medicare & Medicaid Services'';

(E) in section 1318(a)(2) (42 U.S.C. 300e–17(a)(2)), by striking ''Health Care Financing

Administration'' and inserting ''Centers for Medicare & Medicaid Services'';

(F) in section 2102(a)(7) (42 U.S.C. 300aa–2(a)(7)), by striking ''Health Care Financing Administration'' and inserting ''Centers for Medicare & Medicaid Services''; and

(G) in section 2675(a) (42 U.S.C. 300ff–75(a)), by striking ''Health Care Financing Administration'' in the first sentence and inserting ''Centers for Medicare & Medicaid Services''.

(3) AMENDMENTS TO THE INTERNAL REVENUE CODE OF 1986.—Section 6103(l)(12) of the Internal Revenue Code of 1986 is amended—

(A) in subparagraph (B), by striking ''Health Care Financing Administration'' in the matter preceding clause (i) and inserting ''Centers for Medicare & Medicaid Services''; and

(B) in subparagraph (C)—

(i) by striking ''HEALTH CARE FINANCING ADMINISTRATION'' in the heading and inserting ''CENTERS FOR MEDICARE & MEDICAID SERVICES''; and

(ii) by striking ''Health Care Financing Administration'' in the matter preceding clause (i) and inserting ''Centers for Medicare & Medicaid Services''.

(4) AMENDMENTS TO TITLE 10, UNITED STATES CODE.—Title 10, United States Code, is amended—

(A) in section 1086(d)(4), by striking ''administrator of the Health Care Financing Administration'' in the last sentence and inserting ''Administrator of the Centers for Medicare & Medicaid Services''; and

(B) in section 1095(k)(2), by striking ''Health Care Financing Administration'' in the second sentence and inserting ''Centers for Medicare & Medicaid Services''.

(5) AMENDMENTS TO THE ALZHEIMER'S DISEASE AND RELATED DEMENTIAS SERVICES RESEARCH ACT OF 1992.—The Alzheimer's Disease and Related Dementias Research Act of 1992 (42 U.S.C. 11271 et seq.) is amended—

(A) in the heading of subpart 3 of part D to read as follows:

''Subpart 3—Responsibilities of the Centers for Medicare & Medicaid Services'';

(B) in section 937 (42 U.S.C. 11271)—

(i) in subsection (a), by striking ''National Health Care Financing Administration'' and inserting ''Centers for Medicare & Medicaid Services'';

(ii) in subsection (b)(1), by striking ''Health Care Financing Administration'' and inserting ''Centers for Medicare & Medicaid Services'';

(iii) in subsection (b)(2), by striking ''Health Care Financing Administration'' and inserting ''Centers for Medicare & Medicaid Services''; and

(iv) in subsection (c), by striking ''Health Care Financing Administration'' and inserting ''Centers for Medicare & Medicaid Services''; and

(C) in section 938 (42 U.S.C. 11272), by striking ''Health Care Financing Administration'' and inserting ''Centers for Medicare & Medicaid Services''.

(6) MISCELLANEOUS AMENDMENTS.—

(A) REHABILITATION ACT OF 1973.—Section 202(b)(8) of the Rehabilitation Act of 1973 (29 U.S.C. 762(b)(8)) is amended by striking ''Health Care Financing Administration'' and inserting ''Centers for Medicare & Medicaid Services''.

(B) INDIAN HEALTH CARE IMPROVEMENT ACT.—Section 405(d)(1) of the Indian Health Care Improvement Act (25 U.S.C. 1645(d)(1)) is amended by striking ''Health Care Financing Administration'' in the matter preceding subparagraph (A) and inserting ''Centers for Medicare & Medicaid Services''.

(C) INDIVIDUALS WITH DISABILITIES EDUCATION ACT.—Section 644(b)(5) of the Individuals with Disabilities Education Act (20 U.S.C. 1444(b)(5)) is amended by striking ''Health Care Financing Administration'' and inserting ''Centers for Medicare & Medicaid Services''.

(D) THE HOME HEALTH CARE AND ALZHEIMER'S DISEASE AMENDMENTS OF 1990.—Section 302(a)(9) of the Home Health Care and Alzheimer's Disease Amendments of 1990 (42 U.S.C. 242q–1(a)(9)) is amended by striking ''Health Care Financing Administration'' and inserting ''Centers for Medicare & Medicaid Services''.

(E) THE CHILDREN'S HEALTH ACT OF 2000.—Section 2503(a) of the Children's Health Act of 2000 (42 U.S.C. 247b–3a(a)) is amended by striking ''Health Care Financing Administration'' and inserting ''Centers for Medicare & Medicaid Services''.

(F) THE NATIONAL INSTITUTES OF HEALTH REVITALIZATION ACT OF 1993.—Section 1909 of the National Institutes of Health Revitalization Act of 1993 (42 U.S.C. 299a note) is amended by striking ''Health Care Financing Administration'' and inserting ''Centers for Medicare & Medicaid Services''.

(G) THE OMNIBUS BUDGET RECONCILIATION ACT OF 1990.—Section 4359(d) of the Omnibus Budget Reconciliation Act of 1990 (42 U.S.C. 1395b–3(d)) is amended by striking ''Health Care Financing Administration'' and inserting ''Centers for Medicare & Medicaid Services''.

(H) THE MEDICARE, MEDICAID, AND SCHIP BENEFITS IMPROVEMENT AND PROTECTION ACT OF 2000.—Section 104(d)(4) of the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000 (42 U.S.C. 1395m note) is amended by striking ''Health Care Financing Administration'' and inserting ''Health Care''.

(7) ADDITIONAL AMENDMENT.—Section 403 of the Act entitled, ''An Act to authorize certain appropriations for the territories of the United States, to amend certain Acts relating thereto, and for other purposes'', enacted October 15, 1977 (48 U.S.C. 1574–1; 48 U.S.C. 1421q–1), is amended by striking ''Health Care Financing Administration'' and inserting ''Centers for Medicare & Medicaid Services''.

Subtitle A—Regulatory Reform

SEC. 501. CONSTRUCTION; DEFINITION OF SUPPLIER.

(a) CONSTRUCTION.—Nothing in this title shall be construed—

(1) to compromise or affect existing legal remedies for addressing fraud or abuse, whether it be criminal prosecution, civil enforcement, or administrative remedies, including under sections 3729 through 3733 of title 31, United States Code (commonly known as the ''False Claims Act''); or

(2) to prevent or impede the Department of Health and Human Services in any way from its ongoing efforts to eliminate waste, fraud, and abuse in the medicare program.

Furthermore, the consolidation of medicare administrative contracting set forth in this division does not constitute consolidation of the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund or reflect any position on that issue.

(b) DEFINITION OF SUPPLIER.—Section 1861 (42 U.S.C. 1395x) is amended by inserting after subsection (c) the following new subsection:

''Supplier

''(d) The term 'supplier' means, unless the context otherwise requires, a physician or other practitioner, a facility, or other entity (other than a provider of services) that furnishes items or services under this title.''.

SEC. 502. ISSUANCE OF REGULATIONS.

(a) REGULAR TIMELINE FOR PUBLICATION OF FINAL RULES.—

(1) IN GENERAL.—Section 1871(a) (42 U.S.C. 1395hh(a)) is amended by adding at the end the following new paragraph:

''(3)(A) The Secretary, in consultation with the Director of the Office of Management and Budget, shall establish and publish a regular timeline for the publication of final regulations based on the previous publication of a proposed regulation or an interim final regulation.

''(B) Such timeline may vary among different regulations based on differences in the complexity of the regulation, the number and scope of comments received, and other relevant factors, but shall not be longer than 3 years except under exceptional circumstances. If the Secretary intends to vary such timeline with respect to the publication of a final regulation, the Secretary shall cause to have published in the Federal Register notice of the different timeline by not later than the timeline previously established with respect to such regulation. Such notice shall include a brief explanation of the justification for such variation.

''(C) In the case of interim final regulations, upon the expiration of the regular timeline established under this paragraph for the publication of a final regulation after opportunity for public comment, the interim final regulation shall not continue in effect unless the Secretary publishes (at the end of the regular timeline and, if applicable, at the end of each succeeding 1-year period) a notice of continuation of the regulation that includes an explanation of why the regular timeline (and any subsequent 1-year extension) was not complied with. If such a notice is published, the regular timeline (or such timeline as previously extended under this paragraph) for publication of the final regulation shall be treated as having been extended for 1 additional year.

''(D) The Secretary shall annually submit to Congress a report that describes the instances in which the Secretary failed to publish a final regulation within the applicable regular timeline under this paragraph and that provides an explanation for such failures.''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect on the date of the enactment of this Act. The Secretary shall provide for an appropriate transition to take into account the backlog of previously published interim final regulations.

(b) LIMITATIONS ON NEW MATTER IN FINAL REGULATIONS.—

(1) IN GENERAL.—Section 1871(a) (42 U.S.C. 1395hh(a)), as amended by subsection (a), is amended by adding at the end the following new paragraph:

''(4) If the Secretary publishes a final regulation that includes a provision that is not a logical outgrowth of a previously published notice of proposed rulemaking or interim final rule, such provision shall be treated as a proposed regulation and shall not take effect until there is the further opportunity for public comment and a publication of the provision again as a final regulation.''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to final regulations published on or after the date of the enactment of this Act.

SEC. 503. COMPLIANCE WITH CHANGES IN REGULATIONS AND POLICIES.

(a) NO RETROACTIVE APPLICATION OF SUBSTANTIVE CHANGES.—

(1) IN GENERAL.—Section 1871 (42 U.S.C. 1395hh), as amended by section 502(a), is amended by adding at the end the following new subsection:

''(e)(1)(A) A substantive change in regulations, manual instructions, interpretative rules, statements of policy, or guidelines of general applicability under this title shall

not be applied (by extrapolation or otherwise) retroactively to items and services furnished before the effective date of the change, unless the Secretary determines that—

''(i) such retroactive application is necessary to comply with statutory requirements; or

''(ii) failure to apply the change retroactively would be contrary to the public interest.''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to substantive changes issued on or after the date of the enactment of this Act.

(b) TIMELINE FOR COMPLIANCE WITH SUBSTANTIVE CHANGES AFTER NOTICE.—

(1) IN GENERAL.—Section 1871(e)(1), as added by subsection (a), is amended by adding at the end the following:

''(B)(i) Except as provided in clause (ii), a substantive change referred to in subparagraph (A) shall not become effective before the end of the 30-day period that begins on the date that the Secretary has issued or published, as the case may be, the substantive change.

''(ii) The Secretary may provide for such a substantive change to take effect on a date that precedes the end of the 30-day period under clause (i) if the Secretary finds that waiver of such 30-day period is necessary to comply with statutory requirements or that the application of such 30-day period is contrary to the public interest. If the Secretary provides for an earlier effective date pursuant to this clause, the Secretary shall include in the issuance or publication of the substantive change a finding described in the first sentence, and a brief statement of the reasons for such finding.

''(C) No action shall be taken against a provider of services or supplier with respect to noncompliance with such a substantive change for items and services furnished before the effective date of such a change.''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to compliance actions undertaken on or after the date of the enactment of this Act.

(c) RELIANCE ON GUIDANCE.—

(1) IN GENERAL.—Section 1871(e), as added by subsection (a), is further amended by adding at the end the following new paragraph:

''(2)(A) If—

''(i) a provider of services or supplier follows the written guidance (which may be transmitted electronically) provided by the Secretary or by a medicare contractor (as defined in section 1889(g)) acting within the scope of the contractor's contract authority, with respect to the furnishing of items or services and submission of a claim for benefits for such items or services with respect to such provider or supplier;

''(ii) the Secretary determines that the provider of services or supplier has accurately presented the circumstances relating to such items, services, and claim to the contractor in writing; and

''(iii) the guidance was in error;

the provider of services or supplier shall not be subject to any penalty or interest under this title or the provisions of title XI insofar as they relate to this title (including interest under a repayment plan under section 1893 or otherwise) relating to the provision of such items or service or such claim if the provider of services or supplier reasonably relied on such guidance.

''(B) Subparagraph (A) shall not be construed as preventing the recoupment or repayment (without any additional penalty) relating to an overpayment insofar as the overpayment was solely the result of a clerical or technical operational error.''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect on the date of the enactment of this Act and shall only apply to a penalty or interest imposed with respect to guidance provided on or after July 24, 2003.

SEC. 504. REPORTS AND STUDIES RELATING TO REGULATORY REFORM.

(a) GAO STUDY ON ADVISORY OPINION AUTHORITY.—

(1) STUDY.—The Comptroller General of the United States shall conduct a study to determine the feasibility and appropriateness of establishing in the Secretary authority to provide legally binding advisory opinions on appropriate interpretation and application of regulations to carry out the medicare program under title XVIII of the Social Security Act. Such study shall examine the appropriate timeframe for issuing such advisory opinions, as well as the need for additional staff and funding to provide such opinions.

(2) REPORT.—The Comptroller General shall submit to Congress a report on the study conducted under paragraph (1) by not later than 1 year after the date of the enactment of this Act.

(b) REPORT ON LEGAL AND REGULATORY INCONSISTENCIES.—Section 1871 (42 U.S.C. 1395hh), as amended by section 503(a)(1), is amended by adding at the end the following new subsection:

''(f)(1) Not later than 2 years after the date of the enactment of this subsection, and every 3 years thereafter, the Secretary shall submit to Congress a report with respect to the administration of this title and areas of inconsistency or conflict among the various provisions under law and regulation.

''(2) In preparing a report under paragraph (1), the Secretary shall collect—

''(A) information from individuals entitled to benefits under part A or enrolled under part B, or both, providers of services, and suppliers and from the Medicare Beneficiary Ombudsman with respect to such areas of inconsistency and conflict; and

''(B) information from medicare contractors that tracks the nature of written and telephone inquiries.

''(3) A report under paragraph (1) shall include a description of efforts by the Secretary to reduce such inconsistency or conflicts, and recommendations for legislation or administrative action that the Secretary determines appropriate to further reduce such inconsistency or conflicts.''.

Subtitle B—Contracting Reform

SEC. 511. INCREASED FLEXIBILITY IN MEDICARE ADMINISTRATION.

(a) CONSOLIDATION AND FLEXIBILITY IN MEDICARE ADMINISTRATION.—

(1) IN GENERAL.—Title XVIII is amended by inserting after section 1874 the following new section:

''CONTRACTS WITH MEDICARE ADMINISTRATIVE CONTRACTORS

''SEC. 1874A. (a) AUTHORITY.—

''(1) AUTHORITY TO ENTER INTO CONTRACTS.—The Secretary may enter into contracts with any eligible entity to serve as a medicare administrative contractor with respect to the performance of any or all of the functions described in paragraph (4) or parts of those functions (or, to the extent provided in a contract, to secure performance thereof by other entities).

''(2) ELIGIBILITY OF ENTITIES.—An entity is eligible to enter into a contract with respect to the performance of a particular function described in paragraph (4) only if—

''(A) the entity has demonstrated capability to carry out such function;

''(B) the entity complies with such conflict of interest standards as are generally applicable to Federal acquisition and procurement;

''(C) the entity has sufficient assets to financially support the performance of such function; and

''(D) the entity meets such other requirements as the Secretary may impose.

''(3) MEDICARE ADMINISTRATIVE CONTRACTOR DEFINED.—For purposes of this title and title XI—

''(A) IN GENERAL.—The term 'medicare administrative contractor' means an agency, organization, or other person with a contract under this section.

''(B) APPROPRIATE MEDICARE ADMINISTRATIVE CONTRACTOR.—With respect to the performance of a particular function in relation to an individual entitled to benefits under part A or enrolled under part B, or both, a specific provider of services or supplier (or class of such providers of services or suppliers), the 'appropriate' medicare administrative contractor is the medicare administrative contractor that has a contract under this section with respect to the performance of that function in relation to that individual, provider of services or supplier or class of provider of services or supplier.

''(4) FUNCTIONS DESCRIBED.—The functions referred to in paragraphs (1) and (2) are payment functions (including the function of developing local coverage determinations, as defined in section 1869(f)(2)(B)), provider services functions, and functions relating to services furnished to individuals entitled to benefits under part A or enrolled under part B, or both, as follows:

''(A) DETERMINATION OF PAYMENT AMOUNTS.—Determining (subject to the provisions of section 1878 and to such review by the Secretary as may be provided for by the contracts) the amount of the payments required pursuant to this title to be made to providers of services, suppliers and individuals.

''(B) MAKING PAYMENTS.—Making payments described in subparagraph (A) (including receipt, disbursement, and accounting for funds in making such payments).

''(C) BENEFICIARY EDUCATION AND ASSISTANCE.—Providing education and outreach to individuals entitled to benefits under part A or enrolled under part B, or both, and providing assistance to those individuals with specific issues, concerns, or problems.

''(D) PROVIDER CONSULTATIVE SERVICES.—Providing consultative services to institutions, agencies, and other persons to enable them to establish and maintain fiscal records necessary for purposes of this title and otherwise to qualify as providers of services or suppliers.

''(E) COMMUNICATION WITH PROVIDERS.—Communicating to providers of services and suppliers any information or instructions furnished to the medicare administrative contractor by the Secretary, and facilitating communication between such providers and suppliers and the Secretary.

''(F) PROVIDER EDUCATION AND TECHNICAL ASSISTANCE.—Performing the functions relating to provider education, training, and technical assistance.

''(G) ADDITIONAL FUNCTIONS.—Performing such other functions, including (subject to paragraph (5)) functions under the Medicare Integrity Program under section 1893, as are necessary to carry out the purposes of this title.

''(5) RELATIONSHIP TO MIP CONTRACTS.—

''(A) NONDUPLICATION OF DUTIES.—In entering into contracts under this section, the Secretary shall assure that functions of medicare administrative contractors in carrying out activities under parts A and B do not duplicate activities carried out under a contract entered into under the Medicare Integrity Program under section 1893. The previous sentence shall not apply with respect to the activity described in section 1893(b)(5)

(relating to prior authorization of certain items of durable medical equipment under section 1834(a)(15)).

''(B) CONSTRUCTION.—An entity shall not be treated as a medicare administrative contractor merely by reason of having entered into a contract with the Secretary under section 1893.

''(6) APPLICATION OF FEDERAL ACQUISITION REGULATION.—Except to the extent inconsistent with a specific requirement of this section, the Federal Acquisition Regulation applies to contracts under this section.

''(b) CONTRACTING REQUIREMENTS.—

''(1) USE OF COMPETITIVE PROCEDURES.—

''(A) IN GENERAL.—Except as provided in laws with general applicability to Federal acquisition and procurement or in subparagraph (B), the Secretary shall use competitive procedures when entering into contracts with medicare administrative contractors under this section, taking into account performance quality as well as price and other factors.

''(B) RENEWAL OF CONTRACTS.—The Secretary may renew a contract with a medicare administrative contractor under this section from term to term without regard to section 5 of title 41, United States Code, or any other provision of law requiring competition, if the medicare administrative contractor has met or exceeded the performance requirements applicable with respect to the contract and contractor, except that the Secretary shall provide for the application of competitive procedures under such a contract not less frequently than once every 5 years.

''(C) TRANSFER OF FUNCTIONS.—The Secretary may transfer functions among medicare administrative contractors consistent with the provisions of this paragraph. The Secretary shall ensure that performance quality is considered in such transfers. The Secretary shall provide public notice (whether in the Federal Register or otherwise) of any such transfer (including a description of the functions so transferred, a description of the providers of services and suppliers affected by such transfer, and contact information for the contractors involved).

''(D) INCENTIVES FOR QUALITY.—The Secretary shall provide incentives for medicare administrative contractors to provide quality service and to promote efficiency.

''(2) COMPLIANCE WITH REQUIREMENTS.—No contract under this section shall be entered into with any medicare administrative contractor unless the Secretary finds that such medicare administrative contractor will perform its obligations under the contract efficiently and effectively and will meet such requirements as to financial responsibility, legal authority, quality of services provided, and other matters as the Secretary finds pertinent.

''(3) PERFORMANCE REQUIREMENTS.—

''(A) DEVELOPMENT OF SPECIFIC PERFORMANCE REQUIREMENTS.—

''(i) IN GENERAL.—The Secretary shall develop contract performance requirements to carry out the specific requirements applicable under this title to a function described in subsection (a)(4) and shall develop standards for measuring the extent to which a contractor has met such requirements.

''(ii) CONSULTATION.—In developing such performance requirements and standards for measurement, the Secretary shall consult with providers of services, organizations representative of beneficiaries under this title, and organizations and agencies performing functions necessary to carry out the purposes of this section with respect to such performance requirements.

''(iii) PUBLICATION OF STANDARDS.—The Secretary shall make such performance requirements and measurement standards available to the public.

''(B) CONSIDERATIONS.—The Secretary shall include, as one of the standards developed under subparagraph (A), provider and beneficiary satisfaction levels.

''(C) INCLUSION IN CONTRACTS.—All contractor performance requirements shall be set forth in the contract between the Secretary and the appropriate medicare administrative contractor. Such performance requirements—

''(i) shall reflect the performance requirements published under subparagraph (A), but may include additional performance requirements;

''(ii) shall be used for evaluating contractor performance under the contract; and

''(iii) shall be consistent with the written statement of work provided under the contract.

''(4) INFORMATION REQUIREMENTS.—The Secretary shall not enter into a contract with a medicare administrative contractor under this section unless the contractor agrees—

''(A) to furnish to the Secretary such timely information and reports as the Secretary may find necessary in performing his functions under this title; and

''(B) to maintain such records and afford such access thereto as the Secretary finds necessary to assure the correctness and verification of the information and reports under subparagraph (A) and otherwise to carry out the purposes of this title.

''(5) SURETY BOND.—A contract with a medicare administrative contractor under this section may require the medicare administrative contractor, and any of its officers or employees certifying payments or disbursing funds pursuant to the contract, or otherwise participating in carrying out the contract, to give surety bond to the United States in such amount as the Secretary may deem appropriate.

''(c) TERMS AND CONDITIONS.—

''(1) IN GENERAL.—A contract with any medicare administrative contractor under this section may contain such terms and conditions as the Secretary finds necessary or appropriate and may provide for advances of funds to the medicare administrative contractor for the making of payments by it under subsection (a)(4)(B).

''(2) PROHIBITION ON MANDATES FOR CERTAIN DATA COLLECTION.—The Secretary may not require, as a condition of entering into, or renewing, a contract under this section, that the medicare administrative contractor match data obtained other than in its activities under this title with data used in the administration of this title for purposes of identifying situations in which the provisions of section 1862(b) may apply.

''(d) LIMITATION ON LIABILITY OF MEDICARE ADMINISTRATIVE CONTRACTORS AND CERTAIN OFFICERS.—

''(1) CERTIFYING OFFICER.—No individual designated pursuant to a contract under this section as a certifying officer shall, in the absence of the reckless disregard of the individual's obligations or the intent by that individual to defraud the United States, be liable with respect to any payments certified by the individual under this section.

''(2) DISBURSING OFFICER.—No disbursing officer shall, in the absence of the reckless disregard of the officer's obligations or the intent by that officer to defraud the United States, be liable with respect to any payment by such officer under this section if it was based upon an authorization (which meets the applicable requirements for such internal controls established by the Comptroller General of the United States) of a certifying officer designated as provided in paragraph (1) of this subsection.

''(3) LIABILITY OF MEDICARE ADMINISTRATIVE CONTRACTOR.—

''(A) IN GENERAL.—No medicare administrative contractor shall be liable to the United States for a payment by a certifying or disbursing officer unless, in connection with such payment, the medicare administrative contractor acted with reckless disregard of its obligations under its medicare administrative contract or with intent to defraud the United States.

''(B) RELATIONSHIP TO FALSE CLAIMS ACT.—Nothing in this subsection shall be construed to limit liability for conduct that would constitute a violation of sections 3729 through 3731 of title 31, United States Code.

''(4) INDEMNIFICATION BY SECRETARY.—

''(A) IN GENERAL.—Subject to subparagraphs (B) and (D), in the case of a medicare administrative contractor (or a person who is a director, officer, or employee of such a contractor or who is engaged by the contractor to participate directly in the claims administration process) who is made a party to any judicial or administrative proceeding arising from or relating directly to the claims administration process under this title, the Secretary may, to the extent the Secretary determines to be appropriate and as specified in the contract with the contractor, indemnify the contractor and such persons.

''(B) CONDITIONS.—The Secretary may not provide indemnification under subparagraph (A) insofar as the liability for such costs arises directly from conduct that is determined by the judicial proceeding or by the Secretary to be criminal in nature, fraudulent, or grossly negligent. If indemnification is provided by the Secretary with respect to a contractor before a determination that such costs arose directly from such conduct, the contractor shall reimburse the Secretary for costs of indemnification.

''(C) SCOPE OF INDEMNIFICATION.—Indemnification by the Secretary under subparagraph (A) may include payment of judgments, settlements (subject to subparagraph (D)), awards, and costs (including reasonable legal expenses).

''(D) WRITTEN APPROVAL FOR SETTLEMENTS OR COMPROMISES.—A contractor or other person described in subparagraph (A) may not propose to negotiate a settlement or compromise of a proceeding described in such subparagraph without the prior written approval of the Secretary to negotiate such settlement or compromise. Any indemnification under subparagraph (A) with respect to amounts paid under a settlement or compromise of a proceeding described in such subparagraph are conditioned upon prior written approval by the Secretary of the final settlement or compromise.

''(E) CONSTRUCTION.—Nothing in this paragraph shall be construed—

''(i) to change any common law immunity that may be available to a medicare administrative contractor or person described in subparagraph (A); or

''(ii) to permit the payment of costs not otherwise allowable, reasonable, or allocable under the Federal Acquisition Regulation.''.

(2) CONSIDERATION OF INCORPORATION OF CURRENT LAW STANDARDS.—In developing contract performance requirements under section 1874A(b) of the Social Security Act, as inserted by paragraph (1), the Secretary shall consider inclusion of the performance standards described in sections 1816(f)(2) of such Act (relating to timely processing of reconsiderations and applications for exemptions) and section 1842(b)(2)(B) of such Act (relating to timely review of determinations and fair hearing requests), as such sections were in effect before the date of the enactment of this Act.

(b) CONFORMING AMENDMENTS TO SECTION 1816 (RELATING TO FISCAL INTERMEDIARIES).—Section 1816 (42 U.S.C. 1395h) is amended as follows:

(1) The heading is amended to read as follows:

''PROVISIONS RELATING TO THE ADMINISTRATION OF PART A''.

(2) Subsection (a) is amended to read as follows:

''(a) The administration of this part shall be conducted through contracts with medicare administrative contractors under section 1874A.''.

(3) Subsection (b) is repealed.

(4) Subsection (c) is amended—

(A) by striking paragraph (1); and

(B) in each of paragraphs (2)(A) and (3)(A), by striking ''agreement under this section'' and inserting ''contract under section 1874A that provides for making payments under this part''.

(5) Subsections (d) through (i) are repealed.

(6) Subsections (j) and (k) are each amended—

(A) by striking ''An agreement with an agency or organization under this section'' and inserting ''A contract with a medicare administrative contractor under section 1874A with respect to the administration of this part''; and

(B) by striking ''such agency or organization'' and inserting ''such medicare administrative contractor'' each place it appears.

(7) Subsection (l) is repealed.

(c) CONFORMING AMENDMENTS TO SECTION 1842 (RELATING TO CARRIERS).—Section 1842 (42 U.S.C. 1395u) is amended as follows:

(1) The heading is amended to read as follows:

''PROVISIONS RELATING TO THE ADMINISTRATION OF PART B''.

(2) Subsection (a) is amended to read as follows:

''(a) The administration of this part shall be conducted through contracts with medicare administrative contractors under section 1874A.''.

(3) Subsection (b) is amended—

(A) by striking paragraph (1);

(B) in paragraph (2)—

(i) by striking subparagraphs (A) and (B);

(ii) in subparagraph (C), by striking ''carriers'' and inserting ''medicare administrative contractors''; and

(iii) by striking subparagraphs (D) and (E);

(C) in paragraph (3)—

(i) in the matter before subparagraph (A), by striking ''Each such contract shall provide that the carrier'' and inserting ''The Secretary'';

(ii) by striking ''will'' the first place it appears in each of subparagraphs (A), (B), (F), (G), (H), and (L) and inserting ''shall'';

(iii) in subparagraph (B), in the matter before clause (i), by striking ''to the policyholders and subscribers of the carrier'' and inserting ''to the policyholders and subscribers of the medicare administrative contractor'';

(iv) by striking subparagraphs (C), (D), and (E);

(v) in subparagraph (H)—

(I) by striking ''if it makes determinations or payments with respect to physicians' services,'' in the matter preceding clause (i); and

(II) by striking ''carrier'' and inserting ''medicare administrative contractor'' in clause (i);

(vi) by striking subparagraph (I);

(vii) in subparagraph (L), by striking the semicolon and inserting a period;

(viii) in the first sentence, after subparagraph (L), by striking ''and shall contain'' and all that follows through the period; and

(ix) in the seventh sentence, by inserting ''medicare administrative contractor,'' after ''carrier,'';

(D) by striking paragraph (5);

(E) in paragraph (6)(D)(iv), by striking ''carrier'' and inserting ''medicare administrative contractor''; and

(F) in paragraph (7), by striking ''the carrier'' and inserting ''the Secretary'' each place it appears.

(4) Subsection (c) is amended—

(A) by striking paragraph (1);

(B) in paragraph (2)(A), by striking ''contract under this section which provides for the disbursement of funds, as described in subsection (a)(1)(B),'' and inserting ''contract under section 1874A that provides for making payments under this part'';

(C) in paragraph (3)(A), by striking ''subsection (a)(1)(B)'' and inserting ''section 1874A(a)(3)(B)'';

(D) in paragraph (4), in the matter preceding subparagraph (A), by striking ''carrier'' and inserting ''medicare administrative contractor''; and

(E) by striking paragraphs (5) and (6).

(5) Subsections (d), (e), and (f) are repealed.

(6) Subsection (g) is amended by striking ''carrier or carriers'' and inserting ''medicare administrative contractor or contractors''.

(7) Subsection (h) is amended—

(A) in paragraph (2)—

(i) by striking ''Each carrier having an agreement with the Secretary under subsection (a)'' and inserting ''The Secretary''; and

(ii) by striking ''Each such carrier'' and inserting ''The Secretary'';

(B) in paragraph (3)(A)—

(i) by striking ''a carrier having an agreement with the Secretary under subsection (a)'' and inserting ''medicare administrative contractor having a contract under section 1874A that provides for making payments under this part''; and

(ii) by striking ''such carrier'' and inserting ''such contractor'';

(C) in paragraph (3)(B)—

(i) by striking ''a carrier'' and inserting ''a medicare administrative contractor'' each place it appears; and

(ii) by striking ''the carrier'' and inserting ''the contractor'' each place it appears; and

(D) in paragraphs (5)(A) and (5)(B)(iii), by striking ''carriers'' and inserting ''medicare administrative contractors'' each place it appears.

(8) Subsection (l) is amended—

(A) in paragraph (1)(A)(iii), by striking ''carrier'' and inserting ''medicare administrative contractor''; and

(B) in paragraph (2), by striking ''carrier'' and inserting ''medicare administrative contractor''.

(9) Subsection (p)(3)(A) is amended by striking ''carrier'' and inserting ''medicare administrative contractor''.

(10) Subsection (q)(1)(A) is amended by striking ''carrier''.

(d) EFFECTIVE DATE; TRANSITION RULE.—

(1) EFFECTIVE DATE.—

(A) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall take effect on October 1, 2005, and the Secretary is authorized to take such steps before such date as may be necessary to implement such amendments on a timely basis.

(B) CONSTRUCTION FOR CURRENT CONTRACTS.—Such amendments shall not apply to contracts in effect before the date specified under subparagraph (A) that continue to retain the terms and conditions in effect on such date (except as otherwise provided under this Act, other than under this section) until such date as the contract is let out for competitive bidding under such amendments.

(C) DEADLINE FOR COMPETITIVE BIDDING.—The Secretary shall provide for the letting by competitive bidding of all contracts for functions of medicare administrative contractors for annual contract periods that begin on or after October 1, 2011.

(2) GENERAL TRANSITION RULES.—

(A) AUTHORITY TO CONTINUE TO ENTER INTO NEW AGREEMENTS AND CONTRACTS AND WAIVER OF PROVIDER NOMINATION PROVISIONS DURING TRANSITION.—Prior to October 1, 2005, the Secretary may, consistent with subparagraph (B), continue to enter into agreements under section 1816 and contracts under section 1842 of the Social Security Act (42 U.S.C. 1395h, 1395u). The Secretary may enter into new agreements under section 1816 prior to October 1, 2005, without regard to any of the provider nomination provisions of such section.

(B) APPROPRIATE TRANSITION.—The Secretary shall take such steps as are necessary to provide for an appropriate transition from agreements under section 1816 and contracts under section 1842 of the Social Security Act (42 U.S.C. 1395h, 1395u) to contracts under section 1874A, as added by subsection (a)(1).

(3) AUTHORIZING CONTINUATION OF MIP FUNCTIONS UNDER CURRENT CONTRACTS AND AGREEMENTS AND UNDER TRANSITION CONTRACTS.—Notwithstanding the amendments made by this section, the provisions contained in the exception in section 1893(d)(2) of the Social Security Act (42 U.S.C. 1395ddd(d)(2)) shall continue to apply during the period that begins on the date of the enactment of this Act and ends on October 1, 2011, and any reference in such provisions to an agreement or contract shall be deemed to include a contract under section 1874A of such Act, as inserted by subsection (a)(1), that continues the activities referred to in such provisions.

(e) REFERENCES.—On and after the effective date provided under subsection (d)(1), any reference to a fiscal intermediary or carrier under title XI or XVIII of the Social Security Act (or any regulation, manual instruction, interpretative rule, statement of policy, or guideline issued to carry out such titles) shall be deemed a reference to a medicare administrative contractor (as provided under section 1874A of the Social Security Act).

(f) SECRETARIAL SUBMISSION OF LEGISLATIVE PROPOSAL.—Not later than 6 months after the date of the enactment of this Act, the Secretary shall submit to the appropriate committees of Congress a legislative proposal providing for such technical and conforming amendments in the law as are required by the provisions of this section.

(g) REPORTS ON IMPLEMENTATION.—

(1) PLAN FOR IMPLEMENTATION.—By not later than October 1, 2004, the Secretary shall submit a report to Congress and the Comptroller General of the United States that describes the plan for implementation of the amendments made by this section. The Comptroller General shall conduct an evaluation of such plan and shall submit to Congress, not later than 6 months after the date the report is received, a report on such evaluation and shall include in such report such recommendations as the Comptroller General deems appropriate.

(2) STATUS OF IMPLEMENTATION.—The Secretary shall submit a report to Congress not later than October 1, 2008, that describes the status of implementation of such amendments and that includes a description of the following:

(A) The number of contracts that have been competitively bid as of such date.

(B) The distribution of functions among contracts and contractors.

(C) A timeline for complete transition to full competition.

(D) A detailed description of how the Secretary has modified oversight and management of medicare contractors to adapt to full competition.

SEC. 512. REQUIREMENTS FOR INFORMATION SECURITY FOR MEDICARE ADMINISTRATIVE CONTRACTORS.

(a) IN GENERAL.—Section 1874A, as added by section 511(a)(1), is amended by adding at the end the following new subsection:

''(e) REQUIREMENTS FOR INFORMATION SECURITY.—

''(1) DEVELOPMENT OF INFORMATION SECURITY PROGRAM.—A medicare administrative contractor that performs the functions referred to in subparagraphs (A) and (B) of subsection (a)(4) (relating to determining and making payments) shall implement a contractor-wide information security program to provide information security for the operation and assets of the contractor with respect to such functions under this title. An information security program under this paragraph shall meet the requirements for information security programs imposed on Federal agencies under paragraphs (1) through (8) of section 3544(b) of title 44, United States Code (other than the requirements under paragraphs (2)(D)(i), (5)(A), and (5)(B) of such section).

''(2) INDEPENDENT AUDITS.—

''(A) PERFORMANCE OF ANNUAL EVALUATIONS.—Each year a medicare administrative contractor that performs the functions referred to in subparagraphs (A) and (B) of subsection (a)(4) (relating to determining and making payments) shall undergo an evaluation of the information security of the contractor with respect to such functions under this title. The evaluation shall—

''(i) be performed by an entity that meets such requirements for independence as the Inspector General of the Department of Health and Human Services may establish; and

''(ii) test the effectiveness of information security control techniques of an appropriate subset of the contractor's information systems (as defined in section 3502(8) of title 44, United States Code) relating to such functions under this title and an assessment of compliance with the requirements of this subsection and related information security policies, procedures, standards and guidelines, including policies and procedures as may be prescribed by the Director of the Office of Management and Budget and applicable information security standards promulgated under section 11331 of title 40, United States Code.

''(B) DEADLINE FOR INITIAL EVALUATION.—

''(i) NEW CONTRACTORS.—In the case of a medicare administrative contractor covered by this subsection that has not previously performed the functions referred to in subparagraphs (A) and (B) of subsection (a)(4) (relating to determining and making payments) as a fiscal intermediary or carrier under section 1816 or 1842, the first independent evaluation conducted pursuant to subparagraph (A) shall be completed prior to commencing such functions.

''(ii) OTHER CONTRACTORS.—In the case of a medicare administrative contractor covered by this subsection that is not described in clause (i), the first independent evaluation conducted pursuant to subparagraph (A) shall be completed within 1 year after the date the contractor commences functions referred to in clause (i) under this section.

''(C) REPORTS ON EVALUATIONS.—

''(i) TO THE DEPARTMENT OF HEALTH AND HUMAN SERVICES.—The results of independent evaluations under subparagraph (A) shall be submitted promptly to the Inspector General of the Department of Health and Human Services and to the Secretary.

''(ii) TO CONGRESS.—The Inspector General of the Department of Health and Human Services shall submit to Congress annual reports on the results of such evaluations, including assessments of the scope and sufficiency of such evaluations.

''(iii) AGENCY REPORTING.—The Secretary shall address the results of such evaluations in reports required under section 3544(c) of title 44, United States Code.''.

(b) APPLICATION OF REQUIREMENTS TO FISCAL INTERMEDIARIES AND CARRIERS.—

(1) IN GENERAL.—The provisions of section 1874A(e)(2) of the Social Security Act (other than subparagraph (B)), as added by subsection (a), shall apply to each fiscal intermediary under section 1816 of the Social Security Act (42 U.S.C. 1395h) and each carrier under section 1842 of such Act (42 U.S.C. 1395u) in the same manner as they apply to medicare administrative contractors under such provisions.

(2) DEADLINE FOR INITIAL EVALUATION.—In the case of such a fiscal intermediary or carrier with an agreement or contract under such respective section in effect as of the date of the enactment of this Act, the first evaluation under section 1874A(e)(2)(A) of the Social Security Act (as added by subsection (a)), pursuant to paragraph (1), shall be completed (and a report on the evaluation submitted to the Secretary) by not later than 1 year after such date.

Subtitle C—Education and Outreach

SEC. 521. PROVIDER EDUCATION AND TECHNICAL ASSISTANCE.

(a) COORDINATION OF EDUCATION FUNDING.—

(1) IN GENERAL.—Title XVIII is amended by inserting after section 1888 the following new section:

''PROVIDER EDUCATION AND TECHNICAL ASSISTANCE

''SEC. 1889. (a) COORDINATION OF EDUCATION FUNDING.—The Secretary shall coordinate the educational activities provided through medicare contractors (as defined in subsection (g), including under section 1893) in order to maximize the effectiveness of Federal education efforts for providers of services and suppliers.''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect on the date of the enactment of this Act.

(3) REPORT.—Not later than October 1, 2004, the Secretary shall submit to Congress a report that includes a description and evaluation of the steps taken to coordinate the funding of provider education under section 1889(a) of the Social Security Act, as added by paragraph (1).

(b) INCENTIVES TO IMPROVE CONTRACTOR PERFORMANCE.—

(1) IN GENERAL.—Section 1874A, as added by section 511(a)(1) and as amended by section 512(a), is amended by adding at the end the following new subsection:

''(f) INCENTIVES TO IMPROVE CONTRACTOR PERFORMANCE IN PROVIDER EDUCATION AND OUTREACH.—The Secretary shall use specific claims payment error rates or similar methodology of medicare administrative contractors in the processing or reviewing of medicare claims in order to give such contractors an incentive to implement effective education and outreach programs for providers of services and suppliers.''.

(2) APPLICATION TO FISCAL INTERMEDIARIES AND CARRIERS.—The provisions of section 1874A(f) of the Social Security Act, as added by paragraph (1), shall apply to each fiscal intermediary under section 1816 of the Social Security Act (42 U.S.C. 1395h) and each carrier under section 1842 of such Act (42 U.S.C. 1395u) in the same manner as they apply to medicare administrative contractors under such provisions.

(3) GAO REPORT ON ADEQUACY OF METHODOLOGY.—Not later than October 1, 2004, the Comptroller General of the United States shall submit to Congress and to the Secretary a report on the adequacy of the methodology under section 1874A(f) of the Social Security Act, as added by paragraph (1), and shall include in the report such recommendations as the Comptroller General determines appropriate with respect to the methodology.

(4) REPORT ON USE OF METHODOLOGY IN ASSESSING CONTRACTOR PERFORMANCE.—Not later than October 1, 2004, the Secretary shall submit to Congress a report that describes how the Secretary intends to use such methodology in assessing medicare contractor performance in implementing effective education and outreach programs, including whether to use such methodology as a basis for performance bonuses. The report shall include an analysis of the sources of identified errors and potential changes in systems of contractors and rules of the Secretary that could reduce claims error rates.

(c) PROVISION OF ACCESS TO AND PROMPT RESPONSES FROM MEDICARE ADMINISTRATIVE CONTRACTORS.—

(1) IN GENERAL.—Section 1874A, as added by section 511(a)(1) and as amended by section 512(a) and subsection (b), is further amended by adding at the end the following new subsection:

''(g) COMMUNICATIONS WITH BENEFICIARIES, PROVIDERS OF SERVICES AND SUPPLIERS.—

''(1) COMMUNICATION STRATEGY.—The Secretary shall develop a strategy for communications with individuals entitled to benefits under part A or enrolled under part B, or both, and with providers of services and suppliers under this title.

''(2) RESPONSE TO WRITTEN INQUIRIES.—Each medicare administrative contractor shall, for those providers of services and suppliers which submit claims to the contractor for claims processing and for those individuals entitled to benefits under part A or enrolled under part B, or both, with respect to whom claims are submitted for claims processing, provide general written responses (which may be through electronic transmission) in a clear, concise, and accurate manner to inquiries of providers of services, suppliers, and individuals entitled to benefits under part A or enrolled under part B, or both, concerning the programs under this title within 45 business days of the date of receipt of such inquiries.

''(3) RESPONSE TO TOLL-FREE LINES.—The Secretary shall ensure that each medicare administrative contractor shall provide, for those providers of services and suppliers which submit claims to the contractor for claims processing and for those individuals entitled to benefits under part A or enrolled under part B, or both, with respect to whom claims are submitted for claims processing, a toll-free telephone number at which such individuals, providers of services, and suppliers may obtain information regarding billing, coding, claims, coverage, and other appropriate information under this title.

''(4) MONITORING OF CONTRACTOR RESPONSES.—

''(A) IN GENERAL.—Each medicare administrative contractor shall, consistent with standards developed by the Secretary under subparagraph (B)—

''(i) maintain a system for identifying who provides the information referred to in paragraphs (2) and (3); and

''(ii) monitor the accuracy, consistency, and timeliness of the information so provided.

''(B) DEVELOPMENT OF STANDARDS.—

''(i) IN GENERAL.—The Secretary shall establish and make public standards to monitor the accuracy, consistency, and timeliness of the information provided in response to written and telephone inquiries under this subsection. Such standards shall be consistent with the performance requirements established under subsection (b)(3).

''(ii) EVALUATION.—In conducting evaluations of individual medicare administrative contractors, the Secretary shall take into account the results of the monitoring conducted under subparagraph (A) taking into account as performance requirements the standards established under clause (i). The Secretary shall, in consultation with organizations representing providers of services, suppliers, and individuals entitled to benefits under part A or enrolled under part B, or both, establish standards relating to the accuracy, consistency, and timeliness of the information so provided.

''(C) DIRECT MONITORING.—Nothing in this paragraph shall be construed as preventing the Secretary from directly monitoring the accuracy, consistency, and timeliness of the information so provided.

''(5) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this subsection.''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect October 1, 2004.

(3) APPLICATION TO FISCAL INTERMEDIARIES AND CARRIERS.—The provisions of section 1874A(g) of the Social Security Act, as added by paragraph (1), shall apply to each fiscal intermediary under section 1816 of the Social Security Act (42 U.S.C. 1395h) and each carrier under section 1842 of such Act (42 U.S.C. 1395u) in the same manner as they apply to medicare administrative contractors under such provisions.

(d) IMPROVED PROVIDER EDUCATION AND TRAINING.—

(1) IN GENERAL.—Section 1889, as added by subsection (a), is amended by adding at the end the following new subsections:

''(b) ENHANCED EDUCATION AND TRAINING.—

''(1) ADDITIONAL RESOURCES.—There are authorized to be appropriated to the Secretary (in appropriate part from the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund) such sums as may be necessary for fiscal years beginning with fiscal year 2005.

''(2) USE.—The funds made available under paragraph (1) shall be used to increase the conduct by medicare contractors of education and training of providers of services and suppliers regarding billing, coding, and other appropriate items and may also be used to improve the accuracy, consistency, and timeliness of contractor responses.

''(c) TAILORING EDUCATION AND TRAINING ACTIVITIES FOR SMALL PROVIDERS OR SUPPLIERS.—

''(1) IN GENERAL.—Insofar as a medicare contractor conducts education and training activities, it shall tailor such activities to meet the special needs of small providers of services or suppliers (as defined in paragraph (2)). Such education and training activities for small providers of services and suppliers may include the provision of technical assistance (such as review of billing systems and internal controls to determine program compliance and to suggest more efficient and effective means of achieving such compliance).

''(2) SMALL PROVIDER OF SERVICES OR SUPPLIER.—In this subsection, the term 'small provider of services or supplier' means—

''(A) a provider of services with fewer than 25 full-time-equivalent employees; or

''(B) a supplier with fewer than 10 full-time-equivalent employees.''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect on October 1, 2004.

(e) REQUIREMENT TO MAINTAIN INTERNET WEBSITES.—

(1) IN GENERAL.—Section 1889, as added by subsection (a) and as amended by subsection (d), is further amended by adding at the end the following new subsection:

''(d) INTERNET WEBSITES; FAQS.—The Secretary, and each medicare contractor insofar as it provides services (including claims processing) for providers of services or suppliers, shall maintain an Internet website which—

''(1) provides answers in an easily accessible format to frequently asked questions, and

''(2) includes other published materials of the contractor,

that relate to providers of services and suppliers under the programs under this title (and title XI insofar as it relates to such programs).''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect on October 1, 2004.

(f) ADDITIONAL PROVIDER EDUCATION PROVISIONS.—

(1) IN GENERAL.—Section 1889, as added by subsection (a) and as amended by subsections (d) and (e), is further amended by adding at the end the following new subsections:

''(e) ENCOURAGEMENT OF PARTICIPATION IN EDUCATION PROGRAM ACTIVITIES.—A medicare contractor may not use a record of attendance at (or failure to attend) educational activities or other information gathered during an educational program conducted under this section or otherwise by the Secretary to select or track providers of services or suppliers for the purpose of conducting any type of audit or prepayment review.

''(f) CONSTRUCTION.—Nothing in this section or section 1893(g) shall be construed as providing for disclosure by a medicare contractor—

''(1) of the screens used for identifying claims that will be subject to medical review; or

''(2) of information that would compromise pending law enforcement activities or reveal findings of law enforcement-related audits.

''(g) DEFINITIONS.—For purposes of this section, the term 'medicare contractor' includes the following:

''(1) A medicare administrative contractor with a contract under section 1874A, including a fiscal intermediary with a contract under section 1816 and a carrier with a contract under section 1842.

''(2) An eligible entity with a contract under section 1893.

Such term does not include, with respect to activities of a specific provider of services or supplier an entity that has no authority under this title or title IX with respect to such activities and such provider of services or supplier.''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect on the date of the enactment of this Act.

SEC. 522. SMALL PROVIDER TECHNICAL ASSISTANCE DEMONSTRATION PROGRAM.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—The Secretary shall establish a demonstration program (in this section referred to as the ''demonstration program'') under which technical assistance described in paragraph (2) is made available, upon request and on a voluntary basis, to small providers of services or suppliers in order to improve compliance with the applicable requirements of the programs under medicare program under title XVIII of the Social Security Act (including provisions of title XI of such Act insofar as they relate to such title and are not administered by the Office of the Inspector General of the Department of Health and Human Services).

(2) FORMS OF TECHNICAL ASSISTANCE.—The technical assistance described in this paragraph is—

(A) evaluation and recommendations regarding billing and related systems; and

(B) information and assistance regarding policies and procedures under the medicare program, including coding and reimbursement.

(3) SMALL PROVIDERS OF SERVICES OR SUPPLIERS.—In this section, the term ''small providers of services or suppliers'' means—

(A) a provider of services with fewer than 25 full-time-equivalent employees; or

(B) a supplier with fewer than 10 full-time-equivalent employees.

(b) QUALIFICATION OF CONTRACTORS.—In conducting the demonstration program, the Secretary shall enter into contracts with qualified organizations (such as peer review organizations or entities described in section 1889(g)(2) of the Social Security Act, as inserted by section 521(f)(1)) with appropriate expertise with billing systems of the full range of providers of services and suppliers to provide the technical assistance. In awarding such contracts, the Secretary shall consider any prior investigations of the entity's work by the Inspector General of Department of Health and Human Services or the Comptroller General of the United States.

(c) DESCRIPTION OF TECHNICAL ASSISTANCE.—The technical assistance provided under the demonstration program shall include a direct and in-person examination of billing systems and internal controls of small providers of services or suppliers to determine program compliance and to suggest more efficient or effective means of achieving such compliance.

(d) GAO EVALUATION.—Not later than 2 years after the date the demonstration program is first implemented, the Comptroller General, in consultation with the Inspector General of the Department of Health and Human Services, shall conduct an evaluation of the demonstration program. The evaluation shall include a determination of whether claims error rates are reduced for small providers of services or suppliers who participated in the program and the extent of improper payments made as a result of the demonstration program. The Comptroller General shall submit a report to the Secretary and the Congress on such evaluation and shall include in such report recommendations regarding the continuation or extension of the demonstration program.

(e) FINANCIAL PARTICIPATION BY PROVIDERS.—The provision of technical assistance to a small provider of services or supplier under the demonstration program is conditioned upon the small provider of services or supplier paying an amount estimated (and disclosed in advance of a provider's or supplier's participation in the program) to be equal to 25 percent of the cost of the technical assistance.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated, from amounts not otherwise appropriated in the Treasury, such sums as may be necessary to carry out this section.

SEC. 523. MEDICARE BENEFICIARY OMBUDSMAN.

(a) IN GENERAL.—Section 1808, as added and amended by section 500, is amended by adding at the end the following new subsection:

''(c) MEDICARE BENEFICIARY OMBUDSMAN.—

''(1) IN GENERAL.—The Secretary shall appoint within the Department of Health and

Human Services a Medicare Beneficiary Ombudsman who shall have expertise and experience in the fields of health care and education of (and assistance to) individuals entitled to benefits under this title.

''(2) DUTIES.—The Medicare Beneficiary Ombudsman shall—

''(A) receive complaints, grievances, and requests for information submitted by individuals entitled to benefits under part A or enrolled under part B, or both, with respect to any aspect of the medicare program;

''(B) provide assistance with respect to complaints, grievances, and requests referred to in subparagraph (A), including—

''(i) assistance in collecting relevant information for such individuals, to seek an appeal of a decision or determination made by a fiscal intermediary, carrier, MA organization, or the Secretary;

''(ii) assistance to such individuals with any problems arising from disenrollment from an MA plan under part C; and

''(iii) assistance to such individuals in presenting information under section 1839(i)(4)(C) (relating to income-related premium adjustment; and

''(C) submit annual reports to Congress and the Secretary that describe the activities of the Office and that include such recommendations for improvement in the administration of this title as the Ombudsman determines appropriate.

The Ombudsman shall not serve as an advocate for any increases in payments or new coverage of services, but may identify issues and problems in payment or coverage policies.

''(3) WORKING WITH HEALTH INSURANCE COUNSELING PROGRAMS.—To the extent possible, the Ombudsman shall work with health insurance counseling programs (receiving funding under section 4360 of Omnibus Budget Reconciliation Act of 1990) to facilitate the provision of information to individuals entitled to benefits under part A or enrolled under part B, or both regarding MA plans and changes to those plans. Nothing in this paragraph shall preclude further collaboration between the Ombudsman and such programs.''.

(b) DEADLINE FOR APPOINTMENT.—By not later than 1 year after the date of the enactment of this Act, the Secretary shall appoint the Medicare Beneficiary Ombudsman under section 1808(c) of the Social Security Act, as added by subsection (a).

(c) FUNDING.—There are authorized to be appropriated to the Secretary (in appropriate part from the Federal Hospital Insurance Trust Fund, established under section 1817 of the Social Security Act (42 U.S.C. 1395i), and the Federal Supplementary Medical Insurance Trust Fund, established under section 1841 of such Act (42 U.S.C. 1395t)) to carry out section 1808(c) of such Act (relating to the Medicare Beneficiary Ombudsman), as added by subsection (a), such sums as are necessary for fiscal year 2004 and each succeeding fiscal year.

(d) USE OF CENTRAL, TOLL-FREE NUMBER (1–800–MEDICARE).—

(1) PHONE TRIAGE SYSTEM; LISTING IN MEDICARE HANDBOOK INSTEAD OF OTHER TOLL-FREE NUMBERS.—Section 1804(b) (42 U.S.C. 1395b–2(b)) is amended by adding at the end the following: ''The Secretary shall provide, through the toll-free telephone number 1–800–MEDICARE, for a means by which individuals seeking information about, or assistance with, such programs who phone such toll-free number are transferred (without charge) to appropriate entities for the provision of such information or assistance. Such toll-free number shall be the toll-free number listed for general information and assistance in the annual notice under subsection (a) instead of the listing of numbers of individual contractors.''.

(2) MONITORING ACCURACY.—

(A) STUDY.—The Comptroller General of the United States shall conduct a study to monitor the accuracy and consistency of information provided to individuals entitled to benefits under part A or enrolled under part B, or both, through the toll-free telephone number 1–800–MEDICARE, including an assessment of whether the information provided is sufficient to answer questions of such individuals. In conducting the study, the Comptroller General shall examine the education and training of the individuals providing information through such number.

(B) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Comptroller General shall submit to Congress a report on the study conducted under subparagraph (A).

SEC. 524. BENEFICIARY OUTREACH DEMONSTRATION PROGRAM.

(a) IN GENERAL.—The Secretary shall establish a demonstration program (in this section referred to as the ''demonstration program'') under which medicare specialists employed by the Department of Health and Human Services provide advice and assistance to individuals entitled to benefits under part A of title XVIII of the Social Security Act, or enrolled under part B of such title, or both, regarding the medicare program at the location of existing local offices of the Social Security Administration.

(b) LOCATIONS.—

(1) IN GENERAL.—The demonstration program shall be conducted in at least 6 offices or areas. Subject to paragraph (2), in selecting such offices and areas, the Secretary shall provide preference for offices with a high volume of visits by individuals referred to in subsection (a).

(2) ASSISTANCE FOR RURAL BENEFICIARIES.—The Secretary shall provide for the selection of at least 2 rural areas to participate in the demonstration program. In conducting the demonstration program in such rural areas, the Secretary shall provide for medicare specialists to travel among local offices in a rural area on a scheduled basis.

(c) DURATION.—The demonstration program shall be conducted over a 3-year period.

(d) EVALUATION AND REPORT.—

(1) EVALUATION.—The Secretary shall provide for an evaluation of the demonstration program. Such evaluation shall include an analysis of—

(A) utilization of, and satisfaction of those individuals referred to in subsection (a) with, the assistance provided under the program; and

(B) the cost-effectiveness of providing beneficiary assistance through out-stationing medicare specialists at local offices of the Social Security Administration.

(2) REPORT.—The Secretary shall submit to Congress a report on such evaluation and shall include in such report recommendations regarding the feasibility of permanently out-stationing medicare specialists at local offices of the Social Security Administration.

SEC. 525. INCLUSION OF ADDITIONAL INFORMATION IN NOTICES TO BENEFICIARIES ABOUT SKILLED NURSING FACILITY BENEFITS.

(a) IN GENERAL.—The Secretary shall provide that in medicare beneficiary notices provided (under section 1806(a) of the Social Security Act, 42 U.S.C. 1395b–7(a)) with respect to the provision of post-hospital extended care services under part A of title XVIII of the Social Security Act, there shall be included information on the number of days of coverage of such services remaining under such part for the medicare beneficiary and spell of illness involved.

(b) EFFECTIVE DATE.—Subsection (a) shall apply to notices provided during calendar quarters beginning more than 6 months after the date of the enactment of this Act.

SEC. 526. INFORMATION ON MEDICARE-CERTIFIED SKILLED NURSING FACILITIES IN HOSPITAL DISCHARGE PLANS.

(a) AVAILABILITY OF DATA.—The Secretary shall publicly provide information that enables hospital discharge planners, medicare beneficiaries, and the public to identify skilled nursing facilities that are participating in the medicare program.

(b) INCLUSION OF INFORMATION IN CERTAIN HOSPITAL DISCHARGE PLANS.—

(1) IN GENERAL.—Section 1861(ee)(2)(D) (42 U.S.C. 1395x(ee)(2)(D)) is amended—

(A) by striking ''hospice services'' and inserting ''hospice care and post-hospital extended care services''; and

(B) by inserting before the period at the end the following: ''and, in the case of individuals who are likely to need post-hospital extended care services, the availability of such services through facilities that participate in the program under this title and that serve the area in which the patient resides''.

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall apply to discharge plans made on or after such date as the Secretary shall specify, but not later than 6 months after the date the Secretary provides for availability of information under subsection (a).

Subtitle D—Appeals and Recovery

SEC. 531. TRANSFER OF RESPONSIBILITY FOR MEDICARE APPEALS.

(a) TRANSITION PLAN.—

(1) IN GENERAL.—Not later than April 1, 2004, the Commissioner of Social Security and the Secretary shall develop and transmit to Congress and the Comptroller General of the United States a plan under which the functions of administrative law judges responsible for hearing cases under title XVIII of the Social Security Act (and related provisions in title XI of such Act) are transferred from the responsibility of the Commissioner and the Social Security Administration to the Secretary and the Department of Health and Human Services.

(2) CONTENTS.—The plan shall include information on the following:

(A) WORKLOAD.—The number of such administrative law judges and support staff required now and in the future to hear and decide such cases in a timely manner, taking into account the current and anticipated claims volume, appeals, number of beneficiaries, and statutory changes.

(B) COST PROJECTIONS AND FINANCING.—Funding levels required for fiscal year 2005 and subsequent fiscal years to carry out the functions transferred under the plan.

(C) TRANSITION TIMETABLE.—A timetable for the transition.

(D) REGULATIONS.—The establishment of specific regulations to govern the appeals process.

(E) CASE TRACKING.—The development of a unified case tracking system that will facilitate the maintenance and transfer of case specific data across both the fee-for-service and managed care components of the medicare program.

(F) FEASIBILITY OF PRECEDENTIAL AUTHORITY.—The feasibility of developing a process to give decisions of the Departmental Appeals Board in the Department of Health and Human Services addressing broad legal issues binding, precedential authority.

(G) ACCESS TO ADMINISTRATIVE LAW JUDGES.—The feasibility of—

(i) filing appeals with administrative law judges electronically; and

(ii) conducting hearings using tele- or video-conference technologies.

(H) INDEPENDENCE OF ADMINISTRATIVE LAW JUDGES.—The steps that should be taken to ensure the independence of administrative law judges consistent with the requirements of subsection (b)(2).

(I) GEOGRAPHIC DISTRIBUTION.—The steps that should be taken to provide for an appropriate geographic distribution of administrative law judges throughout the United States to carry out subsection (b)(3).

(J) HIRING.—The steps that should be taken to hire administrative law judges (and support staff) to carry out subsection (b)(4).

(K) PERFORMANCE STANDARDS.—The appropriateness of establishing performance standards for administrative law judges with respect to timelines for decisions in cases under title XVIII of the Social Security Act taking into account requirements under subsection (b)(2) for the independence of such judges and consistent with the applicable provisions of title 5, United States Code relating to impartiality.

(L) SHARED RESOURCES.—The steps that should be taken to carry out subsection (b)(6) (relating to the arrangements with the Commissioner of Social Security to share office space, support staff, and other resources, with appropriate reimbursement).

(M) TRAINING.—The training that should be provided to administrative law judges with respect to laws and regulations under title XVIII of the Social Security Act.

(3) ADDITIONAL INFORMATION.—The plan may also include recommendations for further congressional action, including modifications to the requirements and deadlines established under section 1869 of the Social Security Act (42 U.S.C. 1395ff) (as amended by this Act).

(4) GAO EVALUATION.—The Comptroller General of the United States shall evaluate the plan and, not later than the date that is 6 months after the date on which the plan is received by the Comptroller General, shall submit to Congress a report on such evaluation.

(b) TRANSFER OF ADJUDICATION AUTHORITY.—

(1) IN GENERAL.—Not earlier than July 1, 2005, and not later than October 1, 2005, the Commissioner of Social Security and the Secretary shall implement the transition plan under subsection (a) and transfer the administrative law judge functions described in such subsection from the Social Security Administration to the Secretary.

(2) ASSURING INDEPENDENCE OF JUDGES.—The Secretary shall assure the independence of administrative law judges performing the administrative law judge functions transferred under paragraph (1) from the Centers for Medicare & Medicaid Services and its contractors. In order to assure such independence, the Secretary shall place such judges in an administrative office that is organizationally and functionally separate from such Centers. Such judges shall report to, and be under the general supervision of, the Secretary, but shall not report to, or be subject to supervision by, another officer of the Department of Health and Human Services.

(3) GEOGRAPHIC DISTRIBUTION.—The Secretary shall provide for an appropriate geographic distribution of administrative law judges performing the administrative law judge functions transferred under paragraph (1) throughout the United States to ensure timely access to such judges.

(4) HIRING AUTHORITY.—Subject to the amounts provided in advance in appropriations Acts, the Secretary shall have authority to hire administrative law judges to hear such cases, taking into consideration those judges with expertise in handling medicare appeals and in a manner consistent with paragraph (3), and to hire support staff for such judges.

(5) FINANCING.—Amounts payable under law to the Commissioner for administrative law judges performing the administrative law judge functions transferred under paragraph (1) from the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund shall become payable to the Secretary for the functions so transferred.

(6) SHARED RESOURCES.—The Secretary shall enter into such arrangements with the Commissioner as may be appropriate with respect to transferred functions of administrative law judges to share office space, support staff, and other resources, with appropriate reimbursement from the Trust Funds described in paragraph (5).

(c) INCREASED FINANCIAL SUPPORT.—In addition to any amounts otherwise appropriated, to ensure timely action on appeals before administrative law judges and the Departmental Appeals Board consistent with section 1869 of the Social Security Act (42 U.S.C. 1395ff) (as amended by this Act), there are authorized to be appropriated (in appropriate part from the Federal Hospital Insurance Trust Fund, established under section 1817 of the Social Security Act (42 U.S.C. 1395i), and the Federal Supplementary Medical Insurance Trust Fund, established under section 1841 of such Act (42 U.S.C. 1395t)) to the Secretary such sums as are necessary for fiscal year 2005 and each subsequent fiscal year to—

(1) increase the number of administrative law judges (and their staffs) under subsection (b)(4);

(2) improve education and training opportunities for administrative law judges (and their staffs); and

(3) increase the staff of the Departmental Appeals Board.

(d) CONFORMING AMENDMENT.—Section 1869(f)(2)(A)(i) (42 U.S.C. 1395ff(f)(2)(A)(i)) is amended by striking ''of the Social Security Administration''.

SEC. 532. PROCESS FOR EXPEDITED ACCESS TO REVIEW.

(a) EXPEDITED ACCESS TO JUDICIAL REVIEW.—

(1) IN GENERAL.—Section 1869(b) (42 U.S.C. 1395ff(b)) is amended—

(A) in paragraph (1)(A), by inserting '', subject to paragraph (2),'' before ''to judicial review of the Secretary's final decision''; and

(B) by adding at the end the following new paragraph:

''(2) EXPEDITED ACCESS TO JUDICIAL REVIEW.—

''(A) IN GENERAL.—The Secretary shall establish a process under which a provider of services or supplier that furnishes an item or service or an individual entitled to benefits under part A or enrolled under part B, or both, who has filed an appeal under paragraph (1) (other than an appeal filed under paragraph (1)(F)(i)) may obtain access to judicial review when a review entity (described in subparagraph (D)), on its own motion or at the request of the appellant, determines that the Departmental Appeals Board does not have the authority to decide the question of law or regulation relevant to the matters in controversy and that there is no material issue of fact in dispute. The appellant may make such request only once with respect to a question of law or regulation for a specific matter in dispute in a case of an appeal.

''(B) PROMPT DETERMINATIONS.—If, after or coincident with appropriately filing a request for an administrative hearing, the appellant requests a determination by the appropriate review entity that the Departmental Appeals Board does not have the authority to decide the question of law or regulations relevant to the matters in controversy and that there is no material issue of fact in dispute, and if such request is accompanied by the documents and materials as the appropriate review entity shall require for purposes of making such determination, such review entity shall make a determination on the request in writing within 60 days after the date such review entity receives the request and such accompanying documents and materials. Such a determination by such review entity shall be considered a final decision and not subject to review by the Secretary.

''(C) ACCESS TO JUDICIAL REVIEW.—

''(i) IN GENERAL.—If the appropriate review entity—

''(I) determines that there are no material issues of fact in dispute and that the only issues to be adjudicated are ones of law or regulation that the Departmental Appeals Board does not have authority to decide; or

''(II) fails to make such determination within the period provided under subparagraph (B),

then the appellant may bring a civil action as described in this subparagraph.

''(ii) DEADLINE FOR FILING.—Such action shall be filed, in the case described in—

''(I) clause (i)(I), within 60 days of the date of the determination described in such clause; or

''(II) clause (i)(II), within 60 days of the end of the period provided under subparagraph (B) for the determination.

''(iii) VENUE.—Such action shall be brought in the district court of the United States for the judicial district in which the appellant is located (or, in the case of an action brought jointly by more than one applicant, the judicial district in which the greatest number of applicants are located) or in the District Court for the District of Columbia.

''(iv) INTEREST ON ANY AMOUNTS IN CONTROVERSY.—Where a provider of services or supplier is granted judicial review pursuant to this paragraph, the amount in controversy (if any) shall be subject to annual interest beginning on the first day of the first month beginning after the 60-day period as determined pursuant to clause (ii) and equal to the rate of interest on obligations issued for purchase by the Federal Supplementary Medical Insurance Trust Fund for the month in which the civil action authorized under this paragraph is commenced, to be awarded by the reviewing court in favor of the prevailing party. No interest awarded pursuant to the preceding sentence shall be deemed income or cost for the purposes of determining reimbursement due providers of services or suppliers under this title.

''(D) REVIEW ENTITY DEFINED.—For purposes of this subsection, the term 'review entity' means an entity of up to three reviewers who are administrative law judges or members of the Departmental Appeals Board selected for purposes of making determinations under this paragraph.''.

(2) CONFORMING AMENDMENT.—Section 1869(b)(1)(F)(ii) (42 U.S.C. 1395ff(b)(1)(F)(ii)) is amended to read as follows:

''(ii) REFERENCE TO EXPEDITED ACCESS TO JUDICIAL REVIEW.—For the provision relating to expedited access to judicial review, see paragraph (2).''.

(b) APPLICATION TO PROVIDER AGREEMENT DETERMINATIONS.—Section 1866(h)(1) (42 U.S.C. 1395cc(h)(1)) is amended—

(1) by inserting ''(A)'' after ''(h)(1)''; and

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

''(B) An institution or agency described in subparagraph (A) that has filed for a hearing under subparagraph (A) shall have expedited access to judicial review under this subparagraph in the same manner as providers of services, suppliers, and individuals entitled

to benefits under part A or enrolled under part B, or both, may obtain expedited access to judicial review under the process established under section 1869(b)(2). Nothing in this subparagraph shall be construed to affect the application of any remedy imposed under section 1819 during the pendency of an appeal under this subparagraph.''.

(c) EXPEDITED REVIEW OF CERTAIN PROVIDER AGREEMENT DETERMINATIONS.—

(1) TERMINATION AND CERTAIN OTHER IMMEDIATE REMEDIES.—Section 1866(h)(1) (42 U.S.C. 1395cc(h)(1)), as amended by subsection (b), is amended by adding at the end the following new subparagraph:

''(C)(i) The Secretary shall develop and implement a process to expedite proceedings under this subsection in which—

''(I) the remedy of termination of participation has been imposed;

''(II) a remedy described in clause (i) or (iii) of section 1819(h)(2)(B) has been imposed, but only if such remedy has been imposed on an immediate basis; or

''(III) a determination has been made as to a finding of substandard quality of care that results in the loss of approval of a skilled nursing facility's nurse aide training program.

''(ii) Under such process under clause (i), priority shall be provided in cases of termination described in clause (i)(I).

''(iii) Nothing in this subparagraph shall be construed to affect the application of any remedy imposed under section 1819 during the pendency of an appeal under this subparagraph.''.

(2) WAIVER OF DISAPPROVAL OF NURSE-AIDE TRAINING PROGRAMS.—Sections 1819(f)(2) and section 1919(f)(2) (42 U.S.C. 1395i–3(f)(2) and 1396r(f)(2)) are each amended—

(A) in subparagraph (B)(iii), by striking ''subparagraph (C)'' and inserting ''subparagraphs (C) and (D)''; and

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

''(D) WAIVER OF DISAPPROVAL OF NURSE-AIDE TRAINING PROGRAMS.—Upon application of a nursing facility, the Secretary may waive the application of subparagraph (B)(iii)(I)(c) if the imposition of the civil monetary penalty was not related to the quality of care provided to residents of the facility. Nothing in this subparagraph shall be construed as eliminating any requirement upon a facility to pay a civil monetary penalty described in the preceding sentence.''.

(3) INCREASED FINANCIAL SUPPORT.—In addition to any amounts otherwise appropriated, to reduce by 50 percent the average time for administrative determinations on appeals under section 1866(h) of the Social Security Act (42 U.S.C. 1395cc(h)), there are authorized to be appropriated (in appropriate part from the Federal Hospital Insurance Trust Fund, established under section 1817 of the Social Security Act (42 U.S.C. 1395i), and the Federal Supplementary Medical Insurance Trust Fund, established under section 1841 of such Act (42 U.S.C. 1395t)) to the Secretary such additional sums for fiscal year 2004 and each subsequent fiscal year as may be necessary. The purposes for which such amounts are available include increasing the number of administrative law judges (and their staffs) and the appellate level staff at the Departmental Appeals Board of the Department of Health and Human Services and educating such judges and staffs on long-term care issues.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to appeals filed on or after October 1, 2004.

SEC. 533. REVISIONS TO MEDICARE APPEALS PROCESS.

(a) REQUIRING FULL AND EARLY PRESENTATION OF EVIDENCE.—

(1) IN GENERAL.—Section 1869(b) (42 U.S.C. 1395ff(b)), as amended by section 532(a), is further amended by adding at the end the following new paragraph:

''(3) REQUIRING FULL AND EARLY PRESENTATION OF EVIDENCE BY PROVIDERS.—A provider of services or supplier may not introduce evidence in any appeal under this section that was not presented at the reconsideration conducted by the qualified independent contractor under subsection (c), unless there is good cause which precluded the introduction of such evidence at or before that reconsideration.''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect on October 1, 2004.

(b) USE OF PATIENTS' MEDICAL RECORDS.—Section 1869(c)(3)(B)(i) (42 U.S.C. 1395ff(c)(3)(B)(i)) is amended by inserting ''(including the medical records of the individual involved)'' after ''clinical experience''.

(c) NOTICE REQUIREMENTS FOR MEDICARE APPEALS.—

(1) INITIAL DETERMINATIONS AND REDETERMINATIONS.—Section 1869(a) (42 U.S.C. 1395ff(a)) is amended by adding at the end the following new paragraphs:

''(4) REQUIREMENTS OF NOTICE OF DETERMINATIONS.—With respect to an initial determination insofar as it results in a denial of a claim for benefits—

''(A) the written notice on the determination shall include—

''(i) the reasons for the determination, including whether a local medical review policy or a local coverage determination was used;

''(ii) the procedures for obtaining additional information concerning the determination, including the information described in subparagraph (B); and

''(iii) notification of the right to seek a redetermination or otherwise appeal the determination and instructions on how to initiate such a redetermination under this section;

''(B) such written notice shall be provided in printed form and written in a manner calculated to be understood by the individual entitled to benefits under part A or enrolled under part B, or both; and

''(C) the individual provided such written notice may obtain, upon request, information on the specific provision of the policy, manual, or regulation used in making the redetermination.

''(5) REQUIREMENTS OF NOTICE OF REDETERMINATIONS.—With respect to a redetermination insofar as it results in a denial of a claim for benefits—

''(A) the written notice on the redetermination shall include—

''(i) the specific reasons for the redetermination;

''(ii) as appropriate, a summary of the clinical or scientific evidence used in making the redetermination;

''(iii) a description of the procedures for obtaining additional information concerning the redetermination; and

''(iv) notification of the right to appeal the redetermination and instructions on how to initiate such an appeal under this section;

''(B) such written notice shall be provided in printed form and written in a manner calculated to be understood by the individual entitled to benefits under part A or enrolled under part B, or both; and

''(C) the individual provided such written notice may obtain, upon request, information on the specific provision of the policy, manual, or regulation used in making the redetermination.''.

(2) RECONSIDERATIONS.—Section 1869(c)(3)(E) (42 U.S.C. 1395ff(c)(3)(E)) is amended—

(A) by inserting ''be written in a manner calculated to be understood by the individual entitled to benefits under part A or enrolled under part B, or both, and shall include (to the extent appropriate)'' after ''in writing,''; and

(B) by inserting ''and a notification of the right to appeal such determination and instructions on how to initiate such appeal under this section'' after ''such decision,''.

(3) APPEALS.—Section 1869(d) (42 U.S.C. 1395ff(d)) is amended—

(A) in the heading, by inserting ''; NOTICE'' after ''SECRETARY''; and

(B) by adding at the end the following new paragraph:

''(4) NOTICE.—Notice of the decision of an administrative law judge shall be in writing in a manner calculated to be understood by the individual entitled to benefits under part A or enrolled under part B, or both, and shall include—

''(A) the specific reasons for the determination (including, to the extent appropriate, a summary of the clinical or scientific evidence used in making the determination);

''(B) the procedures for obtaining additional information concerning the decision; and

''(C) notification of the right to appeal the decision and instructions on how to initiate such an appeal under this section.''.

(4) SUBMISSION OF RECORD FOR APPEAL.—Section 1869(c)(3)(J)(i) (42 U.S.C. 1395ff(c)(3)(J)(i)) is amended by striking ''prepare'' and inserting ''submit'' and by striking ''with respect to'' and all that follows through ''and relevant policies''.

(d) QUALIFIED INDEPENDENT CONTRACTORS.—

(1) ELIGIBILITY REQUIREMENTS OF QUALIFIED INDEPENDENT CONTRACTORS.—Section 1869(c)(3) (42 U.S.C. 1395ff(c)(3)) is amended—

(A) in subparagraph (A), by striking ''sufficient training and expertise in medical science and legal matters'' and inserting ''sufficient medical, legal, and other expertise (including knowledge of the program under this title) and sufficient staffing''; and

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

''(K) INDEPENDENCE REQUIREMENTS.—

''(i) IN GENERAL.—Subject to clause (ii), a qualified independent contractor shall not conduct any activities in a case unless the entity—

''(I) is not a related party (as defined in subsection (g)(5));

''(II) does not have a material familial, financial, or professional relationship with such a party in relation to such case; and

''(III) does not otherwise have a conflict of interest with such a party.

''(ii) EXCEPTION FOR REASONABLE COMPENSATION.—Nothing in clause (i) shall be construed to prohibit receipt by a qualified independent contractor of compensation from the Secretary for the conduct of activities under this section if the compensation is provided consistent with clause (iii).

''(iii) LIMITATIONS ON ENTITY COMPENSATION.—Compensation provided by the Secretary to a qualified independent contractor in connection with reviews under this section shall not be contingent on any decision rendered by the contractor or by any reviewing professional.''.

(2) ELIGIBILITY REQUIREMENTS FOR REVIEWERS.—Section 1869 (42 U.S.C. 1395ff) is amended—

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

''(D) QUALIFICATIONS FOR REVIEWERS.—The requirements of subsection (g) shall be met (relating to qualifications of reviewing professionals).''; and

(B) by adding at the end the following new subsection:

''(g) QUALIFICATIONS OF REVIEWERS.—

''(1) IN GENERAL.—In reviewing determinations under this section, a qualified independent contractor shall assure that—

''(A) each individual conducting a review shall meet the qualifications of paragraph (2);

''(B) compensation provided by the contractor to each such reviewer is consistent with paragraph (3); and

''(C) in the case of a review by a panel described in subsection (c)(3)(B) composed of physicians or other health care professionals (each in this subsection referred to as a 'reviewing professional'), a reviewing professional meets the qualifications described in paragraph (4) and, where a claim is regarding the furnishing of treatment by a physician (allopathic or osteopathic) or the provision of items or services by a physician (allopathic or osteopathic), a reviewing professional shall be a physician (allopathic or osteopathic).

''(2) INDEPENDENCE.—

''(A) IN GENERAL.—Subject to subparagraph (B), each individual conducting a review in a case shall—

''(i) not be a related party (as defined in paragraph (5));

''(ii) not have a material familial, financial, or professional relationship with such a party in the case under review; and

''(iii) not otherwise have a conflict of interest with such a party.

''(B) EXCEPTION.—Nothing in subparagraph (A) shall be construed to—

''(i) prohibit an individual, solely on the basis of a participation agreement with a fiscal intermediary, carrier, or other contractor, from serving as a reviewing professional if—

''(I) the individual is not involved in the provision of items or services in the case under review;

''(II) the fact of such an agreement is disclosed to the Secretary and the individual entitled to benefits under part A or enrolled under part B, or both, or such individual's authorized representative, and neither party objects; and

''(III) the individual is not an employee of the intermediary, carrier, or contractor and does not provide services exclusively or primarily to or on behalf of such intermediary, carrier, or contractor;

''(ii) prohibit an individual who has staff privileges at the institution where the treatment involved takes place from serving as a reviewer merely on the basis of having such staff privileges if the existence of such privileges is disclosed to the Secretary and such individual (or authorized representative), and neither party objects; or

''(iii) prohibit receipt of compensation by a reviewing professional from a contractor if the compensation is provided consistent with paragraph (3).

For purposes of this paragraph, the term 'participation agreement' means an agreement relating to the provision of health care services by the individual and does not include the provision of services as a reviewer under this subsection.

''(3) LIMITATIONS ON REVIEWER COMPENSATION.—Compensation provided by a qualified independent contractor to a reviewer in connection with a review under this section shall not be contingent on the decision rendered by the reviewer.

''(4) LICENSURE AND EXPERTISE.—Each reviewing professional shall be—

''(A) a physician (allopathic or osteopathic) who is appropriately credentialed or licensed in one or more States to deliver health care services and has medical expertise in the field of practice that is appropriate for the items or services at issue; or

''(B) a health care professional who is legally authorized in one or more States (in accordance with State law or the State regulatory mechanism provided by State law) to furnish the health care items or services at issue and has medical expertise in the field of practice that is appropriate for such items or services.

''(5) RELATED PARTY DEFINED.—For purposes of this section, the term 'related party' means, with respect to a case under this title involving a specific individual entitled to benefits under part A or enrolled under part B, or both, any of the following:

''(A) The Secretary, the medicare administrative contractor involved, or any fiduciary, officer, director, or employee of the Department of Health and Human Services, or of such contractor.

''(B) The individual (or authorized representative).

''(C) The health care professional that provides the items or services involved in the case.

''(D) The institution at which the items or services (or treatment) involved in the case are provided.

''(E) The manufacturer of any drug or other item that is included in the items or services involved in the case.

''(F) Any other party determined under any regulations to have a substantial interest in the case involved.''.

(3) REDUCING MINIMUM NUMBER OF QUALIFIED INDEPENDENT CONTRACTORS.—Section 1869(c)(4) (42 U.S.C. 1395ff(c)(4)) is amended by striking ''not fewer than 12 qualified independent contractors under this subsection'' and inserting ''with a sufficient number of qualified independent contractors (but not fewer than 4 such contractors) to conduct reconsiderations consistent with the timeframes applicable under this subsection''.

(4) EFFECTIVE DATE.—The amendments made by paragraphs (1) and (2) shall be effective as if included in the enactment of the respective provisions of subtitle C of title V of BIPA (114 Stat. 2763A–534).

(5) TRANSITION.—In applying section 1869(g) of the Social Security Act (as added by paragraph (2)), any reference to a medicare administrative contractor shall be deemed to include a reference to a fiscal intermediary under section 1816 of the Social Security Act (42 U.S.C. 1395h) and a carrier under section 1842 of such Act (42 U.S.C. 1395u).

SEC. 534. PREPAYMENT REVIEW.

(a) IN GENERAL.—Section 1874A, as added by section 511(a)(1) and as amended by sections 912(b), 921(b)(1), and 921(c)(1), is further amended by adding at the end the following new subsection:

''(h) CONDUCT OF PREPAYMENT REVIEW.—

''(1) CONDUCT OF RANDOM PREPAYMENT REVIEW.—

''(A) IN GENERAL.—A medicare administrative contractor may conduct random prepayment review only to develop a contractor-wide or program-wide claims payment error rates or under such additional circumstances as may be provided under regulations, developed in consultation with providers of services and suppliers.

''(B) USE OF STANDARD PROTOCOLS WHEN CONDUCTING PREPAYMENT REVIEWS.—When a medicare administrative contractor conducts a random prepayment review, the contractor may conduct such review only in accordance with a standard protocol for random prepayment audits developed by the Secretary.

''(C) CONSTRUCTION.—Nothing in this paragraph shall be construed as preventing the denial of payments for claims actually reviewed under a random prepayment review.

''(D) RANDOM PREPAYMENT REVIEW.—For purposes of this subsection, the term 'random prepayment review' means a demand for the production of records or documentation absent cause with respect to a claim.

''(2) LIMITATIONS ON NON-RANDOM PREPAYMENT REVIEW.—

''(A) LIMITATIONS ON INITIATION OF NON-RANDOM PREPAYMENT REVIEW.—A medicare administrative contractor may not initiate non-random prepayment review of a provider of services or supplier based on the initial identification by that provider of services or supplier of an improper billing practice unless there is a likelihood of sustained or high level of payment error under section 1893(f)(3)(A).

''(B) TERMINATION OF NON-RANDOM PREPAYMENT REVIEW.—The Secretary shall issue regulations relating to the termination, including termination dates, of non-random prepayment review. Such regulations may vary such a termination date based upon the differences in the circumstances triggering prepayment review.''.

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in this subsection, the amendment made by subsection (a) shall take effect 1 year after the date of the enactment of this Act.

(2) DEADLINE FOR PROMULGATION OF CERTAIN REGULATIONS.—The Secretary shall first issue regulations under section 1874A(h) of the Social Security Act, as added by subsection (a), by not later than 1 year after the date of the enactment of this Act.

(3) APPLICATION OF STANDARD PROTOCOLS FOR RANDOM PREPAYMENT REVIEW.—Section 1874A(h)(1)(B) of the Social Security Act, as added by subsection (a), shall apply to random prepayment reviews conducted on or after such date (not later than 1 year after the date of the enactment of this Act) as the Secretary shall specify.

(c) APPLICATION TO FISCAL INTERMEDIARIES AND CARRIERS.—The provisions of section 1874A(h) of the Social Security Act, as added by subsection (a), shall apply to each fiscal intermediary under section 1816 of the Social Security Act (42 U.S.C. 1395h) and each carrier under section 1842 of such Act (42 U.S.C. 1395u) in the same manner as they apply to medicare administrative contractors under such provisions.

SEC. 535. RECOVERY OF OVERPAYMENTS.

(a) IN GENERAL.—Section 1893 (42 U.S.C. 1395ddd) is amended by adding at the end the following new subsection:

''(f) RECOVERY OF OVERPAYMENTS.—

''(1) USE OF REPAYMENT PLANS.—

''(A) IN GENERAL.—If the repayment, within 30 days by a provider of services or supplier, of an overpayment under this title would constitute a hardship (as described in subparagraph (B)), subject to subparagraph (C), upon request of the provider of services or supplier the Secretary shall enter into a plan with the provider of services or supplier for the repayment (through offset or otherwise) of such overpayment over a period of at least 6 months but not longer than 3 years (or not longer than 5 years in the case of extreme hardship, as determined by the Secretary). Interest shall accrue on the balance through the period of repayment. Such plan shall meet terms and conditions determined to be appropriate by the Secretary.

''(B) HARDSHIP.—

''(i) IN GENERAL.—For purposes of subparagraph (A), the repayment of an overpayment (or overpayments) within 30 days is deemed to constitute a hardship if—

''(I) in the case of a provider of services that files cost reports, the aggregate amount of the overpayments exceeds 10 percent of the amount paid under this title to the provider of services for the cost reporting period covered by the most recently submitted cost report; or

''(II) in the case of another provider of services or supplier, the aggregate amount of the overpayments exceeds 10 percent of the amount paid under this title to the provider of services or supplier for the previous calendar year.

''(ii) RULE OF APPLICATION.—The Secretary shall establish rules for the application of this subparagraph in the case of a provider of services or supplier that was not paid under this title during the previous year or was paid under this title only during a portion of that year.

''(iii) TREATMENT OF PREVIOUS OVERPAYMENTS.—If a provider of services or supplier has entered into a repayment plan under subparagraph (A) with respect to a specific overpayment amount, such payment amount under the repayment plan shall not be taken into account under clause (i) with respect to subsequent overpayment amounts.

''(C) EXCEPTIONS.—Subparagraph (A) shall not apply if—

''(i) the Secretary has reason to suspect that the provider of services or supplier may file for bankruptcy or otherwise cease to do business or discontinue participation in the program under this title; or

''(ii) there is an indication of fraud or abuse committed against the program.

''(D) IMMEDIATE COLLECTION IF VIOLATION OF REPAYMENT PLAN.—If a provider of services or supplier fails to make a payment in accordance with a repayment plan under this paragraph, the Secretary may immediately seek to offset or otherwise recover the total balance outstanding (including applicable interest) under the repayment plan.

''(E) RELATION TO NO FAULT PROVISION.—Nothing in this paragraph shall be construed as affecting the application of section 1870(c) (relating to no adjustment in the cases of certain overpayments).

''(2) LIMITATION ON RECOUPMENT.—

''(A) IN GENERAL.—In the case of a provider of services or supplier that is determined to have received an overpayment under this title and that seeks a reconsideration by a qualified independent contractor on such determination under section 1869(b)(1), the Secretary may not take any action (or authorize any other person, including any medicare contractor, as defined in subparagraph (C)) to recoup the overpayment until the date the decision on the reconsideration has been rendered. If the provisions of section 1869(b)(1) (providing for such a reconsideration by a qualified independent contractor) are not in effect, in applying the previous sentence any reference to such a reconsideration shall be treated as a reference to a redetermination by the fiscal intermediary or carrier involved.

''(B) COLLECTION WITH INTEREST.—Insofar as the determination on such appeal is against the provider of services or supplier, interest on the overpayment shall accrue on and after the date of the original notice of overpayment. Insofar as such determination against the provider of services or supplier is later reversed, the Secretary shall provide for repayment of the amount recouped plus interest at the same rate as would apply under the previous sentence for the period in which the amount was recouped.

''(C) MEDICARE CONTRACTOR DEFINED.—For purposes of this subsection, the term 'medicare contractor' has the meaning given such term in section 1889(g).

''(3) LIMITATION ON USE OF EXTRAPOLATION.—A medicare contractor may not use extrapolation to determine overpayment amounts to be recovered by recoupment, offset, or otherwise unless the Secretary determines that—

''(A) there is a sustained or high level of payment error; or

''(B) documented educational intervention has failed to correct the payment error.

There shall be no administrative or judicial review under section 1869, section 1878, or otherwise, of determinations by the Secretary of sustained or high levels of payment errors under this paragraph.

''(4) PROVISION OF SUPPORTING DOCUMENTATION.—In the case of a provider of services or supplier with respect to which amounts were previously overpaid, a medicare contractor may request the periodic production of records or supporting documentation for a limited sample of submitted claims to ensure that the previous practice is not continuing.

''(5) CONSENT SETTLEMENT REFORMS.—

''(A) IN GENERAL.—The Secretary may use a consent settlement (as defined in subparagraph (D)) to settle a projected overpayment.

''(B) OPPORTUNITY TO SUBMIT ADDITIONAL INFORMATION BEFORE CONSENT SETTLEMENT OFFER.—Before offering a provider of services or supplier a consent settlement, the Secretary shall—

''(i) communicate to the provider of services or supplier—

''(I) that, based on a review of the medical records requested by the Secretary, a preliminary evaluation of those records indicates that there would be an overpayment;

''(II) the nature of the problems identified in such evaluation; and

''(III) the steps that the provider of services or supplier should take to address the problems; and

''(ii) provide for a 45-day period during which the provider of services or supplier may furnish additional information concerning the medical records for the claims that had been reviewed.

''(C) CONSENT SETTLEMENT OFFER.—The Secretary shall review any additional information furnished by the provider of services or supplier under subparagraph (B)(ii). Taking into consideration such information, the Secretary shall determine if there still appears to be an overpayment. If so, the Secretary—

''(i) shall provide notice of such determination to the provider of services or supplier, including an explanation of the reason for such determination; and

''(ii) in order to resolve the overpayment, may offer the provider of services or supplier—

''(I) the opportunity for a statistically valid random sample; or

''(II) a consent settlement.

The opportunity provided under clause (ii)(I) does not waive any appeal rights with respect to the alleged overpayment involved.

''(D) CONSENT SETTLEMENT DEFINED.—For purposes of this paragraph, the term 'consent settlement' means an agreement between the Secretary and a provider of services or supplier whereby both parties agree to settle a projected overpayment based on less than a statistically valid sample of claims and the provider of services or supplier agrees not to appeal the claims involved.

''(6) NOTICE OF OVER-UTILIZATION OF CODES.—The Secretary shall establish, in consultation with organizations representing the classes of providers of services and suppliers, a process under which the Secretary provides for notice to classes of providers of services and suppliers served by the contractor in cases in which the contractor has identified that particular billing codes may be overutilized by that class of providers of services or suppliers under the programs under this title (or provisions of title XI insofar as they relate to such programs).

''(7) PAYMENT AUDITS.—

''(A) WRITTEN NOTICE FOR POST-PAYMENT AUDITS.—Subject to subparagraph (C), if a medicare contractor decides to conduct a post-payment audit of a provider of services or supplier under this title, the contractor shall provide the provider of services or supplier with written notice (which may be in electronic form) of the intent to conduct such an audit.

''(B) EXPLANATION OF FINDINGS FOR ALL AUDITS.—Subject to subparagraph (C), if a medicare contractor audits a provider of services or supplier under this title, the contractor shall—

''(i) give the provider of services or supplier a full review and explanation of the findings of the audit in a manner that is understandable to the provider of services or supplier and permits the development of an appropriate corrective action plan;

''(ii) inform the provider of services or supplier of the appeal rights under this title as well as consent settlement options (which are at the discretion of the Secretary);

''(iii) give the provider of services or supplier an opportunity to provide additional information to the contractor; and

''(iv) take into account information provided, on a timely basis, by the provider of services or supplier under clause (iii).

''(C) EXCEPTION.—Subparagraphs (A) and (B) shall not apply if the provision of notice or findings would compromise pending law enforcement activities, whether civil or criminal, or reveal findings of law enforcement-related audits.

''(8) STANDARD METHODOLOGY FOR PROBE SAMPLING.—The Secretary shall establish a standard methodology for medicare contractors to use in selecting a sample of claims for review in the case of an abnormal billing pattern.''.

(b) EFFECTIVE DATES AND DEADLINES.—

(1) USE OF REPAYMENT PLANS.—Section 1893(f)(1) of the Social Security Act, as added by subsection (a), shall apply to requests for repayment plans made after the date of the enactment of this Act.

(2) LIMITATION ON RECOUPMENT.—Section 1893(f)(2) of the Social Security Act, as added by subsection (a), shall apply to actions taken after the date of the enactment of this Act.

(3) USE OF EXTRAPOLATION.—Section 1893(f)(3) of the Social Security Act, as added by subsection (a), shall apply to statistically valid random samples initiated after the date that is 1 year after the date of the enactment of this Act.

(4) PROVISION OF SUPPORTING DOCUMENTATION.—Section 1893(f)(4) of the Social Security Act, as added by subsection (a), shall take effect on the date of the enactment of this Act.

(5) CONSENT SETTLEMENT.—Section 1893(f)(5) of the Social Security Act, as added by subsection (a), shall apply to consent settlements entered into after the date of the enactment of this Act.

(6) NOTICE OF OVERUTILIZATION.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall first establish the process for notice of overutilization of billing codes under section 1893A(f)(6) of the Social Security Act, as added by subsection (a).

(7) PAYMENT AUDITS.—Section 1893A(f)(7) of the Social Security Act, as added by subsection (a), shall apply to audits initiated after the date of the enactment of this Act.

(8) STANDARD FOR ABNORMAL BILLING PATTERNS.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall first establish a standard methodology for selection of sample claims for abnormal billing patterns under section 1893(f)(8) of the Social Security Act, as added by subsection (a).

SEC. 536. PROVIDER ENROLLMENT PROCESS; RIGHT OF APPEAL.

(a) IN GENERAL.—Section 1866 (42 U.S.C. 1395cc) is amended—

(1) by adding at the end of the heading the following: ''; ENROLLMENT PROCESSES''; and

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

''(j) ENROLLMENT PROCESS FOR PROVIDERS OF SERVICES AND SUPPLIERS.—

''(1) ENROLLMENT PROCESS.—

''(A) IN GENERAL.—The Secretary shall establish by regulation a process for the enrollment of providers of services and suppliers under this title.

''(B) DEADLINES.—The Secretary shall establish by regulation procedures under which there are deadlines for actions on applications for enrollment (and, if applicable, renewal of enrollment). The Secretary shall monitor the performance of medicare administrative contractors in meeting the deadlines established under this subparagraph.

''(C) CONSULTATION BEFORE CHANGING PROVIDER ENROLLMENT FORMS.—The Secretary shall consult with providers of services and suppliers before making changes in the provider enrollment forms required of such providers and suppliers to be eligible to submit claims for which payment may be made under this title.

''(2) HEARING RIGHTS IN CASES OF DENIAL OR NON-RENEWAL.—A provider of services or supplier whose application to enroll (or, if applicable, to renew enrollment) under this title is denied may have a hearing and judicial review of such denial under the procedures that apply under subsection (h)(1)(A) to a provider of services that is dissatisfied with a determination by the Secretary.''.

(b) EFFECTIVE DATES.—

(1) ENROLLMENT PROCESS.—The Secretary shall provide for the establishment of the enrollment process under section 1866(j)(1) of the Social Security Act, as added by subsection (a)(2), within 6 months after the date of the enactment of this Act.

(2) CONSULTATION.—Section 1866(j)(1)(C) of the Social Security Act, as added by subsection (a)(2), shall apply with respect to changes in provider enrollment forms made on or after January 1, 2004.

(3) HEARING RIGHTS.—Section 1866(j)(2) of the Social Security Act, as added by subsection (a)(2), shall apply to denials occurring on or after such date (not later than 1 year after the date of the enactment of this Act) as the Secretary specifies.

SEC. 537. PROCESS FOR CORRECTION OF MINOR ERRORS AND OMISSIONS WITHOUT PURSUING APPEALS PROCESS.

(a) CLAIMS.—The Secretary shall develop, in consultation with appropriate medicare contractors (as defined in section 1889(g) of the Social Security Act, as inserted by section 301(a)(1)) and representatives of providers of services and suppliers, a process whereby, in the case of minor errors or omissions (as defined by the Secretary) that are detected in the submission of claims under the programs under title XVIII of such Act, a provider of services or supplier is given an opportunity to correct such an error or omission without the need to initiate an appeal. Such process shall include the ability to resubmit corrected claims.

(b) DEADLINE.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall first develop the process under subsection (a).

SEC. 538. PRIOR DETERMINATION PROCESS FOR CERTAIN ITEMS AND SERVICES; ADVANCE BENEFICIARY NOTICES.

(a) IN GENERAL.—Section 1869 (42 U.S.C. 1395ff(b)), as amended by section 533(d)(2)(B), is further amended by adding at the end the following new subsection:

''(h) PRIOR DETERMINATION PROCESS FOR CERTAIN ITEMS AND SERVICES.—

''(1) ESTABLISHMENT OF PROCESS.—

''(A) IN GENERAL.—With respect to a medicare administrative contractor that has a contract under section 1874A that provides for making payments under this title with respect to physicians' services (as defined in section 1848(j)(3)), the Secretary shall establish a prior determination process that meets the requirements of this subsection and that shall be applied by such contractor in the case of eligible requesters.

''(B) ELIGIBLE REQUESTER.—For purposes of this subsection, each of the following shall be an eligible requester:

''(i) A participating physician, but only with respect to physicians' services to be furnished to an individual who is entitled to benefits under this title and who has consented to the physician making the request under this subsection for those physicians' services.

''(ii) An individual entitled to benefits under this title, but only with respect to a physicians' service for which the individual receives, from a physician, an advance beneficiary notice under section 1879(a).

''(2) SECRETARIAL FLEXIBILITY.—The Secretary shall establish by regulation reasonable limits on the physicians' services for which a prior determination of coverage may be requested under this subsection. In establishing such limits, the Secretary may consider the dollar amount involved with respect to the physicians' service, administrative costs and burdens, and other relevant factors.

''(3) REQUEST FOR PRIOR DETERMINATION.—

''(A) IN GENERAL.—Subject to paragraph (2), under the process established under this subsection an eligible requester may submit to the contractor a request for a determination, before the furnishing of a physicians' service, as to whether the physicians' service is covered under this title consistent with the applicable requirements of section 1862(a)(1)(A) (relating to medical necessity).

''(B) ACCOMPANYING DOCUMENTATION.—The Secretary may require that the request be accompanied by a description of the physicians' service, supporting documentation relating to the medical necessity for the physicians' service, and any other appropriate documentation. In the case of a request submitted by an eligible requester who is described in paragraph (1)(B)(ii), the Secretary may require that the request also be accompanied by a copy of the advance beneficiary notice involved.

''(4) RESPONSE TO REQUEST.—

''(A) IN GENERAL.—Under such process, the contractor shall provide the eligible requester with written notice of a determination as to whether—

''(i) the physicians' service is so covered;

''(ii) the physicians' service is not so covered; or

''(iii) the contractor lacks sufficient information to make a coverage determination with respect to the physicians' service.

''(B) CONTENTS OF NOTICE FOR CERTAIN DETERMINATIONS.—

''(i) NONCOVERAGE.—If the contractor makes the determination described in subparagraph (A)(ii), the contractor shall include in the notice a brief explanation of the basis for the determination, including on what national or local coverage or noncoverage determination (if any) the determination is based, and a description of any applicable rights under subsection (a).

''(ii) INSUFFICIENT INFORMATION.—If the contractor makes the determination described in subparagraph (A)(iii), the contractor shall include in the notice a description of the additional information required to make the coverage determination.

''(C) DEADLINE TO RESPOND.—Such notice shall be provided within the same time period as the time period applicable to the contractor providing notice of initial determinations on a claim for benefits under subsection (a)(2)(A).

''(D) INFORMING BENEFICIARY IN CASE OF PHYSICIAN REQUEST.—In the case of a request by a participating physician under paragraph (1)(B)(i), the process shall provide that the individual to whom the physicians' service is proposed to be furnished shall be informed of any determination described in subparagraph (A)(ii) (relating to a determination of noncoverage) and the right (referred to in paragraph (6)(B)) to obtain the physicians' service and have a claim submitted for the physicians' service.

''(5) BINDING NATURE OF POSITIVE DETERMINATION.—If the contractor makes the determination described in paragraph (4)(A)(i), such determination shall be binding on the contractor in the absence of fraud or evidence of misrepresentation of facts presented to the contractor.

''(6) LIMITATION ON FURTHER REVIEW.—

''(A) IN GENERAL.—Contractor determinations described in paragraph (4)(A)(ii) or (4)(A)(iii) (relating to pre-service claims) are not subject to further administrative appeal or judicial review under this section or otherwise.

''(B) DECISION NOT TO SEEK PRIOR DETERMINATION OR NEGATIVE DETERMINATION DOES NOT IMPACT RIGHT TO OBTAIN SERVICES, SEEK REIMBURSEMENT, OR APPEAL RIGHTS.—Nothing in this subsection shall be construed as affecting the right of an individual who—

''(i) decides not to seek a prior determination under this subsection with respect to physicians' services; or

''(ii) seeks such a determination and has received a determination described in paragraph (4)(A)(ii),

from receiving (and submitting a claim for) such physicians' services and from obtaining administrative or judicial review respecting such claim under the other applicable provisions of this section. Failure to seek a prior determination under this subsection with respect to physicians' service shall not be taken into account in such administrative or judicial review.

''(C) NO PRIOR DETERMINATION AFTER RECEIPT OF SERVICES.—Once an individual is provided physicians' services, there shall be no prior determination under this subsection with respect to such physicians' services.''.

(b) EFFECTIVE DATE; SUNSET; TRANSITION.—

(1) EFFECTIVE DATE.—The Secretary shall establish the prior determination process under the amendment made by subsection (a) in such a manner as to provide for the acceptance of requests for determinations under such process filed not later than 18 months after the date of the enactment of this Act.

(2) SUNSET.—Such prior determination process shall not apply to requests filed after the end of the 5-year period beginning on the first date on which requests for determinations under such process are accepted.

(3) TRANSITION.—During the period in which the amendment made by subsection (a) has become effective but contracts are not provided under section 1874A of the Social Security Act with medicare administrative contractors, any reference in section 1869(g) of such Act (as added by such amendment) to such a contractor is deemed a reference to a fiscal intermediary or carrier with an agreement under section 1816, or contract under section 1842, respectively, of such Act.

(4) LIMITATION ON APPLICATION TO SGR.—For purposes of applying section 1848(f)(2)(D) of the Social Security Act (42 U.S.C. 1395w–4(f)(2)(D)), the amendment made by subsection (a) shall not be considered to be a change in law or regulation.

(c) PROVISIONS RELATING TO ADVANCE BENEFICIARY NOTICES; REPORT ON PRIOR DETERMINATION PROCESS.—

(1) DATA COLLECTION.—The Secretary shall establish a process for the collection of information on the instances in which an advance beneficiary notice (as defined in paragraph (5)) has been provided and on instances in which a beneficiary indicates on such a notice that the beneficiary does not intend to seek to have the item or service that is the subject of the notice furnished.

(2) OUTREACH AND EDUCATION.—The Secretary shall establish a program of outreach and education for beneficiaries and providers of services and other persons on the appropriate use of advance beneficiary notices and coverage policies under the medicare program.

(3) GAO REPORT ON USE OF ADVANCE BENEFICIARY NOTICES.—Not later than 18 months after the date on which section 1869(h) of the Social Security Act (as added by subsection (a)) takes effect, the Comptroller General of the United States shall submit to Congress a report on the use of advance beneficiary notices under title XVIII of such Act. Such report shall include information concerning the providers of services and other persons that have provided such notices and the response of beneficiaries to such notices.

(4) GAO REPORT ON USE OF PRIOR DETERMINATION PROCESS.—Not later than 36 months after the date on which section 1869(h) of the Social Security Act (as added by subsection (a)) takes effect, the Comptroller General of the United States shall submit to Congress a report on the use of the prior determination process under such section. Such report shall include—

(A) information concerning—

(i) the number and types of procedures for which a prior determination has been sought;

(ii) determinations made under the process;

(iii) the percentage of beneficiaries prevailing;

(iv) in those cases in which the beneficiaries do not prevail, the reasons why such beneficiaries did not prevail; and

(v) changes in receipt of services resulting from the application of such process;

(B) an evaluation of whether the process was useful for physicians (and other suppliers) and beneficiaries, whether it was timely, and whether the amount of information required was burdensome to physicians and beneficiaries; and

(C) recommendations for improvements or continuation of such process.

(5) ADVANCE BENEFICIARY NOTICE DEFINED.—In this subsection, the term ''advance beneficiary notice'' means a written notice provided under section 1879(a) of the Social Security Act (42 U.S.C. 1395pp(a)) to an individual entitled to benefits under part A or enrolled under part B of title XVIII of such Act before items or services are furnished under such part in cases where a provider of services or other person that would furnish the item or service believes that payment will not be made for some or all of such items or services under such title.

SEC. 539. APPEALS BY PROVIDERS WHEN THERE IS NO OTHER PARTY AVAILABLE.

(a) IN GENERAL.—Section 1870 (42 U.S.C. 1395gg) is amended by adding at the end the following new subsection:

''(h) Notwithstanding subsection (f) or any other provision of law, the Secretary shall permit a provider of services or supplier to appeal any determination of the Secretary under this title relating to services rendered under this title to an individual who subsequently dies if there is no other party available to appeal such determination.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act and shall apply to items and services furnished on or after such date.

SEC. 540. REVISIONS TO APPEALS TIMEFRAMES AND AMOUNTS.

(a) TIMEFRAMES.—Section 1869 (42 U.S.C. 1395ff) is amended—

(1) in subsection (a)(3)(C)(ii), by striking ''30-day period'' each place it appears and inserting ''60-day period''; and

(2) in subsection (c)(3)(C)(i), by striking ''30-day period'' and inserting ''60-day period''.

(b) AMOUNTS.—

(1) IN GENERAL.—Section 1869(b)(1)(E) (42 U.S.C. 1395ff(b)(1)(E)) is amended by adding at the end the following new clause:

''(iii) ADJUSTMENT OF DOLLAR AMOUNTS.—For requests for hearings or judicial review made in a year after 2004, the dollar amounts specified in clause (i) shall be equal to such dollar amounts increased by the percentage increase in the medical care component of the consumer price index for all urban consumers (U.S. city average) for July 2003 to the July preceding the year involved. Any amount determined under the previous sentence that is not a multiple of $10 shall be rounded to the nearest multiple of $10.''.

(2) CONFORMING AMENDMENTS.—(A) Section 1852(g)(5) (42 U.S.C. 1395w–22(g)(5)) is amended by adding at the end the following: ''The provisions of section 1869(b)(1)(E)(iii) shall apply with respect to dollar amounts specified in the first 2 sentences of this paragraph in the same manner as they apply to the dollar amounts specified in section 1869(b)(1)(E)(i).''.

(B) Section 1876(b)(5)(B) (42 U.S.C. 1395mm(b)(5)(B)) is amended by adding at the end the following: ''The provisions of section 1869(b)(1)(E)(iii) shall apply with respect to dollar amounts specified in the first 2 sentences of this subparagraph in the same manner as they apply to the dollar amounts specified in section 1869(b)(1)(E)(i).''.

SEC. 540A. MEDIATION PROCESS FOR LOCAL COVERAGE DETERMINATIONS.

(a) IN GENERAL.—Section 1869 (42 U.S.C. 1395ff), as amended by section 538(a), is amended by adding at the end the following new subsection:

''(i) MEDIATION PROCESS FOR LOCAL COVERAGE DETERMINATIONS.—

''(1) ESTABLISHMENT OF PROCESS.—The Secretary shall establish a mediation process under this subsection through the use of a physician trained in mediation and employed by the Centers for Medicare & Medicaid Services.

''(2) RESPONSIBILITY OF MEDIATOR.—Under the process established in paragraph (1), such a mediator shall mediate in disputes between groups representing providers of services, suppliers (as defined in section 1861(d)), and the medical director for a medicare administrative contractor whenever the regional administrator (as defined by the Secretary) involved determines that there was a systematic pattern and a large volume of complaints from such groups regarding decisions of such director or there is a complaint from the co-chair of the advisory committee for that contractor to such regional administrator regarding such dispute.''.

(b) INCLUSION IN MAC CONTRACTS.—Section 1874A(b)(3)(A)(i), as added by section 511(a)(1), is amended by adding at the end the following: ''Such requirements shall include specific performance duties expected of a medical director of a medicare administrative contractor, including requirements relating to professional relations and the availability of such director to conduct medical determination activities within the jurisdiction of such a contractor.''.

Subtitle E—Miscellaneous Provisions

SEC. 541. POLICY DEVELOPMENT REGARDING EVALUATION AND MANAGEMENT (E & M) DOCUMENTATION GUIDELINES.

(a) IN GENERAL.—The Secretary may not implement any new or modified documentation guidelines (which for purposes of this section includes clinical examples) for evaluation and management physician services under the title XVIII of the Social Security Act on or after the date of the enactment of this Act unless the Secretary—

(1) has developed the guidelines in collaboration with practicing physicians (including both generalists and specialists) and provided for an assessment of the proposed guidelines by the physician community;

(2) has established a plan that contains specific goals, including a schedule, for improving the use of such guidelines;

(3) has conducted appropriate and representative pilot projects under subsection (b) to test such guidelines;

(4) finds, based on reports submitted under subsection (b)(5) with respect to pilot projects conducted for such or related guidelines, that the objectives described in subsection (c) will be met in the implementation of such guidelines; and

(5) has established, and is implementing, a program to educate physicians on the use of such guidelines and that includes appropriate outreach.

The Secretary shall make changes to the manner in which existing evaluation and management documentation guidelines are implemented to reduce paperwork burdens on physicians.

(b) PILOT PROJECTS TO TEST MODIFIED OR NEW EVALUATION AND MANAGEMENT DOCUMENTATION GUIDELINES.—

(1) IN GENERAL.—With respect to proposed new or modified documentation guidelines referred to in subsection (a), the Secretary shall conduct under this subsection appropriate and representative pilot projects to test the proposed guidelines.

(2) LENGTH AND CONSULTATION.—Each pilot project under this subsection shall—

(A) be voluntary;

(B) be of sufficient length as determined by the Secretary (but in no case to exceed 1 year) to allow for preparatory physician and medicare contractor education, analysis, and use and assessment of potential evaluation and management guidelines; and

(C) be conducted, in development and throughout the planning and operational stages of the project, in consultation with practicing physicians (including both generalists and specialists).

(3) RANGE OF PILOT PROJECTS.—Of the pilot projects conducted under this subsection with respect to proposed new or modified documentation guidelines—

(A) at least one shall focus on a peer review method by physicians (not employed by a medicare contractor) which evaluates medical record information for claims submitted by physicians identified as statistical outliers relative to codes used for billing purposes for such services;

(B) at least one shall focus on an alternative method to detailed guidelines based on physician documentation of face to face encounter time with a patient;

(C) at least one shall be conducted for services furnished in a rural area and at least one for services furnished outside such an area; and

(D) at least one shall be conducted in a setting where physicians bill under physicians' services in teaching settings and at least one shall be conducted in a setting other than a teaching setting.

(4) STUDY OF IMPACT.—Each pilot project shall examine the effect of the proposed guidelines on—

(A) different types of physician practices, including those with fewer than 10 full-time-equivalent employees (including physicians); and

(B) the costs of physician compliance, including education, implementation, auditing, and monitoring.

(5) REPORT ON PILOT PROJECTS.—Not later than 6 months after the date of completion of pilot projects carried out under this subsection with respect to a proposed guideline described in paragraph (1), the Secretary shall submit to Congress a report on the pilot projects. Each such report shall include a finding by the Secretary of whether the objectives described in subsection (c) will be met in the implementation of such proposed guideline.

(c) OBJECTIVES FOR EVALUATION AND MANAGEMENT GUIDELINES.—The objectives for modified evaluation and management documentation guidelines developed by the Secretary shall be to—

(1) identify clinically relevant documentation needed to code accurately and assess coding levels accurately;

(2) decrease the level of non-clinically pertinent and burdensome documentation time and content in the physician's medical record;

(3) increase accuracy by reviewers; and

(4) educate both physicians and reviewers.

(d) STUDY OF SIMPLER, ALTERNATIVE SYSTEMS OF DOCUMENTATION FOR PHYSICIAN CLAIMS.—

(1) STUDY.—The Secretary shall carry out a study of the matters described in paragraph (2).

(2) MATTERS DESCRIBED.—The matters referred to in paragraph (1) are—

(A) the development of a simpler, alternative system of requirements for documentation accompanying claims for evaluation and management physician services for which payment is made under title XVIII of the Social Security Act; and

(B) consideration of systems other than current coding and documentation requirements for payment for such physician services.

(3) CONSULTATION WITH PRACTICING PHYSICIANS.—In designing and carrying out the study under paragraph (1), the Secretary shall consult with practicing physicians, including physicians who are part of group practices and including both generalists and specialists.

(4) APPLICATION OF HIPAA UNIFORM CODING REQUIREMENTS.—In developing an alternative system under paragraph (2), the Secretary shall consider requirements of administrative simplification under part C of title XI of the Social Security Act.

(5) REPORT TO CONGRESS.—(A) Not later than October 1, 2005, the Secretary shall submit to Congress a report on the results of the study conducted under paragraph (1).

(B) The Medicare Payment Advisory Commission shall conduct an analysis of the results of the study included in the report under subparagraph (A) and shall submit a report on such analysis to Congress.

(e) STUDY ON APPROPRIATE CODING OF CERTAIN EXTENDED OFFICE VISITS.—The Secretary shall conduct a study of the appropriateness of coding in cases of extended office visits in which there is no diagnosis made. Not later than October 1, 2005, the Secretary shall submit a report to Congress on such study and shall include recommendations on how to code appropriately for such visits in a manner that takes into account the amount of time the physician spent with the patient.

(f) DEFINITIONS.—In this section—

(1) the term ''rural area'' has the meaning given that term in section 1886(d)(2)(D) of the Social Security Act (42 U.S.C. 1395ww(d)(2)(D)); and

(2) the term ''teaching settings'' are those settings described in section 415.150 of title 42, Code of Federal Regulations.

SEC. 542. IMPROVEMENT IN OVERSIGHT OF TECHNOLOGY AND COVERAGE.

(a) COUNCIL FOR TECHNOLOGY AND INNOVATION.—Section 1868 (42 U.S.C. 1395ee), as amended by section 521(a), is amended by adding at the end the following new subsection:

''(c) COUNCIL FOR TECHNOLOGY AND INNOVATION.—

''(1) ESTABLISHMENT.—The Secretary shall establish a Council for Technology and Innovation within the Centers for Medicare & Medicaid Services (in this section referred to as 'CMS').

''(2) COMPOSITION.—The Council shall be composed of senior CMS staff and clinicians and shall be chaired by the Executive Coordinator for Technology and Innovation (appointed or designated under paragraph (4)).

''(3) DUTIES.—The Council shall coordinate the activities of coverage, coding, and payment processes under this title with respect to new technologies and procedures, including new drug therapies, and shall coordinate the exchange of information on new technologies between CMS and other entities that make similar decisions.

''(4) EXECUTIVE COORDINATOR FOR TECHNOLOGY AND INNOVATION.—The Secretary shall appoint (or designate) a noncareer appointee (as defined in section 3132(a)(7) of title 5, United States Code) who shall serve as the Executive Coordinator for Technology and Innovation. Such executive coordinator shall report to the Administrator of CMS, shall chair the Council, shall oversee the execution of its duties, and shall serve as a single point of contact for outside groups and entities regarding the coverage, coding, and payment processes under this title.''.

(b) METHODS FOR DETERMINING PAYMENT BASIS FOR NEW LAB TESTS.—Section 1833(h) (42 U.S.C. 1395l(h)) is amended by adding at the end the following:

''(8)(A) The Secretary shall establish by regulation procedures for determining the basis for, and amount of, payment under this subsection for any clinical diagnostic laboratory test with respect to which a new or substantially revised HCPCS code is assigned on or after January 1, 2005 (in this paragraph referred to as 'new tests').

''(B) Determinations under subparagraph (A) shall be made only after the Secretary—

''(i) makes available to the public (through an Internet website and other appropriate mechanisms) a list that includes any such test for which establishment of a payment amount under this subsection is being considered for a year;

''(ii) on the same day such list is made available, causes to have published in the Federal Register notice of a meeting to receive comments and recommendations (and data on which recommendations are based) from the public on the appropriate basis under this subsection for establishing payment amounts for the tests on such list;

''(iii) not less than 30 days after publication of such notice convenes a meeting, that includes representatives of officials of the Centers for Medicare & Medicaid Services involved in determining payment amounts, to receive such comments and recommendations (and data on which the recommendations are based);

''(iv) taking into account the comments and recommendations (and accompanying data) received at such meeting, develops and makes available to the public (through an Internet website and other appropriate mechanisms) a list of proposed determinations with respect to the appropriate basis for establishing a payment amount under this subsection for each such code, together with an explanation of the reasons for each such determination, the data on which the determinations are based, and a request for public written comments on the proposed determination; and

''(v) taking into account the comments received during the public comment period, develops and makes available to the public (through an Internet website and other appropriate mechanisms) a list of final determinations of the payment amounts for such tests under this subsection, together with the rationale for each such determination, the data on which the determinations are based, and responses to comments and suggestions received from the public.

''(C) Under the procedures established pursuant to subparagraph (A), the Secretary shall—

''(i) set forth the criteria for making determinations under subparagraph (A); and

''(ii) make available to the public the data (other than proprietary data) considered in making such determinations.

''(D) The Secretary may convene such further public meetings to receive public comments on payment amounts for new tests under this subsection as the Secretary deems appropriate.

''(E) For purposes of this paragraph:

''(i) The term 'HCPCS' refers to the Health Care Procedure Coding System.

''(ii) A code shall be considered to be 'substantially revised' if there is a substantive change to the definition of the test or procedure to which the code applies (such as a new analyte or a new methodology for measuring an existing analyte-specific test).''.

(c) GAO STUDY ON IMPROVEMENTS IN EXTERNAL DATA COLLECTION FOR USE IN THE MEDICARE INPATIENT PAYMENT SYSTEM.—

(1) STUDY.—The Comptroller General of the United States shall conduct a study that analyzes which external data can be collected in a shorter timeframe by the Centers for Medicare & Medicaid Services for use in computing payments for inpatient hospital services. The study may include an evaluation of the feasibility and appropriateness of using quarterly samples or special surveys or any other methods. The study shall include an analysis of whether other executive agencies, such as the Bureau of Labor Statistics in the Department of Commerce, are best suited to collect this information.

(2) REPORT.—By not later than October 1, 2004, the Comptroller General shall submit a report to Congress on the study under paragraph (1).

SEC. 543. TREATMENT OF HOSPITALS FOR CERTAIN SERVICES UNDER MEDICARE SECONDARY PAYOR (MSP) PROVISIONS.

(a) IN GENERAL.—The Secretary shall not require a hospital (including a critical access hospital) to ask questions (or obtain information) relating to the application of section 1862(b) of the Social Security Act (relating to medicare secondary payor provisions) in the case of reference laboratory services described in subsection (b), if the Secretary does not impose such requirement in the case of such services furnished by an independent laboratory.

(b) REFERENCE LABORATORY SERVICES DESCRIBED.—Reference laboratory services described in this subsection are clinical laboratory diagnostic tests (or the interpretation of such tests, or both) furnished without a face-to-face encounter between the individual entitled to benefits under part A or enrolled under part B, or both, and the hospital involved and in which the hospital submits a claim only for such test or interpretation.

SEC. 544. EMTALA IMPROVEMENTS.

(a) PAYMENT FOR EMTALA-MANDATED SCREENING AND STABILIZATION SERVICES.—

(1) IN GENERAL.—Section 1862 (42 U.S.C. 1395y) is amended by inserting after subsection (c) the following new subsection:

''(d) For purposes of subsection (a)(1)(A), in the case of any item or service that is required to be provided pursuant to section 1867 to an individual who is entitled to benefits under this title, determinations as to whether the item or service is reasonable and necessary shall be made on the basis of the information available to the treating physician or practitioner (including the patient's presenting symptoms or complaint) at the time the item or service was ordered or furnished by the physician or practitioner (and not on the patient's principal diagnosis). When making such determinations with respect to such an item or service, the Secretary shall not consider the frequency with which the item or service was provided to the patient before or after the time of the admission or visit.''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to items and services furnished on or after January 1, 2004.

(b) NOTIFICATION OF PROVIDERS WHEN EMTALA INVESTIGATION CLOSED.—Section 1867(d) (42 U.S.C. 42 U.S.C. 1395dd(d)) is amended by adding at the end the following new paragraph:

''(4) NOTICE UPON CLOSING AN INVESTIGATION.—The Secretary shall establish a procedure to notify hospitals and physicians when an investigation under this section is closed.''.

(c) PRIOR REVIEW BY PEER REVIEW ORGANIZATIONS IN EMTALA CASES INVOLVING TERMINATION OF PARTICIPATION.—

(1) IN GENERAL.—Section 1867(d)(3) (42 U.S.C. 1395dd(d)(3)) is amended—

(A) in the first sentence, by inserting ''or in terminating a hospital's participation under this title'' after ''in imposing sanctions under paragraph (1)''; and

(B) by adding at the end the following new sentences: ''Except in the case in which a delay would jeopardize the health or safety of individuals, the Secretary shall also request such a review before making a compliance determination as part of the process of terminating a hospital's participation under this title for violations related to the appropriateness of a medical screening examination, stabilizing treatment, or an appropriate transfer as required by this section, and shall provide a period of 5 days for such review. The Secretary shall provide a copy of the organization's report to the hospital or physician consistent with confidentiality requirements imposed on the organization under such part B.''.

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall apply to terminations of participation initiated on or after the date of the enactment of this Act.

SEC. 545. EMERGENCY MEDICAL TREATMENT AND LABOR ACT (EMTALA) TECHNICAL ADVISORY GROUP.

(a) ESTABLISHMENT.—The Secretary shall establish a Technical Advisory Group (in this section referred to as the ''Advisory Group'') to review issues related to the Emergency Medical Treatment and Labor Act (EMTALA) and its implementation. In this section, the term ''EMTALA'' refers to the provisions of section 1867 of the Social Security Act (42 U.S.C. 1395dd).

(b) MEMBERSHIP.—The Advisory Group shall be composed of 19 members, including the Administrator of the Centers for Medicare & Medicaid Services and the Inspector General of the Department of Health and Human Services and of which—

(1) 4 shall be representatives of hospitals, including at least one public hospital, that have experience with the application of EMTALA and at least 2 of which have not been cited for EMTALA violations;

(2) 7 shall be practicing physicians drawn from the fields of emergency medicine, cardiology or cardiothoracic surgery, orthopedic surgery, neurosurgery, pediatrics or a pediatric subspecialty, obstetrics-gynecology, and psychiatry, with not more than one physician from any particular field;

(3) 2 shall represent patients;

(4) 2 shall be staff involved in EMTALA investigations from different regional offices of the Centers for Medicare & Medicaid Services; and

(5) 1 shall be from a State survey office involved in EMTALA investigations and 1 shall be from a peer review organization, both of whom shall be from areas other than the regions represented under paragraph (4).

In selecting members described in paragraphs (1) through (3), the Secretary shall consider qualified individuals nominated by organizations representing providers and patients.

(c) GENERAL RESPONSIBILITIES.—The Advisory Group—

(1) shall review EMTALA regulations;

(2) may provide advice and recommendations to the Secretary with respect to those regulations and their application to hospitals and physicians;

(3) shall solicit comments and recommendations from hospitals, physicians, and the public regarding the implementation of such regulations; and

(4) may disseminate information on the application of such regulations to hospitals, physicians, and the public.

(d) ADMINISTRATIVE MATTERS.—

(1) CHAIRPERSON.—The members of the Advisory Group shall elect a member to serve as chairperson of the Advisory Group for the life of the Advisory Group.

(2) MEETINGS.—The Advisory Group shall first meet at the direction of the Secretary. The Advisory Group shall then meet twice per year and at such other times as the Advisory Group may provide.

(e) TERMINATION.—The Advisory Group shall terminate 30 months after the date of its first meeting.

(f) WAIVER OF ADMINISTRATIVE LIMITATION.—The Secretary shall establish the Advisory Group notwithstanding any limitation that may apply to the number of advisory committees that may be established (within the Department of Health and Human Services or otherwise).

SEC. 546. AUTHORIZING USE OF ARRANGEMENTS TO PROVIDE CORE HOSPICE SERVICES IN CERTAIN CIRCUMSTANCES.

(a) IN GENERAL.—Section 1861(dd)(5) (42 U.S.C. 1395x(dd)(5)) is amended by adding at the end the following:

''(D) In extraordinary, exigent, or other non-routine circumstances, such as unanticipated periods of high patient loads, staffing shortages due to illness or other events, or temporary travel of a patient outside a hospice program's service area, a hospice program may enter into arrangements with another hospice program for the provision by that other program of services described in paragraph (2)(A)(ii)(I). The provisions of paragraph (2)(A)(ii)(II) shall apply with respect to the services provided under such arrangements.

''(E) A hospice program may provide services described in paragraph (1)(A) other than directly by the program if the services are highly specialized services of a registered professional nurse and are provided non-routinely and so infrequently so that the provision of such services directly would be impracticable and prohibitively expensive.''.

(b) CONFORMING PAYMENT PROVISION.—Section 1814(i) (42 U.S.C. 1395f(i)), as amended by section 212(b), is amended by adding at the end the following new paragraph:

''(5) In the case of hospice care provided by a hospice program under arrangements under section 1861(dd)(5)(D) made by another hospice program, the hospice program that made the arrangements shall bill and be paid for the hospice care.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to hospice care provided on or after the date of the enactment of this Act.

SEC. 547. APPLICATION OF OSHA BLOODBORNE PATHOGENS STANDARD TO CERTAIN HOSPITALS.

(a) IN GENERAL.—Section 1866 (42 U.S.C. 1395cc), as amended by section 206, is amended—

(1) in subsection (a)(1)—

(A) in subparagraph (T), by striking ''and'' at the end;

(B) in subparagraph (U), by striking the period at the end and inserting '', and''; and

(C) by inserting after subparagraph (U) the following new subparagraph:

''(V) in the case of hospitals that are not otherwise subject to the Occupational Safety and Health Act of 1970 (or a State occupational safety and health plan that is approved under 18(b) of such Act), to comply with the Bloodborne Pathogens standard under section 1910.1030 of title 29 of the Code of Federal Regulations (or as subsequently redesignated).''; and

(2) by adding at the end of subsection (b) the following new paragraph:

''(4)(A) A hospital that fails to comply with the requirement of subsection (a)(1)(V) (relating to the Bloodborne Pathogens standard) is subject to a civil money penalty in an amount described in subparagraph (B), but is not subject to termination of an agreement under this section.

''(B) The amount referred to in subparagraph (A) is an amount that is similar to the amount of civil penalties that may be imposed under section 17 of the Occupational Safety and Health Act of 1970 for a violation of the Bloodborne Pathogens standard referred to in subsection (a)(1)(U) by a hospital that is subject to the provisions of such Act.

''(C) A civil money penalty under this paragraph shall be imposed and collected in the same manner as civil money penalties under subsection (a) of section 1128A are imposed and collected under that section.''.

(b) EFFECTIVE DATE.—The amendments made by this subsection (a) shall apply to hospitals as of July 1, 2004.

SEC. 548. BIPA-RELATED TECHNICAL AMENDMENTS AND CORRECTIONS.

(a) TECHNICAL AMENDMENTS RELATING TO ADVISORY COMMITTEE UNDER BIPA SECTION 522.—(1) Subsection (i) of section 1114 (42 U.S.C. 1314)—

(A) is transferred to section 1862 and added at the end of such section; and

(B) is redesignated as subsection (j).

(2) Section 1862 (42 U.S.C. 1395y) is amended—

(A) in the last sentence of subsection (a), by striking ''established under section 1114(f)''; and

(B) in subsection (j), as so transferred and redesignated—

(i) by striking ''under subsection (f)''; and

(ii) by striking ''section 1862(a)(1)'' and inserting ''subsection (a)(1)''.

(b) TERMINOLOGY CORRECTIONS.—(1) Section 1869(c)(3)(I)(ii) (42 U.S.C. 1395ff(c)(3)(I)(ii)) is amended—

(A) in subclause (III), by striking ''policy'' and inserting ''determination''; and

(B) in subclause (IV), by striking ''medical review policies'' and inserting ''coverage determinations''.

(2) Section 1852(a)(2)(C) (42 U.S.C. 1395w–22(a)(2)(C)) is amended by striking ''policy''

and ''POLICY'' and inserting ''determination'' each place it appears and ''DETERMINATION'', respectively.

(c) REFERENCE CORRECTIONS.—Section 1869(f)(4) (42 U.S.C. 1395ff(f)(4)) is amended—

(1) in subparagraph (A)(iv), by striking ''subclause (I), (II), or (III)'' and inserting ''clause (i), (ii), or (iii)'';

(2) in subparagraph (B), by striking ''clause (i)(IV)'' and ''clause (i)(III)'' and inserting ''subparagraph (A)(iv)'' and ''subparagraph (A)(iii)'', respectively; and

(3) in subparagraph (C), by striking ''clause (i)'', ''subclause (IV)'' and ''subparagraph (A)'' and inserting ''subparagraph (A)'', ''clause (iv)'' and ''paragraph (1)(A)'', respectively each place it appears.

(d) OTHER CORRECTIONS.—Effective as if included in the enactment of section 221(c) of BIPA, section 1154(e) (42 U.S.C. 1320c–3(e)) is amended by striking paragraph (5).

(e) EFFECTIVE DATE.—Except as otherwise provided, the amendments made by this section shall be effective as if included in the enactment of BIPA.

SEC. 549. CONFORMING AUTHORITY TO WAIVE A PROGRAM EXCLUSION.

The first sentence of section 1128(c)(3)(B) (42 U.S.C. 1320a–7(c)(3)(B)) is amended to read as follows: ''Subject to subparagraph (G), in the case of an exclusion under subsection (a), the minimum period of exclusion shall be not less than five years, except that, upon the request of the administrator of a Federal health care program (as defined in section 1128B(f)) who determines that the exclusion would impose a hardship on individuals entitled to benefits under part A of title XVIII or enrolled under part B of such title, or both, the Secretary may, after consulting with the Inspector General of the Department of Health and Human Services, waive the exclusion under subsection (a)(1), (a)(3), or (a)(4) with respect to that program in the case of an individual or entity that is the sole community physician or sole source of essential specialized services in a community.''.

SEC. 550. TREATMENT OF CERTAIN DENTAL CLAIMS.

(a) IN GENERAL.—Section 1862 (42 U.S.C. 1395y) is amended by adding at the end, after the subsection transferred and redesignated by section 548(a), the following new subsection:

''(k)(1) Subject to paragraph (2), a group health plan (as defined in subsection (a)(1)(A)(v)) providing supplemental or secondary coverage to individuals also entitled to services under this title shall not require a medicare claims determination under this title for dental benefits specifically excluded under subsection (a)(12) as a condition of making a claims determination for such benefits under the group health plan.

''(2) A group health plan may require a claims determination under this title in cases involving or appearing to involve inpatient dental hospital services or dental services expressly covered under this title pursuant to actions taken by the Secretary.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date that is 60 days after the date of the enactment of this Act.

SEC. 551. FURNISHING HOSPITALS WITH INFORMATION TO COMPUTE DSH FORMULA.

Beginning not later than 1 year after the date of the enactment of this Act, the Secretary shall arrange to furnish to subsection (d) hospitals (as defined in section 1886(d)(1)(B) of the Social Security Act, 42 U.S.C. 1395ww(d)(1)(B)) the data necessary for such hospitals to compute the number of patient days used in computing the disproportionate patient percentage under such section for that hospital for the current cost reporting year. Such data shall also be furnished to other hospitals which would qualify for additional payments under part A of title XVIII of the Social Security Act on the basis of such data.

SEC. 552. REVISIONS TO REASSIGNMENT PROVISIONS.

(a) IN GENERAL.—Section 1842(b)(6)(A) (42 U.S.C. 1395u(b)(6)(A)) is amended by striking ''or (ii) (where the service was provided in a hospital, critical access hospital, clinic, or other facility) to the facility in which the service was provided if there is a contractual arrangement between such physician or other person and such facility under which such facility submits the bill for such service,'' and inserting ''or (ii) where the service was provided under a contractual arrangement between such physician or other person and an entity, to the entity if, under the contractual arrangement, the entity submits the bill for the service and the contractual arrangement meets such program integrity and other safeguards as the Secretary may determine to be appropriate,''.

(b) CONFORMING AMENDMENT.—The second sentence of section 1842(b)(6) (42 U.S.C. 1395u(b)(6)) is amended by striking ''except to an employer or facility as described in clause (A)'' and inserting ''except to an employer or entity as described in subparagraph (A)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to payments made on or after the date of the enactment of this Act.

SEC. 553. OTHER PROVISIONS.

(a) GAO REPORTS ON THE PHYSICIAN COMPENSATION.—

(1) SUSTAINABLE GROWTH RATE AND UPDATES.—Not later than 6 months after the date of the enactment of this Act, the Comptroller General of the United States shall submit to Congress a report on the appropriateness of the updates in the conversion factor under subsection (d)(3) of section 1848 of the Social Security Act (42 U.S.C. 1395w–4), including the appropriateness of the sustainable growth rate formula under subsection (f) of such section for 2002 and succeeding years. Such report shall examine the stability and predictability of such updates and rate and alternatives for the use of such rate in the updates.

(2) PHYSICIAN COMPENSATION GENERALLY.—Not later than 12 months after the date of the enactment of this Act, the Comptroller General shall submit to Congress a report on all aspects of physician compensation for services furnished under title XVIII of the Social Security Act, and how those aspects interact and the effect on appropriate compensation for physician services. Such report shall review alternatives for the physician fee schedule under section 1848 of such title (42 U.S.C. 1395w–4).

(b) ANNUAL PUBLICATION OF LIST OF NATIONAL COVERAGE DETERMINATIONS.—The Secretary shall provide, in an appropriate annual publication available to the public, a list of national coverage determinations made under title XVIII of the Social Security Act in the previous year and information on how to get more information with respect to such determinations.

(c) GAO REPORT ON FLEXIBILITY IN APPLYING HOME HEALTH CONDITIONS OF PARTICIPATION TO PATIENTS WHO ARE NOT MEDICARE BENEFICIARIES.—Not later than 6 months after the date of the enactment of this Act, the Comptroller General of the United States shall submit to Congress a report on the implications if there were flexibility in the application of the medicare conditions of participation for home health agencies with respect to groups or types of patients who are not medicare beneficiaries. The report shall include an analysis of the potential impact of such flexible application on clinical operations and the recipients of such services and an analysis of methods for monitoring the quality of care provided to such recipients.

(d) OIG REPORT ON NOTICES RELATING TO USE OF HOSPITAL LIFETIME RESERVE DAYS.—Not later than 1 year after the date of the enactment of this Act, the Inspector General of the Department of Health and Human Services shall submit a report to Congress on—

(1) the extent to which hospitals provide notice to medicare beneficiaries in accordance with applicable requirements before they use the 60 lifetime reserve days described in section 1812(a)(1) of the Social Security Act (42 U.S.C. 1395d(a)(1)); and

(2) the appropriateness and feasibility of hospitals providing a notice to such beneficiaries before they completely exhaust such lifetime reserve days.

TITLE VI—MEDICAID AND MISCELLANEOUS PROVISIONS

Subtitle A—Medicaid Provisions

SEC. 601. MEDICAID DISPROPORTIONATE SHARE HOSPITAL (DSH) PAYMENTS.

(a) TEMPORARY INCREASE.—Section 1923(f)(3) (42 U.S.C. 1396r–4(f)(3)) is amended—

(1) in subparagraph (A), by striking ''subparagraph (B)'' and inserting ''subparagraphs (B) and (C)''; and

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

''(C) SPECIAL, TEMPORARY INCREASE IN ALLOTMENTS ON A ONE-TIME, NON-CUMULATIVE BASIS.—The DSH allotment for any State (other than a State with a DSH allotment determined under paragraph (5))—

''(i) for fiscal year 2004 is equal to 116 percent of the DSH allotment for the State for fiscal year 2003 under this paragraph, notwithstanding subparagraph (B); and

''(ii) for each succeeding fiscal year is equal to the DSH allotment for the State for fiscal year 2004 or, in the case of fiscal years beginning with the fiscal year specified in subparagraph (D) for that State, the DSH allotment for the State for the previous fiscal year increased by the percentage change in the consumer price index for all urban consumers (all items; U.S. city average), for the previous fiscal year.

''(D) FISCAL YEAR SPECIFIED.—For purposes of subparagraph (C)(ii), the fiscal year specified in this subparagraph for a State is the first fiscal year for which the Secretary estimates that the DSH allotment for that State will equal (or no longer exceed) the DSH allotment for that State under the law as in effect before the date of the enactment of this subparagraph.''.

(b) INCREASE IN FLOOR FOR TREATMENT AS A LOW DSH STATE.—Section 1923(f)(5) (42 U.S.C. 1396r–4(f)(5)) is amended to read as follows:

''(5) SPECIAL RULE FOR LOW DSH STATES.—In the case of a State in which the total expenditures under the State plan (including Federal and State shares) for disproportionate share hospital adjustments under this section for fiscal year 2000, as reported to the Administrator of the Centers for Medicare & Medicaid Services as of August 31, 2003, is greater than 0 but less than 3 percent of the State's total amount of expenditures under the State plan for medical assistance during the fiscal year, the DSH allotment for the State with respect to—

''(A) fiscal year 2004 shall be the DSH allotment for the State for fiscal year 2003 increased by 16 percent;

''(B) each succeeding fiscal year before fiscal year 2009 shall be the DSH allotment for the State for the previous fiscal year increased by 16 percent; and

''(C) fiscal year 2009 and any subsequent fiscal year, shall be the DSH allotment for

the State for the previous year subject to an increase for inflation as provided in paragraph (3)(A).''.

(c) ALLOTMENT ADJUSTMENT.—Section 1923(f) (42 U.S.C. 1396r–4(f)) is amended—

(1) in paragraph (3)(A), by striking ''The DSH'' and inserting ''Except as provided in paragraph (6), the DSH'';

(2) by redesignating paragraph (6) as paragraph (7); and

(3) by inserting after paragraph (5) the following:

''(6) ALLOTMENT ADJUSTMENT.—Only with respect to fiscal year 2004 or 2005, if a statewide waiver under section 1115 is revoked or terminated before the end of either such fiscal year and there is no DSH allotment for the State, the Secretary shall—

''(A) permit the State whose waiver was revoked or terminated to submit an amendment to its State plan that would describe the methodology to be used by the State (after the effective date of such revocation or termination) to identify and make payments to disproportionate share hospitals, including children's hospitals and institutions for mental diseases or other mental health facilities (other than State-owned institutions or facilities), on the basis of the proportion of patients served by such hospitals that are low-income patients with special needs; and

''(B) provide for purposes of this subsection for computation of an appropriate DSH allotment for the State for fiscal year 2004 or 2005 (or both) that would not exceed the amount allowed under paragraph (3)(B)(ii) and that does not result in greater expenditures under this title than would have been made if such waiver had not been revoked or terminated.

In determining the amount of an appropriate DSH allotment under subparagraph (B) for a State, the Secretary shall take into account the level of DSH expenditures for the State for the fiscal year preceding the fiscal year in which the waiver commenced.''.

(d) INCREASED REPORTING AND OTHER REQUIREMENTS TO ENSURE THE APPROPRIATE USE OF MEDICAID DSH PAYMENT ADJUSTMENTS.—Section 1923 (42 U.S.C. 1396r–4) is amended by adding at the end the following new subsection:

''(j) ANNUAL REPORTS AND OTHER REQUIREMENTS REGARDING PAYMENT ADJUSTMENTS.—With respect to fiscal year 2004 and each fiscal year thereafter, the Secretary shall require a State, as a condition of receiving a payment under section 1903(a)(1) with respect to a payment adjustment made under this section, to do the following:

''(1) REPORT.—The State shall submit an annual report that includes the following:

''(A) An identification of each disproportionate share hospital that received a payment adjustment under this section for the preceding fiscal year and the amount of the payment adjustment made to such hospital for the preceding fiscal year.

''(B) Such other information as the Secretary determines necessary to ensure the appropriateness of the payment adjustments made under this section for the preceding fiscal year.

''(2) INDEPENDENT CERTIFIED AUDIT.—The State shall annually submit to the Secretary an independent certified audit that verifies each of the following:

''(A) The extent to which hospitals in the State have reduced their uncompensated care costs to reflect the total amount of claimed expenditures made under this section.

''(B) Payments under this section to hospitals that comply with the requirements of subsection (g).

''(C) Only the uncompensated care costs of providing inpatient hospital and outpatient hospital services to individuals described in paragraph (1)(A) of such subsection are included in the calculation of the hospital-specific limits under such subsection.

''(D) The State included all payments under this title, including supplemental payments, in the calculation of such hospital-specific limits.

''(E) The State has separately documented and retained a record of all of its costs under this title, claimed expenditures under this title, uninsured costs in determining payment adjustments under this section, and any payments made on behalf of the uninsured from payment adjustments under this section.''.

(e) CLARIFICATION REGARDING NON-REGULATION OF TRANSFERS.—

(1) IN GENERAL.—Nothing in section 1903(w) of the Social Security Act (42 U.S.C. 1396b(w)) shall be construed by the Secretary as prohibiting a State's use of funds as the non-Federal share of expenditures under title XIX of such Act where such funds are transferred from or certified by a publicly-owned regional medical center located in another State and described in paragraph (2), so long as the Secretary determines that such use of funds is proper and in the interest of the program under title XIX.

(2) CENTER DESCRIBED.—A center described in this paragraph is a publicly-owned regional medical center that—

(A) provides level 1 trauma and burn care services;

(B) provides level 3 neonatal care services;

(C) is obligated to serve all patients, regardless of State of origin;

(D) is located within a Standard Metropolitan Statistical Area (SMSA) that includes at least 3 States, including the States described in paragraph (1);

(E) serves as a tertiary care provider for patients residing within a 125 mile radius; and

(F) meets the criteria for a disproportionate share hospital under section 1923 of such Act in at least one State other than the one in which the center is located.

(3) EFFECTIVE PERIOD.—This subsection shall apply through December 31, 2005.

SEC. 602. CLARIFICATION OF INCLUSION OF INPATIENT DRUG PRICES CHARGED TO CERTAIN PUBLIC HOSPITALS IN THE BEST PRICE EXEMPTIONS FOR THE MEDICAID DRUG REBATE PROGRAM.

(a) IN GENERAL.—Section 1927(c)(1)(C)(i)(I) (42 U.S.C. 1396r–8(c)(1)(C)(i)(I)) is amended by inserting before the semicolon the following: ''(including inpatient prices charged to hospitals described in section 340B(a)(4)(L) of the Public Health Service Act)''.

(b) ANTI-DIVERSION PROTECTION.—Section 1927(c)(1)(C) (42 U.S.C. 1396r–8(c)(1)(C)) is amended by adding at the end the following:

''(iii) APPLICATION OF AUDITING AND RECORDKEEPING REQUIREMENTS.—With respect to a covered entity described in section 340B(a)(4)(L) of the Public Health Service Act, any drug purchased for inpatient use shall be subject to the auditing and recordkeeping requirements described in section 340B(a)(5)(C) of the Public Health Service Act.''.

SEC. 603. EXTENSION OF MORATORIUM.

(a) IN GENERAL.—Section 6408(a)(3) of the Omnibus Budget Reconciliation Act of 1989, as amended by section 13642 of the Omnibus Budget Reconciliation Act of 1993 and section 4758 of the Balanced Budget Act of 1997, is amended—

(1) by striking ''until December 31, 2002'', and

(2) by striking ''Kent Community Hospital Complex in Michigan or.''

(b) EFFECTIVE DATES.—

(1) PERMANENT EXTENSION.—The amendment made by subsection (a)(1) shall take effect as if included in the amendment made by section 4758 of the Balanced Budget Act of 1997.

(2) MODIFICATION.—The amendment made by subsection (a)(2) shall take effect on the date of enactment of this Act.

Subtitle B—Miscellaneous Provisions

SEC. 611. FEDERAL REIMBURSEMENT OF EMERGENCY HEALTH SERVICES FURNISHED TO UNDOCUMENTED ALIENS.

(a) TOTAL AMOUNT AVAILABLE FOR ALLOTMENT.—

(1) IN GENERAL.—Out of any funds in the Treasury not otherwise appropriated, there are appropriated to the Secretary $250,000,000 for each of fiscal years 2005 through 2008 for the purpose of making allotments under this section for payments to eligible providers in States described in paragraph (1) or (2) of subsection (b).

(2) AVAILABILITY.—Funds appropriated under paragraph (1) shall remain available until expended.

(b) STATE ALLOTMENTS.—

(1) BASED ON PERCENTAGE OF UNDOCUMENTED ALIENS.—

(A) IN GENERAL.—Out of the amount appropriated under subsection (a) for a fiscal year, the Secretary shall use $167,000,000 of such amount to make allotments for such fiscal year in accordance with subparagraph (B).

(B) FORMULA.—The amount of the allotment for payments to eligible providers in each State for a fiscal year shall be equal to the product of—

(i) the total amount available for allotments under this paragraph for the fiscal year; and

(ii) the percentage of undocumented aliens residing in the State as compared to the total number of such aliens residing in all States, as determined by the Statistics Division of the Immigration and Naturalization Service, as of January 2003, based on the 2000 decennial census.

(2) BASED ON NUMBER OF UNDOCUMENTED ALIEN APPREHENSION STATES.—

(A) IN GENERAL.—Out of the amount appropriated under subsection (a) for a fiscal year, the Secretary shall use $83,000,000 of such amount to make allotments, in addition to amounts allotted under paragraph (1), for such fiscal year for each of the 6 States with the highest number of undocumented alien apprehensions for such fiscal year.

(B) DETERMINATION OF ALLOTMENTS.—The amount of the allotment for each State described in subparagraph (A) for a fiscal year shall be equal to the product of—

(i) the total amount available for allotments under this paragraph for the fiscal year; and

(ii) the percentage of undocumented alien apprehensions in the State in that fiscal year as compared to the total of such apprehensions for all such States for the preceding fiscal year.

(C) DATA.—For purposes of this paragraph, the highest number of undocumented alien apprehensions for a fiscal year shall be based on the apprehension rates for the 4-consecutive-quarter period ending before the beginning of the fiscal year for which information is available for undocumented aliens in such States, as reported by the Department of Homeland Security.

(c) USE OF FUNDS.—

(1) AUTHORITY TO MAKE PAYMENTS.—From the allotments made for a State under subsection (b) for a fiscal year, the Secretary shall pay the amount (subject to the total amount available from such allotments) determined under paragraph (2) directly to eligible providers located in the State for the provision of eligible services to aliens described in paragraph (5) to the extent that

the eligible provider was not otherwise reimbursed (through insurance or otherwise) for such services during that fiscal year.

(2) DETERMINATION OF PAYMENT AMOUNTS.—

(A) IN GENERAL.—Subject to subparagraph (B), the payment amount determined under this paragraph shall be an amount determined by the Secretary that is equal to the lesser of—

(i) the amount that the provider demonstrates was incurred for the provision of such services; or

(ii) amounts determined under a methodology established by the Secretary for purposes of this subsection.

(B) PRO-RATA REDUCTION.—If the amount of funds allotted to a State under subsection (b) for a fiscal year is insufficient to ensure that each eligible provider in that State receives the amount of payment calculated under subparagraph (A), the Secretary shall reduce that amount of payment with respect to each eligible provider to ensure that the entire amount allotted to the State for that fiscal year is paid to such eligible providers.

(3) METHODOLOGY.—In establishing a methodology under paragraph (2)(A)(ii), the Secretary—

(A) may establish different methodologies for types of eligible providers;

(B) may base payments for hospital services on estimated hospital charges, adjusted to estimated cost, through the application of hospital-specific cost-to-charge ratios;

(C) shall provide for the election by a hospital to receive either payments to the hospital for—

(i) hospital and physician services; or

(ii) hospital services and for a portion of the on-call payments made by the hospital to physicians; and

(D) shall make quarterly payments under this section to eligible providers.

If a hospital makes the election under subparagraph (C)(i), the hospital shall pass on payments for services of a physician to the physician and may not charge any administrative or other fee with respect to such payments.

(4) LIMITATION ON USE OF FUNDS.—Payments made to eligible providers in a State from allotments made under subsection (b) for a fiscal year may only be used for costs incurred in providing eligible services to aliens described in paragraph (5).

(5) ALIENS DESCRIBED.—For purposes of paragraphs (1) and (2), aliens described in this paragraph are any of the following:

(A) Undocumented aliens.

(B) Aliens who have been paroled into the United States at a United States port of entry for the purpose of receiving eligible services.

(B) Mexican citizens permitted to enter the United States for not more than 72 hours under the authority of a biometric machine readable border crossing identification card (also referred to as a ''laser visa'') issued in accordance with the requirements of regulations prescribed under section 101(a)(6) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(6)).

(d) APPLICATIONS; ADVANCE PAYMENTS.—

(1) DEADLINE FOR ESTABLISHMENT OF APPLICATION PROCESS.—

(A) IN GENERAL.—Not later than September 1, 2004, the Secretary shall establish a process under which eligible providers located in a State may request payments under subsection (c).

(B) INCLUSION OF MEASURES TO COMBAT FRAUD AND ABUSE.—The Secretary shall include in the process established under subparagraph (A) measures to ensure that inappropriate, excessive, or fraudulent payments are not made from the allotments determined under subsection (b), including certification by the eligible provider of the veracity of the payment request.

(2) ADVANCE PAYMENT; RETROSPECTIVE ADJUSTMENT.—The process established under paragraph (1) may provide for making payments under this section for each quarter of a fiscal year on the basis of advance estimates of expenditures submitted by applicants for such payments and such other investigation as the Secretary may find necessary, and for making reductions or increases in the payments as necessary to adjust for any overpayment or underpayment for prior quarters of such fiscal year.

(e) DEFINITIONS.—In this section:

(1) ELIGIBLE PROVIDER.—The term ''eligible provider'' means a hospital, physician, or provider of ambulance services (including an Indian Health Service facility whether operated by the Indian Health Service or by an Indian tribe or tribal organization).

(2) ELIGIBLE SERVICES.—The term ''eligible services'' means health care services required by the application of section 1867 of the Social Security Act (42 U.S.C. 1395dd), and related hospital inpatient and outpatient services and ambulance services (as defined by the Secretary).

(3) HOSPITAL.—The term ''hospital'' has the meaning given such term in section 1861(e) of the Social Security Act (42 U.S.C. 1395x(e)), except that such term shall include a critical access hospital (as defined in section 1861(mm)(1) of such Act (42 U.S.C. 1395x(mm)(1)).

(4) PHYSICIAN.—The term ''physician'' has the meaning given that term in section 1861(r) of the Social Security Act (42 U.S.C. 1395x(r)).

(5) INDIAN TRIBE; TRIBAL ORGANIZATION.—The terms ''Indian tribe'' and ''tribal organization'' have the meanings given such terms in section 4 of the Indian Health Care Improvement Act (25 U.S.C. 1603).

(6) STATE.—The term ''State'' means the 50 States and the District of Columbia.

SEC. 612. COMMISSION ON SYSTEMIC INTEROPERABILITY.

(a) ESTABLISHMENT.—The Secretary shall establish a commission to be known as the ''Commission on Systemic Interoperability'' (in this section referred to as the ''Commission'').

(b) DUTIES.—

(1) IN GENERAL.—The Commission shall develop a comprehensive strategy for the adoption and implementation of health care information technology standards, that includes a timeline and prioritization for such adoption and implementation.

(2) CONSIDERATIONS.—In developing the comprehensive health care information technology strategy under paragraph (1), the Commission shall consider—

(A) the costs and benefits of the standards, both financial impact and quality improvement;

(B) the current demand on industry resources to implement this Act and other electronic standards, including HIPAA standards; and

(C) the most cost-effective and efficient means for industry to implement the standards.

(3) NONINTERFERENCE.—In carrying out this section, the Commission shall not interfere with any standards development of adoption processes underway in the private or public sector and shall not replicate activities related to such standards or the national health information infrastructure underway within the Department of Health and Human Services.

(4) REPORT.—Not later than October 31, 2005, the Commission shall submit to the Secretary and to Congress a report describing the strategy developed under paragraph (1), including an analysis of the matters considered under paragraph (2).

(c) MEMBERSHIP.—

(1) NUMBER AND APPOINTMENT.—The Commission shall be composed of 11 members appointed as follows:

(A) The President shall appoint 3 members, one of whom the President shall designate as Chairperson.

(B) The Majority Leader of the Senate shall appoint 2 members.

(C) The Minority Leader of the Senate shall appoint 2 members.

(D) The Speaker of the House of Representatives shall appoint 2 members.

(E) The Minority Leader of the House of Representatives shall appoint 2 members.

(2) QUALIFICATIONS.—The membership of the Commission shall include individuals with national recognition for their expertise in health finance and economics, health plans and integrated delivery systems, reimbursement of health facilities, practicing physicians, practicing pharmacists, and other providers of health services, health care technology and information systems, and other related fields, who provide a mix of different professionals, broad geographic representation, and a balance between urban and rural representatives.

(d) TERMS.—Each member shall be appointed for the life of the Commission.

(e) COMPENSATION.—

(1) RATES OF PAY.—Members shall each be paid at a rate not to exceed the daily equivalent of the rate of basic pay for level IV of the Executive Schedule for each day (including travel time) during which they are engaged in the actual performance of duties vested in the Commission.

(2) PROHIBITION OF COMPENSATION OF FEDERAL EMPLOYEES.—Members of the Commission who are full-time officers or employees of the United States or Members of Congress may not receive additional pay, allowances, or benefits by reason of their service on the Commission.

(3) TRAVEL EXPENSES.—Each member shall receive travel expenses, including per diem in lieu of subsistence, in accordance with applicable provisions under subchapter I of chapter 57 of title 5, United States Code.

(f) QUORUM.—A majority of the members of the Commission shall constitute a quorum but a lesser number may hold hearings.

(g) DIRECTOR AND STAFF OF COMMISSION; EXPERTS AND CONSULTANTS.—

(1) DIRECTOR.—The Commission shall have a Director who shall be appointed by the Chairperson. The Director shall be paid at a rate not to exceed the rate of basic pay for level IV of the Executive Schedule.

(2) STAFF.—With the approval of the Commission, the Director may appoint and fix the pay of such additional personnel as the Director considers appropriate.

(3) APPLICABILITY OF CERTAIN CIVIL SERVICE LAWS.—The Director and staff of the Commission may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of that title relating to classification and General Schedule pay rates, except that an individual so appointed may not receive pay in excess of level IV of the Executive Schedule.

(4) EXPERTS AND CONSULTANTS.—With the approval of the Commission, the Director may procure temporary and intermittent services under section 3109(b) of title 5, United States Code.

(5) STAFF OF FEDERAL AGENCIES.—Upon request of the Chairperson, the head of any Federal department or agency may detail, on a reimbursable basis, any of the personnel of

that department or agency to the Commission to assist it in carrying out its duties under this Act.

(h) POWERS OF COMMISSION.—

(1) HEARINGS AND SESSIONS.—The Commission may, for the purpose of carrying out this Act, hold hearings, sit and act at times and places, take testimony, and receive evidence as the Commission considers appropriate.

(2) POWERS OF MEMBERS AND AGENTS.—Any member or agent of the Commission may, if authorized by the Commission, take any action which the Commission is authorized to take by this section.

(3) OBTAINING OFFICIAL DATA.—The Commission may secure directly from any department or agency of the United States information necessary to enable it to carry out this Act. Upon request of the Chairperson of the Commission, the head of that department or agency shall furnish that information to the Commission.

(4) GIFTS, BEQUESTS, AND DEVISES.—The Commission may accept, use, and dispose of gifts, bequests, or devises of services or property, both real and personal, for the purpose of aiding or facilitating the work of the Commission. Gifts, bequests, or devises of money and proceeds from sales of other property received as gifts, bequests, or devises shall be deposited in the Treasury and shall be available for disbursement upon order of the Commission. For purposes of Federal income, estate, and gift taxes, property accepted under this subsection shall be considered as a gift, bequest, or devise to the United States.

(5) MAILS.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

(6) ADMINISTRATIVE SUPPORT SERVICES.—Upon the request of the Commission, the Administrator of General Services shall provide to the Commission, on a reimbursable basis, the administrative support services necessary for the Commission to carry out its responsibilities under this Act.

(7) CONTRACT AUTHORITY.—The Commission may enter into contracts or make other arrangements, as may be necessary for the conduct of the work of the Commission (without regard to section 3709 of the Revised Statutes (41 U.S.C. 5)).

(i) TERMINATION.—The Commission shall terminate on 30 days after submitting its report pursuant to subsection (b)(3).

(j) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated such sums as may be necessary to carry out this section.

SEC. 613. RESEARCH ON OUTCOMES OF HEALTH CARE ITEMS AND SERVICES.

(a) RESEARCH, DEMONSTRATIONS, AND EVALUATIONS.—

(1) IMPROVEMENT OF EFFECTIVENESS AND EFFICIENCY.—

(A) IN GENERAL.—To improve the quality, effectiveness, and efficiency of health care delivered pursuant to the programs established under titles XVIII, XIX, and XXI of the Social Security Act, the Secretary acting through the Director of the Agency for Healthcare Research and Quality (in this section referred to as the ''Director''), shall conduct and support research to meet the priorities and requests for scientific evidence and information identified by such programs with respect to—

(i) the outcomes, comparative clinical effectiveness, and appropriateness of health care items and services (including prescription drugs); and

(ii) strategies for improving the efficiency and effectiveness of such programs, including the ways in which such items and services are organized, managed, and delivered under such programs.

(B) SPECIFICATION.—To respond to priorities and information requests in subparagraph (A), the Secretary may conduct or support, by grant, contract, or interagency agreement, research, demonstrations, evaluations, technology assessments, or other activities, including the provision of technical assistance, scientific expertise, or methodological assistance.

(2) PRIORITIES.—

(A) IN GENERAL.—The Secretary shall establish a process to develop priorities that will guide the research, demonstrations, and evaluation activities undertaken pursuant to this section.

(B) INITIAL LIST.—Not later than 6 months after the date of the enactment of this Act, the Secretary shall establish an initial list of priorities for research related to health care items and services (including prescription drugs).

(C) PROCESS.—In carrying out subparagraph (A), the Secretary—

(i) shall ensure that there is broad and ongoing consultation with relevant stakeholders in identifying the highest priorities for research, demonstrations, and evaluations to support and improve the programs established under titles XVIII, XIX, and XXI of the Social Security Act;

(ii) may include health care items and services which impose a high cost on such programs, as well as those which may be underutilized or overutilized and which may significantly improve the prevention, treatment, or cure of diseases and conditions (including chronic conditions) which impose high direct or indirect costs on patients or society; and

(iii) shall ensure that the research and activities undertaken pursuant to this section are responsive to the specified priorities and are conducted in a timely manner.

(3) EVALUATION AND SYNTHESIS OF SCIENTIFIC EVIDENCE.—

(A) IN GENERAL.—The Secretary shall—

(i) evaluate and synthesize available scientific evidence related to health care items and services (including prescription drugs) identified as priorities in accordance with paragraph (2) with respect to the comparative clinical effectiveness, outcomes, appropriateness, and provision of such items and services (including prescription drugs);

(ii) identify issues for which existing scientific evidence is insufficient with respect to such health care items and services (including prescription drugs);

(iii) disseminate to prescription drug plans and MA–PD plans under part D of title XVIII of the Social Security Act, other health plans, and the public the findings made under clauses (i) and (ii); and

(iv) work in voluntary collaboration with public and private sector entities to facilitate the development of new scientific knowledge regarding health care items and services (including prescription drugs).

(B) INITIAL RESEARCH.—The Secretary shall complete the evaluation and synthesis of the initial research required by the priority list developed under paragraph (2)(B) not later than 18 months after the development of such list.

(C) DISSEMINATION.—

(i) IN GENERAL.—To enhance patient safety and the quality of health care, the Secretary shall make available and disseminate in appropriate formats to prescription drugs plans under part D, and MA–PD plans under part C, of title XVIII of the Social Security Act, other health plans, and the public the evaluations and syntheses prepared pursuant to subparagraph (A) and the findings of research conducted pursuant to paragraph (1). In carrying out this clause the Secretary, in order to facilitate the availability of such evaluations and syntheses or findings at every decision point in the health care system, shall—

(I) present such evaluations and syntheses or findings in a form that is easily understood by the individuals receiving health care items and services (including prescription drugs) under such plans and periodically assess that the requirements of this subclause have been met; and

(II) provide such evaluations and syntheses or findings and other relevant information through easily accessible and searchable electronic mechanisms, and in hard copy formats as appropriate.

(ii) RULE OF CONSTRUCTION.—Nothing in this section shall be construed as—

(I) affecting the authority of the Secretary or the Commissioner of Food and Drugs under the Federal Food, Drug, and Cosmetic Act or the Public Health Service Act; or

(II) conferring any authority referred to in subclause (I) to the Director.

(D) ACCOUNTABILITY.—In carrying out this paragraph, the Secretary shall implement activities in a manner that—

(i) makes publicly available all scientific evidence relied upon and the methodologies employed, provided such evidence and method are not protected from public disclosure by section 1905 of title 18, United States Code, or other applicable law so that the results of the research, analyses, or syntheses can be evaluated or replicated; and

(ii) ensures that any information needs and unresolved issues identified in subparagraph (A)(ii) are taken into account in priority-setting for future research conducted by the Secretary.

(4) CONFIDENTIALITY.—

(A) IN GENERAL.—In making use of administrative, clinical, and program data and information developed or collected with respect to the programs established under titles XVIII, XIX, and XXI of the Social Security Act, for purposes of carrying out the requirements of this section or the activities authorized under title IX of the Public Health Service Act (42 U.S.C. 299 et seq.), such data and information shall be protected in accordance with the confidentiality requirements of title IX of the Public Health Service Act.

(B) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to require or permit the disclosure of data provided to the Secretary that is otherwise protected from disclosure under the Federal Food, Drug, and Cosmetic Act, section 1905 of title 18, United States Code, or other applicable law.

(5) EVALUATIONS.—The Secretary shall conduct and support evaluations of the activities carried out under this section to determine the extent to which such activities have had an effect on outcomes and utilization of health care items and services.

(6) IMPROVING INFORMATION AVAILABLE TO HEALTH CARE PROVIDERS, PATIENTS, AND POLICYMAKERS.—Not later than 18 months after the date of enactment of this Act, the Secretary shall identify options that could be undertaken in voluntary collaboration with private and public entities (as appropriate) for the—

(A) provision of more timely information through the programs established under titles XVIII, XIX, and XXI of the Social Security Act, regarding the outcomes and quality of patient care, including clinical and patient-reported outcomes, especially with respect to interventions and conditions for which clinical trials would not be feasible or raise ethical concerns that are difficult to address;

(B) acceleration of the adoption of innovation and quality improvement under such programs; and

(C) development of management tools for the programs established under titles XIX

and XXI of the Social Security Act, and with respect to the programs established under such titles, assess the feasibility of using administrative or claims data, to—

(i) improve oversight by State officials;

(ii) support Federal and State initiatives to improve the quality, safety, and efficiency of services provided under such programs; and

(iii) provide a basis for estimating the fiscal and coverage impact of Federal or State program and policy changes.

(b) RECOMMENDATIONS.—

(1) DISCLAIMER.—In carrying out this section, the Director shall—

(A) not mandate national standards of clinical practice or quality health care standards; and

(B) include in any recommendations resulting from projects funded and published by the Director, a corresponding reference to the prohibition described in subparagraph (A).

(2) REQUIREMENT FOR IMPLEMENTATION.—Research, evaluation, and communication activities performed pursuant to this section shall reflect the principle that clinicians and patients should have the best available evidence upon which to make choices in health care items and services, in providers, and in health care delivery systems, recognizing that patient subpopulations and patient and physician preferences may vary.

(3) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to provide the Director with authority to mandate a national standard or require a specific approach to quality measurement and reporting.

(c) RESEARCH WITH RESPECT TO DISSEMINATION.—The Secretary, acting through the Director, may conduct or support research with respect to improving methods of disseminating information in accordance with subsection (a)(3)(C).

(d) LIMITATION ON CMS.—The Administrator of the Centers for Medicare & Medicaid Services may not use data obtained in accordance with this section to withhold coverage of a prescription drug.

(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section, $50,000,000 for fiscal year 2004, and such sums as may be necessary for each fiscal year thereafter.

SEC. 614. HEALTH CARE THAT WORKS FOR ALL AMERICANS: CITIZENS HEALTH CARE WORKING GROUP.

(a) FINDINGS.—Congress finds the following:

(1) In order to improve the health care system, the American public must engage in an informed national public debate to make choices about the services they want covered, what health care coverage they want, and how they are willing to pay for coverage.

(2) More than a trillion dollars annually is spent on the health care system, yet—

(A) 41,000,000 Americans are uninsured;

(B) insured individuals do not always have access to essential, effective services to improve and maintain their health; and

(C) employers, who cover over 170,000,000 Americans, find providing coverage increasingly difficult because of rising costs and double digit premium increases.

(3) Despite increases in medical care spending that are greater than the rate of inflation, population growth, and Gross Domestic Product growth, there has not been a commensurate improvement in our health status as a nation.

(4) Health care costs for even just 1 member of a family can be catastrophic, resulting in medical bills potentially harming the economic stability of the entire family.

(5) Common life occurrences can jeopardize the ability of a family to retain private coverage or jeopardize access to public coverage.

(6) Innovations in health care access, coverage, and quality of care, including the use of technology, have often come from States, local communities, and private sector organizations, but more creative policies could tap this potential.

(7) Despite our Nation's wealth, the health care system does not provide coverage to all Americans who want it.

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

(1) to provide for a nationwide public debate about improving the health care system to provide every American with the ability to obtain quality, affordable health care coverage; and

(2) to provide for a vote by Congress on the recommendations that result from the debate.

(c) ESTABLISHMENT.—The Secretary, acting through the Agency for Healthcare Research and Quality, shall establish an entity to be known as the Citizens' Health Care Working Group (referred to in this section as the ''Working Group'').

(d) MEMBERSHIP.—

(1) NUMBER AND APPOINTMENT.—The Working Group shall be composed of 15 members. One member shall be the Secretary. The Comptroller General of the United States shall appoint 14 members.

(2) QUALIFICATIONS.—

(A) IN GENERAL.—The membership of the Working Group shall include—

(i) consumers of health services that represent those individuals who have not had insurance within 2 years of appointment, that have had chronic illnesses, including mental illness, are disabled, and those who receive insurance coverage through medicare and medicaid; and

(ii) individuals with expertise in financing and paying for benefits and access to care, business and labor perspectives, and providers of health care.

The membership shall reflect a broad geographic representation and a balance between urban and rural representatives.

(B) PROHIBITED APPOINTMENTS.—Members of the Working Group shall not include Members of Congress or other elected government officials (Federal, State, or local). Individuals appointed to the Working Group shall not be paid employees or representatives of associations or advocacy organizations involved in the health care system.

(e) PERIOD OF APPOINTMENT.—Members of the Working Group shall be appointed for a life of the Working Group. Any vacancies shall not affect the power and duties of the Working Group but shall be filled in the same manner as the original appointment.

(f) DESIGNATION OF THE CHAIRPERSON.—Not later than 15 days after the date on which all members of the Working Group have been appointed under subsection (d)(1), the Comptroller General shall designate the chairperson of the Working Group.

(g) SUBCOMMITTEES.—The Working Group may establish subcommittees if doing so increases the efficiency of the Working Group in completing its tasks.

(h) DUTIES.—

(1) HEARINGS.—Not later than 90 days after the date of the designation of the chairperson under subsection (f), the Working Group shall hold hearings to examine—

(A) the capacity of the public and private health care systems to expand coverage options;

(B) the cost of health care and the effectiveness of care provided at all stages of disease;

(C) innovative State strategies used to expand health care coverage and lower health care costs;

(D) local community solutions to accessing health care coverage;

(E) efforts to enroll individuals currently eligible for public or private health care coverage;

(F) the role of evidence-based medical practices that can be documented as restoring, maintaining, or improving a patient's health, and the use of technology in supporting providers in improving quality of care and lowering costs; and

(G) strategies to assist purchasers of health care, including consumers, to become more aware of the impact of costs, and to lower the costs of health care.

(2) ADDITIONAL HEARINGS.—The Working Group may hold additional hearings on subjects other than those listed in paragraph (1) so long as such hearings are determined to be necessary by the Working Group in carrying out the purposes of this section. Such additional hearings do not have to be completed within the time period specified in paragraph (1) but shall not delay the other activities of the Working Group under this section.

(3) THE HEALTH REPORT TO THE AMERICAN PEOPLE.—Not later than 90 days after the hearings described in paragraphs (1) and (2) are completed, the Working Group shall prepare and make available to health care consumers through the Internet and other appropriate public channels, a report to be entitled, ''The Health Report to the American People''. Such report shall be understandable to the general public and include—

(A) a summary of—

(i) health care and related services that may be used by individuals throughout their life span;

(ii) the cost of health care services and their medical effectiveness in providing better quality of care for different age groups;

(iii) the source of coverage and payment, including reimbursement, for health care services;

(iv) the reasons people are uninsured or underinsured and the cost to taxpayers, purchasers of health services, and communities when Americans are uninsured or underinsured;

(v) the impact on health care outcomes and costs when individuals are treated in all stages of disease;

(vi) health care cost containment strategies; and

(vii) information on health care needs that need to be addressed;

(B) examples of community strategies to provide health care coverage or access;

(C) information on geographic-specific issues relating to health care;

(D) information concerning the cost of care in different settings, including institutional-based care and home and community-based care;

(E) a summary of ways to finance health care coverage; and

(F) the role of technology in providing future health care including ways to support the information needs of patients and providers.

(4) COMMUNITY MEETINGS.—

(A) IN GENERAL.—Not later than 1 year after the date on which all the members of the Working Group have been appointed under subsection (d)(1) and appropriations are first made available to carry out this section, the Working Group shall initiate health care community meetings throughout the United States (in this paragraph referred to as ''community meetings''). Such community meetings may be geographically or regionally based and shall be completed within 180 days after the initiation of the first meeting.

(B) NUMBER OF MEETINGS.—The Working Group shall hold a sufficient number of community meetings in order to receive information that reflects—

(i) the geographic differences throughout the United States;

(ii) diverse populations; and

(iii) a balance among urban and rural populations.

(C) MEETING REQUIREMENTS.—

(i) FACILITATOR.—A State health officer may be the facilitator at the community meetings.

(ii) ATTENDANCE.—At least 1 member of the Working Group shall attend and serve as chair of each community meeting. Other members may participate through interactive technology.

(iii) TOPICS.—The community meetings shall, at a minimum, address the following questions:

(I) What health care benefits and services should be provided?

(II) How does the American public want health care delivered?

(III) How should health care coverage be financed?

(IV) What trade-offs are the American public willing to make in either benefits or financing to ensure access to affordable, high quality health care coverage and services?

(iv) INTERACTIVE TECHNOLOGY.—The Working Group may encourage public participation in community meetings through interactive technology and other means as determined appropriate by the Working Group.

(D) INTERIM REQUIREMENTS.—Not later than 180 days after the date of completion of the community meetings, the Working Group shall prepare and make available to the public through the Internet and other appropriate public channels, an interim set of recommendations on health care coverage and ways to improve and strengthen the health care system based on the information and preferences expressed at the community meetings. There shall be a 90-day public comment period on such recommendations.

(i) RECOMMENDATIONS.—Not later than 120 days after the expiration of the public comment period described in subsection (h)(4)(D), the Working Group shall submit to Congress and the President a final set of recommendations.

(j) ADMINISTRATION.—

(1) EXECUTIVE DIRECTOR.—There shall be an Executive Director of the Working Group who shall be appointed by the chairperson of the Working Group in consultation with the members of the Working Group.

(2) COMPENSATION.—While serving on the business of the Working Group (including travel time), a member of the Working Group shall be entitled to compensation at the per diem equivalent of the rate provided for level IV of the Executive Schedule under section 5315 of title 5, United States Code, and while so serving away from home and the member's regular place of business, a member may be allowed travel expenses, as authorized by the chairperson of the Working Group. For purposes of pay and employment benefits, rights, and privileges, all personnel of the Working Group shall be treated as if they were employees of the Senate.

(3) INFORMATION FROM FEDERAL AGENCIES.—The Working Group may secure directly from any Federal department or agency such information as the Working Group considers necessary to carry out this section. Upon request of the Working Group, the head of such department or agency shall furnish such information.

(4) POSTAL SERVICES.—The Working Group may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

(k) DETAIL.—Not more than 10 Federal Government employees employed by the Department of Labor and 10 Federal Government employees employed by the Department of Health and Human Services may be detailed to the Working Group under this section without further reimbursement. Any detail of an employee shall be without interruption or loss of civil service status or privilege.

(l) TEMPORARY AND INTERMITTENT SERVICES.—The chairperson of the Working Group may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals which do not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of such title.

(m) ANNUAL REPORT.—Not later than 1 year after the date of enactment of this Act, and annually thereafter during the existence of the Working Group, the Working Group shall report to Congress and make public a detailed description of the expenditures of the Working Group used to carry out its duties under this section.

(n) SUNSET OF WORKING GROUP.—The Working Group shall terminate on the date that is 2 years after the date on which all the members of the Working Group have been appointed under subsection (d)(1) and appropriations are first made available to carry out this section.

(o) ADMINISTRATION REVIEW AND COMMENTS.—Not later than 45 days after receiving the final recommendations of the Working Group under subsection (i), the President shall submit a report to Congress which shall contain—

(1) additional views and comments on such recommendations; and

(2) recommendations for such legislation and administrative actions as the President considers appropriate.

(p) REQUIRED CONGRESSIONAL ACTION.—Not later than 45 days after receiving the report submitted by the President under subsection (o), each committee of jurisdiction of Congress, the Committee on Finance of the Senate, the Committee on Health, Education, Labor, and Pensions of the Senate, the Committee on Ways and Means of the House of Representatives, the Committee on Energy and Commerce of the House of Representatives, Committee on Education and the Workforce of the House of Representatives, shall hold at least 1 hearing on such report and on the final recommendations of the Working Group submitted under subsection (i).

(q) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated to carry out this section, other than subsection (h)(3), $3,000,000 for each of fiscal years 2005 and 2006.

(2) HEALTH REPORT TO THE AMERICAN PEOPLE.—There are authorized to be appropriated for the preparation and dissemination of the Health Report to the American People described in subsection (h)(3), such sums as may be necessary for the fiscal year in which the report is required to be submitted.

SEC. 615. FUNDING START-UP ADMINISTRATIVE COSTS FOR MEDICARE REFORM.

(a) IN GENERAL.—There are appropriated to carry out this Act (including the amendments made by this Act), to be transferred from the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund—

(1) not to exceed $1,000,000,000 for the Centers for Medicare & Medicaid Services; and

(2) not to exceed $500,000,000 for the Social Security Administration.

(b) AVAILABILITY.—Amounts provided under subsection (a) shall remain available until September 30, 2005.

(c) APPLICATION.—From amounts provided under subsection (a)(2), the Social Security Administration may reimburse the Internal Revenue Service for expenses in carrying out this Act (and the amendments made by this Act).

(d) TRANSFER.—The President may transfer amounts provided under subsection (a) between the Centers for Medicare & Medicaid Services and the Social Security Administration. Notice of such transfers shall be transmitted within 15 days to the authorizing committees of the House of Representatives and of the Senate.

SEC. 616. HEALTH CARE INFRASTRUCTURE IMPROVEMENT PROGRAM.

Title XVIII is amended by adding at the end the following new section:

''HEALTH CARE INFRASTRUCTURE IMPROVEMENT PROGRAM

''SEC. 1897. (a) ESTABLISHMENT.—The Secretary shall establish a loan program that provides loans to qualifying hospitals for payment of the capital costs of projects described in subsection (d).

''(b) APPLICATION.—No loan may be provided under this section to a qualifying hospital except pursuant to an application that is submitted and approved in a time, manner, and form specified by the Secretary. A loan under this section shall be on such terms and conditions and meet such requirements as the Secretary determines appropriate.

''(c) SELECTION CRITERIA.—

''(1) IN GENERAL.—The Secretary shall establish criteria for selecting among qualifying hospitals that apply for a loan under this section. Such criteria shall consider the extent to which the project for which loan is sought is nationally or regionally significant, in terms of expanding or improving the health care infrastructure of the United States or the region or in terms of the medical benefit that the project will have.

''(2) QUALIFYING HOSPITAL DEFINED.—For purposes of this section, the term 'qualifying hospital' means a hospital that—

''(A) is engaged in research in the causes, prevention, and treatment of cancer; and

''(B) is designated as a cancer center for the National Cancer Institute or is designated by the State as the official cancer institute of the State.

''(d) PROJECTS.—A project described in this subsection is a project of a qualifying hospital that is designed to improve the health care infrastructure of the hospital, including construction, renovation, or other capital improvements.

''(e) STATE AND LOCAL PERMITS.—The provision of a loan under this section with respect to a project shall not—

''(1) relieve any recipient of the loan of any obligation to obtain any required State or local permit or approval with respect to the project;

''(2) limit the right of any unit of State or local government to approve or regulate any rate of return on private equity invested in the project; or

''(3) otherwise supersede any State or local law (including any regulation) applicable to the construction or operation of the project.

''(f) FORGIVENESS OF INDEBTEDNESS.—The Secretary may forgive a loan provided to a qualifying hospital under this section under terms and conditions that are analogous to the loan forgiveness provision for student loans under part D of title IV of the Higher Education Act of 1965 (20 U.S.C. 1087a et seq.), except that the Secretary shall condition such forgiveness on the establishment by the hospital of—

''(A) an outreach program for cancer prevention, early diagnosis, and treatment that provides services to a substantial majority of the residents of a State or region, including residents of rural areas;

''(B) an outreach program for cancer prevention, early diagnosis, and treatment that

provides services to multiple Indian tribes; and

''(C)(i) unique research resources (such as population databases); or

''(ii) an affiliation with an entity that has unique research resources.

''(g) FUNDING.—

''(1) IN GENERAL.—There are appropriated, out of amounts in the Treasury not otherwise appropriated, to carry out this section, $200,000,000, to remain available during the period beginning on July 1, 2004, and ending on September 30, 2008.

''(2) ADMINISTRATIVE COSTS.—From funds made available under paragraph (1), the Secretary may use, for the administration of this section, not more than $2,000,000 for each of fiscal years 2004 through 2008.

''(3) AVAILABILITY.—Amounts appropriated under this section shall be available for obligation on July 1, 2004.

''(h) REPORT TO CONGRESS.—Not later than 4 years after the date of the enactment of this section, the Secretary shall submit to Congress a report on the projects for which loans are provided under this section and a recommendation as to whether the Congress should authorize the Secretary to continue loans under this section beyond fiscal year 2008.''.

By Mrs. CLINTON:

S. 1927. A bill to establish an award program to encourage the development of effective bomb-scanning technology; to the Committee on Commerce, Science, and Transportation.

Mrs. CLINTON. Mr. President, ever since the events of September 11, 2001 awakened this Nation to the very real dangers of the world we live in, we have been struggling to defend ourselves against terrorism. Our aviation system remains a primary target for terrorists, and we must be every vigilant in the fight to keep that system safe. The economic viability, not to mention safety and security, of our country is at stake in that fight.

Nowhere is this more obvious than in New York. Not only did we bear the brunt of the worst terrorist attack in our Nation's history, but we also depend on our airports to fuel our state economy. John F. Kennedy Airport in Queens is the Nation's premier international gateway and contributes approximately $30 billion to the regional economy while employing 35,000 people. LaGuardia Airport, also in Queens, handles over 20 million passengers a year despite having only two 7000-foot runways on 680 acres. Our airports in Albany, Syracuse, Rochester, and Buffalo have seen strong growth in recent years with the arrival of low-cost carriers.

Unfortunately, our economic and physical security remains at risk because we still have not developed a way to effectively scan each piece of passenger luggage for explosives. We have recognized that in the current world environment, we must scan each bag, but technology has not kept up with our needs. The current technology used in most airports in this country is known to have a false-positive rate of approximately 20 percent. This means that machines incorrectly identify 20 percent of all bags going through them as containing explosives, thus slowing down the process considerably as well as costing time and money. Even more dangerous is the false-negative rate of these machines. This number, the percentage of bags going undetected through these machines with bombs inside of them during test runs, should be close to zero. The actual false-negative rate is not publicized for obvious reasons, but it is known to be well above zero.

I am proposing a bill today that seeks to create a major incentive for firms to invent a bomb-scanning technology that actually works. It will award $20 million to any firm that can successfully produce a machine that has a false-positive rate less than 10 percent, a false negative rate less than 2 percent, and is feasible for deployment en masse at our Nation's airports. Although we are currently spending money on researching this technology, that funding is clearly not getting us there fast enough. This new award will help to spur the private sector to develop new technology that will make a major difference in the safety of our aviation system.

By Mr. SARBANES (for himself, Mr. SCHUMER, Ms. STABENOW, Mr. CORZINE, Mr. DURBIN, Mr. KERRY, Ms. MIKULSKI, Mrs. CLINTON, Mr. LEVIN, Mr. LEAHY, Mr. AKAKA, Mr. KENNEDY, Mr. LAUTENBERG, Mr. DAYTON, and Mr. DODD):

S. 1928. A bill to amend the Truth in Lending Act to protect consumers against predatory practices in connection with high cost mortgage transactions, to strengthen the civil remedies available to consumers under existing law, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

Mr. SARBANES. Mr. President, in July of 2001, and continuing through January of the following year, the Committee on Banking, Housing, and Urban Affairs held a series of hearings to shine a bright light on the deceptive and destructive practices of predatory mortgage lenders. At those hearings, the Committee heard from housing experts, community groups, legal advocates, industry representatives and victims of predatory lending in an effort to determine how best to address this terrible problem. Today, I am introducing legislation, the ''Predatory Lending Consumer Protection Act of 2003,'' along with a number of my colleagues, that would begin to address the problems that came to light in those hearings.

Homeownership is the American Dream. Indeed, the Committee has already passed legislation this year that would authorize a new $200 million downpayment assistance program to ensure that more people can achieve this goal.

We have taken this step because homeownership is the best opportunity for most Americans to put down roots and start creating equity for themselves and their families. Homeownership has been the path to building wealth for generations of Americans, wealth that can be tapped to send children to college, pay for a secure retirement, or simply work as a reserve against unexpected emergencies. It has been the key to ensuring stable communities, good schools, and safe streets. Common sense tells us, and the evidence confirms, that homeowners are more engaged citizens and more active in their communities.

Little wonder, then, that so many Americans, young and old, aspire to achieve this dream.

Unhappily, predatory lenders cynically play on these hopes and dreams to cheat people out of their wealth. These lenders target lower income, elderly, and, often, uneducated homeowners for their abusive practices. Study after study has shown that predatory lenders also target minorities, driving a wedge between these families and the hope of a productive life in the economic and financial mainstream of America.

We owe it to these hardworking families to provide protections against these unscrupulous players.

Let me share with you one of the stories we heard at our hearings. Mary Ann Podelco, a widowed waitress from West Virginia, used $19,000 from her husband's life insurance to pay off the balance on her mortgage, thus owning her home free and clear. Before her husband's death, she had never had a checking account or a credit card. She then took out a $11,921 loan for repairs. At the time, her monthly income from Social Security was $458, and her loan payments were more than half this amount. Ms. Podelco, who has a sixth grade education, testified that after her first refinancing, ''I began getting calls from people trying to refinance my mortgage all hours of the day and night.'' Within 2 years, having been advised to refinance seven times—each time seeing high points and fees being financed into her new loan—she owed $64,000, and lost her home to foreclosure.

Ms. Podelco's story is all too typical. Unfortunately, most of the sharp practices used by unscrupulous lenders and brokers, while unethical and clearly abusive, are not illegal. This bill is designed to address that problem by tightening the interest rate and fee triggers that define high cost loans; the bill improves protections for borrowers receiving such loans by prohibiting the financing of exorbitant fees, ''packing'' in of unnecessary and costly products, such as single premium credit insurance, and limiting prepayment penalties. Finally, it protects these consumers' rights to seek redress by prohibiting mandatory arbitration, as the Federal Trade Commission (FTC) proposed unanimously in 2000.We often hear about the importance of improved enforcement as a way to combat this

problem. As the FTC pointed out, mandatory arbitration prevents homeowners from exercising any of their rights to enforce existing law.

We cannot extol the virtues of homeownership, as we so often do, without seeking at the same time to preserve this benefit for so many elderly, minority, and unsophisticated Americans who are the targets of unscrupulous lenders and brokers. This legislation will help achieve this important goal. This bill has been endorsed by the Leadership Conference on Civil Rights, the U.S. Conference of Mayors, the National Council of La Raza, the National Consumer Law Center, ACORN, National Consumer Reinvestment Coalition, Consumer Federation of America, the NAACP, the Self-Help Credit Union, the National Association of Local Housing Finance Agencies, the National Community Development Association, the National Association of Consumer Advocates, and the National League of Cities, among others.

Mr. President, 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. 1928

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 ''Predatory Lending Consumer Protection Act of 2003''.

SEC. 2. TRUTH IN LENDING ACT DEFINITIONS.

(a) HIGH COST MORTGAGES.—

(1) IN GENERAL.—The portion of section 103(aa) of the Truth in Lending Act (15 U.S.C. 1602(aa)) that precedes paragraph (2) is amended to read as follows:

''(aa) MORTGAGE REFERRED TO IN THIS SUBSECTION.—

''(1) DEFINITION.—

''(A) IN GENERAL.—A mortgage referred to in this subsection means a consumer credit transaction—

''(i) that is secured by the principal dwelling of the consumer, other than a reverse mortgage transaction; and

''(ii) the terms of which provide that—

''(I) the transaction is secured by a first mortgage on the principal dwelling of the consumer, and the annual percentage rate on the credit, at the consummation of the transaction, will exceed by more than 6 percentage points the yield on Treasury securities having comparable periods of maturity on the 15th day of the month immediately preceding the month in which the application for the extension of credit is received by the creditor;

''(II) the transaction is secured by a junior or subordinate mortgage on the principal dwelling of the consumer, and the annual percentage rate on the credit, at the consummation of the transaction, will exceed by more than 8 percentage points the yield on Treasury securities having comparable periods of maturity on the 15th day of the month immediately preceding the month in which the application for the extension of credit is received by the creditor; or

''(III) the total points and fees payable on the transaction will exceed the greater of 5 percent of the total loan amount, or $1,000, excluding not more than 2 bona fide discount points.

''(B) INTRODUCTORY RATES NOT TAKEN INTO ACCOUNT.—For purposes of subparagraph (A)(ii), the annual percentage rate of interest shall be determined—

''(i) in the case of a fixed-rate loan in which the annual percentage rate will not vary during the term of the loan, as the rate in effect on the date of consummation of the transaction;

''(ii) in the case of a loan in which the rate of interest varies according to an index, or is less than the rate of interest which will apply after the end of an initial or introductory period, by adding the index rate in effect on the date of consummation of the transaction to the maximum margin permitted at any time during the loan agreement; and

''(iii) in the case of any other loan in which the rate may vary at any time during the term of the loan for any reason, by including in the finance charge component of the annual percentage rate—

''(I) the interest charged on the loan at the maximum rate that may be charged during the term of the loan; and

''(II) any other applicable charges that would otherwise be included in accordance with section 106.''.

(2) TECHNICAL AND CONFORMING AMENDMENT.—Section 103(aa)(2) of the Truth in Lending Act (15 U.S.C. 1602(aa)(2)) is amended—

(A) by striking subparagraph (B); and

(B) by redesignating subparagraph (C) as subparagraph (B).

(b) POINTS AND FEES.—Section 103(aa)(4) of the Truth in Lending Act (15 U.S.C. 1602(aa)(4)) is amended—

(1) by striking subparagraph (B) and inserting the following:

''(B) all compensation paid directly or indirectly by a consumer or a creditor to a mortgage broker;'';

(2) by redesignating subparagraph (D) as subparagraph (G); and

(3) by striking subparagraph (C) and inserting the following:

''(C) each of the charges listed in section 106(e) (except an escrow for future payment of taxes and insurance);

''(D) the cost of all premiums financed by the lender, directly or indirectly, for any credit life, credit disability, credit unemployment or credit property insurance, or any other life or health insurance, or any payments financed by the lender, directly or indirectly, for any debt cancellation or suspension agreement or contract, except that, for purposes of this subparagraph, insurance premiums or debt cancellation or suspension fees calculated and paid on a monthly basis shall not be considered financed by the lender;

''(E) the maximum prepayment penalties that may be charged or collected under the terms of the loan documents;

''(F) all prepayment fees or penalties that are charged to the borrower if the loan refinances a previous loan made by the same creditor or an affiliate of that creditor; and''.

(c) HIGH COST MORTGAGE LENDER.—Section 103(f) of the Truth in Lending Act (15 U.S.C. 1602(f)) is amended by striking the last sentence and inserting ''Any person who originates 2 or more mortgages referred to in subsection (aa) in any 12-month period, any person who originates 1 or more such mortgages through a mortgage broker or acted as a mortgage broker between originators and consumers on more than 5 mortgages referred to in subsection (aa) within the preceding 12-month period, and any creditor-affiliated party shall be considered to be a creditor for purposes of this title.''.

(d) BONA FIDE DISCOUNT POINTS AND BENCHMARK RATE DEFINED.—Section 103 of the Truth in Lending Act (15 U.S.C. 1602) is amended by adding at the end the following:

''(cc) OTHER INTEREST RATE RELATED TERMS.—

''(1) BENCHMARK RATE.—The term 'benchmark rate' means an interest rate that the borrower may reduce by paying bona fide discount points, not to exceed the weekly average yield of United States Treasury securities having a maturity of 5 years, on the 15th day of the month immediately preceding the month in which the loan is made, plus 5 percentage points.

''(2) BONA FIDE DISCOUNT POINTS.—The term 'bona fide discount points' means loan discount points which are—

''(A) knowingly paid by the borrower;

''(B) paid for the express purpose of lowering the benchmark rate;

''(C) in fact reducing the interest rate or time-price differential applicable to the loan from an interest rate which does not exceed the benchmark rate; and

''(D) recouped within the first 4 years of the scheduled loan payments.

''(3) RECOUPMENT.—For purposes of paragraph (2)(D), loan discount points shall be considered to be recouped within the first 4 years of the scheduled loan payments if the reduction in the interest rate that is achieved by the payment of the loan discount points reduces the interest charged on the scheduled payments, such that the dollar amount of savings in payments made by the borrower over the first 4 years is equal to or exceeds the dollar amount of loan discount points paid by the borrower.''.

SEC. 3. AMENDMENTS TO EXISTING REQUIREMENTS FOR HIGH COST CONSUMER MORTGAGES.

(a) ADDITIONAL DISCLOSURES.—Section 129(a)(1) of the Truth in Lending Act (15 U.S.C. 1639(a)(1)) is amended by adding at the end the following:

''(C) 'The interest rate on this loan is much higher than most people pay. This means the chance that you will lose your home is much higher if you do not make all payments under the loan.'.

''(D) 'You may be able to get a loan with a much lower interest rate. Before you sign any papers, you have the right to go see a housing or consumer credit counseling agency, as well as to consult other lenders to find ways to get a cheaper loan.'.

''(E) 'If you are taking out this loan to repay other loans, look to see how many months it will take to pay for this loan and what the total amount is that you will have to pay before this loan is repaid. Even though the total amount you will have to pay each month for this loan may be less than the total amount you are paying each month for those other loans, you may have to pay on this loan for many more months than those other loans which will cost you more money in the end.' ''.

(b) PREPAYMENT PENALTY PROVISIONS.—Section 129(c) of the Truth in Lending Act (15 U.S.C. 1639(c)) is amended to read as follows:

''(c) PREPAYMENT PENALTY PROVISIONS.—

''(1) NO PREPAYMENT PENALTIES AFTER END OF 24-MONTH PERIOD.—A mortgage referred to in section 103(aa) may not contain terms under which a consumer must pay any prepayment penalty for any payment made after the end of the 24-month period beginning on the date the mortgage is consummated.

''(2) NO PREPAYMENT PENALTIES IF MORE THAN 3 PERCENT OF POINTS AND FEES WERE FINANCED.—Subject to subsection (l)(1), a mortgage referred to in section 103(aa) may not contain terms under which a consumer must pay any prepayment penalty for any payment made at or before the end of the 24-month period referred to in paragraph (1) if

the creditor financed points or fees in connection with the consumer credit transaction in an amount equal to or greater than 3 percent of the total amount of credit extended in the transaction.

''(3) LIMITED PREPAYMENT PENALTY FOR EARLY REPAYMENT UNDER CERTAIN CIRCUMSTANCES.—Subject to paragraph (2), the terms of a mortgage referred to in section 103(aa) may contain terms under which a consumer must pay a prepayment penalty for any payment made at or before the end of the 24-month period referred to in paragraph (1) to the extent that the sum of the total amount of points or fees financed by the creditor, if any, in connection with the consumer credit transaction and the total amount payable as a prepayment penalty does not exceed the amount which is equal to 3 percent of the total amount of credit extended in the transaction.

''(4) CONSTRUCTION.—For purposes of this subsection, any method of computing a refund of unearned scheduled interest is a prepayment penalty if it is less favorable to the consumer than the actuarial method (as that term is defined in section 933(d) of the Housing and Community Development Act of 1992).

''(5) PREPAYMENT PENALTY DEFINED.—The term 'prepayment penalty' means any monetary penalty imposed on a consumer for paying all or part of the principal with respect to a consumer credit transaction before the date on which the principal is due.''.

(c) ALL BALLOON PAYMENTS PROHIBITED.—Section 129(e) of the Truth in Lending Act (15 U.S.C. 1639(e)) is amended by striking ''having a term of less than 5 years''.

(d) ASSESSMENT OF ABILITY TO REPAY.—Section 129(h) of the Truth in Lending Act (15 U.S.C. 1639(h)) is amended—

(1) by striking ''CONSUMER.—A creditor'' and inserting ''CONSUMER.—

''(1) PROHIBITION ON PATTERNS AND PRACTICES.—A creditor''; and

(2) by adding at the end the following:

''(2) CASE-BY-CASE ASSESSMENTS OF CONSUMER ABILITY TO PAY REQUIRED.—

''(A) IN GENERAL.—In addition to the prohibition in paragraph (1) on engaging in certain patterns and practices, a creditor may not extend any credit in connection with any mortgage referred to in section 103(aa) unless the creditor has determined, at the time such credit is extended, that 1 or more of the resident obligors, when considered individually and collectively, will be able to make the scheduled payments under the terms of the transaction based on a consideration of the current and expected income, current obligations, employment status, and other financial resources of any such obligor, without taking into account any equity of any such obligor in the dwelling which is the security for the credit.

''(B) REGULATIONS.—The Board shall prescribe, by regulation, the appropriate format for determining the ability of a consumer to make payments and the criteria to be considered in making that determination.

''(C) RESIDENT OBLIGOR.—For purposes of this paragraph, the term 'resident obligor' means an obligor for whom the dwelling securing the extension of credit is, or upon the consummation of the transaction will be, the principal residence.

''(3) VERIFICATION.—The requirements of paragraphs (1) and (2) shall not be deemed to have been met unless any information relied upon by the creditor for purposes of any such paragraph has been verified by the creditor independently of information provided by any resident obligor.''.

(e) REQUIREMENTS RELATING TO HOME IMPROVEMENT CONTRACTS.—Section 129(i) of the Truth in Lending Act (15 U.S.C. 1639(i)) is amended—

(1) by striking ''IMPROVEMENT CONTRACTS.—A creditor'' and inserting ''IMPROVEMENT CONTRACTS.—

''(1) IN GENERAL.—A creditor''; and

(2) by adding at the end the following:

''(2) AFFIRMATIVE CLAIMS AND DEFENSES.—Notwithstanding any other provision of law, any assignee or holder, in any capacity, of a mortgage referred to in section 103(aa) which was made, arranged, or assigned by a person financing home improvements to the dwelling of a consumer shall be subject to all affirmative claims and defenses which the consumer may have against the seller, home improvement contractor, broker, or creditor with respect to such mortgage or home improvements.''.

(f) CLARIFICATION OF RESCISSION RIGHTS.—Section 129(j) of the Truth in Lending Act (15 U.S.C. 1639(j)) is amended to read as follows:

''(j) CONSEQUENCE OF FAILURE TO COMPLY.—

''(1) IN GENERAL.—The consummation of a consumer credit transaction resulting in a mortgage referred to in section 103(aa) shall be treated as a failure to deliver the material disclosures required under this title for the purpose of section 125, if—

''(A) the mortgage contains a provision prohibited by this section or does not contain a provision required by this section; or

''(B) a creditor or other person fails to comply with the provisions of this section, whether by an act or omission, with regard to such mortgage at any time.

''(2) RULE OF APPLICATION.—In any application of section 125 to a mortgage described in section 103(aa) under circumstances described in paragraph (1), paragraphs (2) and (4) of section 125(e) shall not apply or be taken into account.''.

SEC. 4. ADDITIONAL REQUIREMENTS FOR HIGH COST CONSUMER MORTGAGES.

(a) SINGLE PREMIUM CREDIT INSURANCE.—Section 129 of the Truth in Lending Act (15 U.S.C. 1639) is amended—

(1) by redesignating subsections (k) and (l) as subsections (s) and (t), respectively; and

(2) by inserting after subsection (j), the following:

''(k) SINGLE PREMIUM CREDIT INSURANCE.—

''(1) IN GENERAL.—The terms of a mortgage referred to in section 103(aa) may not require, and no creditor or other person may require or allow in connection with any such mortgage, whether paid directly by the consumer or financed by the consumer through such mortgage—

''(A) the advance collection of a premium, on a single premium basis, for any credit life, credit disability, credit unemployment, or credit property insurance, and any analogous product; or

''(B) the advance collection of a fee for any debt cancellation or suspension agreement or contract.

''(2) RULE OF CONSTRUCTION.—Paragraph (1) shall not be construed as affecting the right of a creditor to collect premium payments on insurance or debt cancellation or suspension fees referred to in paragraph (1) that are calculated and paid on a regular monthly basis, if the insurance transaction is conducted separately from the mortgage transaction, the insurance may be canceled by the consumer at any time, and the insurance policy is automatically canceled upon repayment or other termination of the mortgage referred to in paragraph (1).''.

(b) RESTRICTION ON FINANCING POINTS AND FEES.—Section 129 of the Truth in Lending Act (15 U.S.C. 1639) is amended by inserting after subsection (k) (as added by subsection (a) of this section) the following:

''(l) RESTRICTION ON FINANCING POINTS AND FEES.—

''(1) LIMIT ON AMOUNT OF POINTS AND FEES THAT MAY BE FINANCED.—Subject to paragraphs (2) and (3) of subsection (c), no creditor may, in connection with the formation or consummation of a mortgage referred to in section 103(aa), finance, directly or indirectly, any portion of the points, fees, or other charges payable to the creditor or any third party in an amount in excess of the greater of 3 percent of the total loan amount or $600.

''(2) PROHIBITION ON FINANCING CERTAIN POINTS, FEES, OR CHARGES.—No creditor may, in connection with the formation or consummation of a mortgage referred to in section 103(aa), finance, directly or indirectly, any of the following fees or other charges payable to the creditor or any third party:

''(A) Any prepayment fee or penalty required to be paid by the consumer in connection with a loan or other extension of credit which is being refinanced by such mortgage if the creditor, with respect to such mortgage, or any affiliate of the creditor, is the creditor with respect to the loan or other extension of credit being refinanced.

''(B) Any points, fees, or other charges required to be paid by the consumer in connection with such mortgage if—

''(i) the mortgage is being entered into in order to refinance an existing mortgage of the consumer that is referred to in section 103(aa); and

''(ii) if the creditor, with respect to such new mortgage, or any affiliate of the creditor, is the creditor with respect to the existing mortgage which is being refinanced.''.

(c) CREDITOR CALL PROVISION.—Section 129 of the Truth in Lending Act (15 U.S.C. 1639) is amended by inserting after subsection (l) (as added by subsection (b) of this section) the following:

''(m) CREDITOR CALL PROVISION.—

''(1) IN GENERAL.—A mortgage referred to in section 103(aa) may not include terms under which the indebtedness may be accelerated by the creditor, in the sole discretion of the creditor.

''(2) EXCEPTION.—Paragraph (1) shall not apply when repayment of the loan has been accelerated as a result of a bona fide default.''.

(d) PROHIBITION ON ACTIONS ENCOURAGING DEFAULT.—Section 129 of the Truth in Lending Act (15 U.S.C. 1639) is amended by inserting after subsection (m) (as added by subsection (c) of this section) the following:

''(n) PROHIBITION ON ACTIONS ENCOURAGING DEFAULT.—No creditor may make any statement, take any action, or fail to take any action before or in connection with the formation or consummation of any mortgage referred to in section 103(aa) to refinance all or any portion of an existing loan or other extension of credit, if the statement, action, or failure to act has the effect of encouraging or recommending the consumer to default on the existing loan or other extension of credit at any time before, or in connection with, the closing or any scheduled closing on such mortgage.''.

(e) MODIFICATION OR DEFERRAL FEES.—Section 129 of the Truth in Lending Act (15 U.S.C. 1639) is amended by inserting after subsection (n) (as added by subsection (d) of this section) the following:

''(o) MODIFICATION OR DEFERRAL FEES.—

''(1) IN GENERAL.—Except as provided in paragraph (2), a creditor may not charge any consumer with respect to a mortgage referred to in section 103(aa) any fee or other charge—

''(A) to modify, renew, extend, or amend such mortgage, or any provision of the terms of the mortgage; or

''(B) to defer any payment otherwise due under the terms of the mortgage.

''(2) EXCEPTION FOR MODIFICATIONS FOR THE BENEFIT OF THE CONSUMER.—Paragraph (1) shall not apply with respect to any fee imposed in connection with any action described in subparagraph (A) or (B) if—

''(A) the action provides a material benefit to the consumer; and

''(B) the amount of the fee or charge does not exceed—

''(i) an amount equal to 0.5 percent of the total loan amount; or

''(ii) in any case in which the total loan amount of the mortgage does not exceed $60,000, an amount in excess of $300.''.

(f) CONSUMER COUNSELING REQUIREMENTS.—Section 129 of the Truth in Lending Act (15 U.S.C. 1639) is amended by inserting after subsection (o) (as added by subsection (e) of this section) the following:

''(p) CONSUMER COUNSELING REQUIREMENT.—

''(1) IN GENERAL.—A creditor may not extend any credit in the form of a mortgage referred to in section 103(aa) to any consumer, unless the creditor has provided to the consumer, at such time before the consummation of the mortgage and in such manner as the Board shall provide by regulation—

''(A) all warnings and disclosures regarding the risks of the mortgage to the consumer;

''(B) a separate written statement recommending that the consumer take advantage of available home ownership or credit counseling services before agreeing to the terms of any mortgage referred to in section 103(aa); and

''(C) a written statement containing the names, addresses, and telephone numbers of counseling agencies or programs reasonably available to the consumer that have been certified or approved by the Secretary of Housing and Urban Development, a State housing finance authority (as defined in section 1301 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989), or the agency referred to in subsection (a) or (c) of section 108 with jurisdiction over the creditor as qualified to provide counseling on—

''(i) the advisability of a high cost loan transaction; and

''(ii) the appropriateness of a high cost loan for the consumer.

''(2) COMPLETE AND UPDATED LISTS REQUIRED.—Any failure to provide as complete or updated a list under paragraph (1)(C) as is reasonably possible shall constitute a violation of this section.''.

(g) ARBITRATION.—Section 129 of the Truth in Lending Act (15 U.S.C. 1639) is amended by inserting after subsection (p) (as added by subsection (f) of this section) the following:

''(q) ARBITRATION.—

''(1) IN GENERAL.—A mortgage referred to in section 103(aa) may not include terms which require arbitration or any other nonjudicial procedure as the method for resolving any controversy or settling any claims arising out of the transaction.

''(2) POST-CONTROVERSY AGREEMENTS.—Subject to paragraph (3), paragraph (1) shall not be construed as limiting the right of the consumer and the creditor to agree to arbitration or any other nonjudicial procedure as the method for resolving any controversy at any time after a dispute or claim under the transaction arises.

''(3) NO WAIVER OF STATUTORY CAUSE OF ACTION.—No provision of any mortgage referred to in section 103(aa) or any agreement between the consumer and the creditor shall be applied or interpreted so as to bar a consumer from bringing an action in an appropriate district court of the United States, or any other court of competent jurisdiction, pursuant to section 130 or any other provision of law, for damages or other relief in connection with any alleged violation of this section, any other provision of this title, or any other Federal law.''.

(h) PROHIBITION ON EVASIONS.—Section 129 of the Truth in Lending Act (15 U.S.C. 1639) is amended by inserting after subsection (q) (as added by subsection (g) of this section) the following:

''(r) PROHIBITIONS ON EVASIONS, STRUCTURING OF TRANSACTIONS, AND RECIPROCAL ARRANGEMENTS.—

''(1) IN GENERAL.—A creditor may not take any action—

''(A) for the purpose or with the intent to circumvent or evade any requirement of this title, including entering into a reciprocal arrangement with any other creditor or affiliate of another creditor or dividing a transaction into separate parts, for the purpose of evading or circumventing any such requirement; or

''(B) with regard to any other loan or extension of credit for the purpose or with the intent to evade the requirements of this title, including structuring or restructuring a consumer credit transaction as another form of loan, such as a business loan.

''(2) OTHER ACTIONS.—In addition to the actions prohibited under paragraph (1), a creditor may not take any action which the Board determines, by regulation, constitutes a bad faith effort to evade or circumvent any requirement of this section with regard to a consumer credit transaction.

''(3) REGULATIONS.—The Board shall prescribe such regulations as the Board determines to be appropriate to prevent circumvention or evasion of the requirements of this section or to facilitate compliance with the requirements of this section.''.

SEC. 5. AMENDMENTS RELATING TO RIGHT OF RESCISSION.

(a) TIMING OF WAIVER BY CONSUMER.—Section 125(a) of the Truth in Lending Act (15 U.S.C. 1635(a)) is amended—

(1) by striking ''(a) Except as otherwise provided'' and inserting ''(a) RIGHT ESTABLISHED.—

''(1) IN GENERAL.—Except as otherwise provided''; and

(2) by adding at the end the following:

''(2) TIMING OF ELECTION OF WAIVER BY CONSUMER.—No election by a consumer to waive the right established under paragraph (1) to rescind a transaction shall be effective if—

''(A) the waiver was required by the creditor as a condition for the transaction;

''(B) the creditor advised or encouraged the consumer to waive such right of the consumer; or

''(C) the creditor had any discussion with the consumer about a waiver of such right during the period beginning when the consumer provides written acknowledgement of the receipt of the disclosures and the delivery of forms and information required to be provided to the consumer under paragraph (1) and ending at such time as the Board determines, by regulation, to be appropriate.''.

(b) NONCOMPLIANCE WITH REQUIREMENTS AS RECOUPMENT IN FORECLOSURE PROCEEDING.—Section 130(e) of the Truth in Lending Act (15 U.S.C. 1640(e)) is amended by inserting after the second sentence the following: ''This subsection also does not bar a person from asserting a rescission under section 125, in an action to collect the debt as a defense to a judicial or nonjudicial foreclosure after the expiration of the time periods for affirmative actions set forth in this section and section 125.''.

SEC. 6. AMENDMENTS TO CIVIL LIABILITY PROVISIONS.

(a) INCREASE IN AMOUNT OF CIVIL MONEY PENALTIES FOR CERTAIN VIOLATIONS.—Section 130(a) of the Truth in Lending Act (15 U.S.C. 1640(a)) is amended—

(1) in paragraph (2)(A)(iii), by striking ''$2,000'' and inserting ''$10,000''; and

(2) in paragraph (2)(B), by striking ''lesser of $500,000 or 1 percentum of the net worth of the creditor'' and inserting ''the greater of—

''(i) the amount determined by multiplying the maximum amount of liability under subparagraph (A) for such failure to comply in an individual action by the number of members in the certified class; or

''(ii) the amount equal to 2 percent of the net worth of the creditor.''.

(b) STATUTE OF LIMITATIONS EXTENDED FOR SECTION 129 VIOLATIONS.—Section 130(e) of the Truth in Lending Act (15 U.S.C. 1640(e)) (as amended by section 5(b) of this Act) is amended—

(1) in the first sentence, by striking ''Any action'' and inserting ''Except as provided in the subsequent sentence, any action''; and

(2) by inserting after the first sentence the following: ''Any action under this section with respect to any violation of section 129 may be brought in any United States district court, or in any other court of competent jurisdiction, before the end of the 3-year period beginning on the date of the occurrence of the violation.''.

SEC. 7. AMENDMENT TO FAIR CREDIT REPORTING ACT.

Section 623 of the Fair Credit Reporting Act (15 U.S.C. 1681s–2) is amended by adding at the end the following:

''(e) DUTY OF CREDITORS WITH RESPECT TO HIGH COST MORTGAGES.—

''(1) IN GENERAL.—Each creditor who enters into a consumer credit transaction which is a mortgage referred to in section 103(aa), and each successor to such creditor with respect to such transaction, shall report the complete payment history, favorable and unfavorable, of the obligor with respect to such transaction to a consumer reporting agency that compiles and maintains files on consumers on a nationwide basis at least quarterly, or more frequently as required by regulation or in guidelines established by participants in the secondary mortgage market, while such transaction is in effect.

''(2) DEFINITIONS.—For purposes of paragraph (1), the term 'credit' and 'creditor' have the same meanings as in section 103 of the Truth in Lending Act (15 U.S.C. 1602).''.

SEC. 8. REGULATIONS.

The Board of Governors of the Federal Reserve System shall publish regulations implementing this Act and the amendments made by this Act in final form before the end of the 6-month period beginning on the date of enactment of this Act.

By Mr. BROWNBACK (for himself, Mr. ENSIGN, Mr. ENZI, Mr. HAGEL, Mr. INHOFE, Mr. NICKLES, Mr. SANTORUM, and Mr. SESSIONS):

S. 1930. A bill to provide that the approved application under the Federal Food, Drug and Cosmetic Act for the drug commonly known as RU–486 is deemed to have been withdrawn, to provide for the review by the Comptroller General of the United States of the process by which the Food and Drug Administration approved such drug, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. BROWNBACK. Mr. President, I rise today to introduce a very important piece of legislation, the RU–486 Suspension and Review Act of 2003. The abortion drug RU–486 increases in infamy as its lethal nature continues to reveal itself. As my colleagues may remember, in September, RU–486 claimed two more lives, one of whom was an 18-year-old woman. Holly Patterson, a resident of the San Francisco suburb of Livermore, died from an infection caused by fragments of her baby left in

her uterus after she was administered RU–486 at a Planned Parenthood facility. This tragedy underscores the dangerous nature of this drug.

The available data from the U.S. trials of RU–486 raises serious questions in my mind as to whether or not this drug truly is ''safe'' for the women who use it. Women who participated in the U.S. trials of this drug were carefully screened, and only those who were in the most physically ideal condition were accepted. Even so, among these physically ideal participants, troubling results emerged. Two-percent of the women participating hemorrhaged; one-percent had to be hospitalized; several others required surgery to stop the bleeding—some of whom needed blood transfusions; and one woman in Iowa, after losing between one-half to two-thirds of her total blood volume, would have died if she had not undergone emergency surgery. If these side-effects occurred in the most physically ideal candidates, what about those who are not in the physically ideal category? Is this drug ''safe'' for women? I believe medical results suggest it is not.

The bill I am introducing today will require the suspension of the Food and Drug Administration's approval of RU–486. Following this suspension, the General Accounting Office is directed to review the process the FDA used to approve RU–486 and to determine whether the FDA followed its own guidelines. If it is determined that the FDA violated its guidelines, RU–486 will be suspended indefinitely. Monty and Helen Patterson, the parents of Holly Patterson, have expressed their firm support for this legislation and have requested that it be known as ''Holly's Law'' in honor of their daughter whose life was prematurely ended. I ask that their open letter on this subject be printed in the RECORD.

The Food and Drug Administration should not have authorized this dangerous drug. RU–486 is perilous both to the baby and to the woman who uses it. I urgently call on my colleagues in this Chamber to support ''Holly's Law'' to prevent more unnecessary deaths.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

LIVERMORE, CA,
November 20, 2003.

DEAR SIR OR MADAM: The Alameda County Coroner's report has validated what we already believed to be true. Holly has died from an RU–486 chemical induced abortion. There are no quick fixes for a pregnancy or magical pills that will make it go away. Our family, friends and community are all deeply saddened and forever marred by Holly's tragic and preventable death.

Holly lived as an adult by law for only 19 days, yet she became pregnant when she was just 17 years old. We now know that she learned about her pregnancy in the second week of August and was so distraught over her unplanned pregnancy that she sought help for depression from her family doctor on September 10, 2003—the very day that she began the drug induced abortion process.

Holly was a strong, healthy, intelligent and ambitious teenager who fell victim of a process that wholly failed her, beginning with the 24-year-old man who had unprotected sex with her, impregnated her, and then proceeded to facilitate the secrecy that surrounded her pregnancy and abortion. Under this conspiracy of silence, Holly suffered and depended on the safety of the FDA approved pill administered by Planned Parenthood and emergency room treatment by Valley Care Medical Center where she received pain killers for severe cramping and was sent home. On Saturday and Sunday, Holly cried and complained of severe cramping and constipation, and even allowed us to comfort her but could not tell us what she was really going through. On September 17, 2003, she succumbed to septic shock and died while many members of our family waited anxiously, yet expectantly in the Critical Care Unit for her to recover until we were forced behind the curtain when it was clear that she was dying.

And in those last moments of her life feeling utter disbelief and desperation we formed a circle just beyond the curtain and prayed aloud, cried and screamed, ''We love you, Holly'' hoping beyond hope that those words would ring out and save her life. And the other members of our family who drove and flew from all over the country to be by her side did not make it in time to say, ''I love you'' just one last time. Holly was not alone, unloved, unprotected or unsupported; she had a large family who willingly supported her throughout her short life and tragic death.

In the weeks since we buried Holly's body we are now able to recall and share the memories of our daughter's brilliant blue eyes, engaging smile, laughter, unwavering determination and sheer gentle beauty that invoked our natural instinct to protect and love her, but we will never be able to forget those last moments of her life when she was too weak to talk and could barely squeeze our hands in acknowledgement of our words of encouragement. ''We love you, Holly'', ''Just hang in there, the whole family is coming,'' ''You fight this Holly, you can do it.''

Because Holly has died this way, we have educated ourselves about the grave dangers of this drug, become conscious of the current lack of parental notification/consent laws in California and now recognize the critical need for accurate, impartial sources of information and resources for parents, teenagers and young women who want to learn about the real dangers and risks of unplanned pregnancy and abortion and the dire need for a national movement to encourage prevention and open dialogue in the home about unplanned pregnancy and abortion.

We will actively support ''Holly's Law'' in Congress by Reps. DeMint, Bartlett and Senator Brownback to suspend and review the abortion drug RU–486, the Tell-A-Parent (TAP) bill, which requires parental notification laws in California and a campaign to encourage prevention and open dialogue about unplanned pregnancy and abortion in the home.

As parents, we cannot allow our beautiful Holly's horrible death to be in vain. RU–486 has caused serious injury and has been implicated in the deaths of other young women. Now it has killed our daughter. We have learned that the initial trials were rushed and the drug was lumped in and approved with drugs designed for life threatening illnesses such as cancer and AIDS. Pregnancy is a natural process that a woman's body is designed to support and has never been classified as a life threatening illness. We need help to develop a website and provide a place for teenagers and women to report their stories and testimonials of their experience on the serious and adverse affects using RU–486.

The FDA has failed to carry out its mission of ensuring RU–486 is a safe and effective abortion drug regimen. According to the FDA, it is ''responsible for protecting the public health by assuring the safety, efficacy, and security of human and veterinary drugs, biological products, medical devices, our nation's food supply, cosmetics, and products that emit radiation.'' Holly has already paid the ultimate price. The RU–486 abortion drug should not be either a Pro Life or Pro Choice issue. The most primary concern here must be the health and welfare of our children and young women. Hopefully, all parents can learn from Holly's horrible death and our loss.

According to Danco Laboratories, the abortion drug's distributor, the RU–486 regimen fails to work 7–8 percent of the time. Over a year ago the FDA received 400 reports of adverse reactions to the drug including several deaths.

Holly is yet another victim who was subject to an unacceptable risk to a drug that has a significant failure rate. And we demand that FDA Commissioner Mark McClellan and Health and Human services Secretary, Tommy Thompson take RU–486 off the market immediately pending an extensive investigation by the Comptroller General of the United States before more parents suffer and women die.

We respectfully request the name of the bill that is to be presented to the House of Representatives, an Act as the ''[RU–486 Approval and Review Act of 2003]'' to be known as ''Holly's Law.'' With actively support a bill that halts the use of the drug that took Holly's young life.

We demand an investigation by the FDA and the California State Health Department as to why abortion clinics like Planned Parenthood are not following FDA approved regulations to administer the drug. We question the purity of the drugs they administer, especially when they are made in foreign countries, such as China.

In addition to the dangers of this drug and its administration, we believe that health care providers such as Valley Medical Center don't appear to be fully prepared to evaluate and treat patients with RU–486 complications in emergency situations. Holly was in the hospital twice and died within 20 minutes before her follow up appointment with Planned Parenthood.

FDA Commissioner Mark McClellan and Health and Human Services Secretary, Tommy Thompson should now have enough evidence to pull this drug from the market. How many more teenagers and young women will have to pay the price with their health or with their life, before the FDA decides to act?

Currently in California, teenage girls under the age of 18 can't get their ears pierced or go on a school trip, but they can have a medical or surgical abortion without parental knowledge or consent. This prevents parents from being able to talk to their children about a pregnancy that would allow them to keep a baby or to be able to follow the abortion process.

The first line of defense for a child is a parent. Kids wouldn't be walking into clinics under a veil of secrey if parents were notified first hand where they could talk to their children about abortion risks. We have now learned that Holly first sought a pregnancy test in the months leading up to her pregnancy while she was still 17 years old. We know now that a parental notification law would have brought Holly's activity to our attention and her needless death could have been prevented if we had been aware and intervened.

We actively support the Tell-A-Parent (TAP) ballot initative sponsored by Life on

The Ballot www.LifeontheBallot.org. With enough petitions, this initiative will be on the 2004 ballot and requires parental notification 48 hours prior to an abortion in California. As parents, we are concerned about the health and welfare of all daughters; we are ''Pro Holly'' and look to our California Senators Barbara Boxer and Dianne Feinstein to support this initiative for the safety and protection of all young women in California.

Finally, we have suffered greatly with the realization that it's not enough to avoid the issue or talk to our children about why we don't want them to be involved in an unplanned pregnancy or abortion, but as parents, we must also talk about the tragic realities of unwanted pregnancy and abortion and reassure both, our daughters and sons that while we don't want this to happen, we will support them. We must focus on prevention and they must be told that they are not alone in this or any other unfortunate circumstances, regardless of the outcome.

We feel strongly that this country needs a national campaign to promote open and frank discussions in the home about unplanned pregnancy and the options that are available to our daughters who find themselves in this unfortunate predicament. We are eager to support such a campaign designed to bring about awareness, encourage parental involvement, and provide accurate information to minors, women, and parents about abstinence, birth control, unplanned pregnancy, abortion, parenting, and adoption options.

While parents would prefer that their daughters abstain from sex and many do, we must deal with the reality that many don't. In addition to unplanned pregnancy, girls can contract HIV and other STIs. As parents we need to prevent unplanned pregnancy instead of relying upon abortion clinics and agencies to educate our children and provide them with inaccurate information. No parent wants to see his or her teenage or college age daughter in the unfortunate situation that Holly was faced with.

We have lost our daughter, Holly, but we can still help to prevent this terrible tragedy from happening in other families. Holly's drive and determination to accomplish her goals gives us strength to pursue these critical issues in her name. Holly's memory and light will live on in our hearts, family, friends and our work. We will actively support the bill to suspend and review ''Holly's Law'' in Congress by Reps. DeMint and Bartlett and Senator Brownback to suspend and review the abortion drug RU–486, the Tell-A-Parent (TAP) bill, which requires parental notification laws in California and a campaign to encourage prevention and open dialogue about unplanned pregnancy and abortion in the home. Please contact us with any questions or requests for support of these very important issues.

Sincerely,

MONTY AND HELEN PATTERSON.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 271—URGING THE PRESIDENT AND THE UNITED STATES DIPLOMATIC CORPS TO DISSUADE MEMBER STATES OF THE UNITED NATIONS FROM SUPPORTING RESOLUTIONS THAT UNFAIRLY CASTIGATE ISRAEL AND TO PROMOTE WITHIN THE UNITED NATIONS GENERAL ASSEMBLY MORE BALANCED AND CONSTRUCTIVE APPROACHES TO RESOLVING CONFLICT IN THE MIDDLE EAST

Mr. COLEMAN (for himself, Mr. CORZINE, Mr. VOINOVICH, and Mr. LAUTENBERG) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 271

Whereas the United Nations General Assembly and United Nations Security Council have over a period of many years engaged in a pattern of introducing and enacting measures and resolutions unfairly castigating and condemning the state of Israel;

Whereas despite the myriad of challenges facing the world community, the United Nations General Assembly has devoted a disproportionate amount of time and resources to castigating Israel;

Whereas during the fifty-seventh session of the United Nations General Assembly, the General Assembly adopted a total of 69 resolutions by roll call vote, 22 of which related to Israel;

Whereas many member states of the United Nations General Assembly continue to engage in a discriminatory campaign against Israel, including enacting on October 21, 2003 a resolution that condemns Israeli security measures without proportional condemnation of terrorist attacks launched against Israel;

Whereas the discriminatory voting patterns in the United Nations have historically been driven by voting blocs and ideological divides originating from Cold War rivalries that are obsolete in the post-Cold War period; and

Whereas in the post-Cold War geopolitical environment, the United States has a special responsibility to promote fair and equitable treatment of all nations in the context of international institutions, including the United Nations: Now, therefore, be it

Resolved, That the Senate urges the President and all members of the United States diplomatic corps—

(1) to dissuade member states of the United Nations from voting in support of General Assembly resolutions that unfairly castigate Israel; and

(2) to promote within the United Nations General Assembly more balanced and constructive approaches to resolving conflict in the Middle East.

Mr. COLEMAN. Mr. President, today I am proud to submit, along with my good friend and colleague Senator CORZINE, a bipartisan resolution dealing with the unfair treatment of Israel at the United Nations.

For too long, Israel has been singled out for castigation by the United Nations General Assembly. Israeli defensive actions are condemned, while terrorism against Israeli civilians goes largely unnoticed. There are whole bodies designed to do nothing but produce anti-Israel materials. There is a Division of Palestinian Rights which sits at the same level in the U.N. organization as a single division for the Americas and Europe, a single division for Asia and the Pacific, and two Africa divisions. Of all the resolutions adopted by rollcall vote at the last session of the UN General Assembly, one-third singled out Israel.

Let me be clear on this point: I do think it is appropriate to help the Palestinian people, and I do share President Bush's vision of two states living side by side in peace.

But for the United Nations to spend so much of its time on this one crisis, with an unbalanced approach, ultimately undermines its ability to contribute constructively to the peace process. To accord the Palestinian people—however serious their problems are the same level of attention as entire continents is inappropriate in a world where there are so many other oppressed groups and nations. Why is there no Division of Tibetan Rights? Why no Division of Chechen Rights?

If you look at the General Assembly voting records, there are too many one-sided resolutions dealing with Israel that pass with only a handful of negative votes—cast by the U.S., Israel, Micronesia, the Marshall Islands, Nauru and Palau. Last Friday, I was pleased to note Australia joined us as well.

The good news is that we are starting to see some progress. A joint U.S.-European-Israeli effort to consolidate seven resolutions on UNRWA into one resolution recently was a good start. The resolution was passed out of the committee by a vote of 109 to 0, albeit with 54 abstentions. True, several superfluous resolutions on UNRWA were also approved by the committee. But this year, it was five resolutions instead of seven.

When the U.S., Europe, and Israel can work together on a resolution dealing with Palestinian refugees—and one that is passed without any negative votes—we get a glimpse of the U.N.'s potential for bringing parties together.

I would be remiss if I did not commend the work of U.S. diplomats, and applaud their increased attention to this issue. This resolution gives them a tool to use with their diplomatic counterparts—a strong statement from the U.S. Senate that we are paying attention to these votes, and that we support a more balanced approach toward the Middle East at the United Nations.

It should be a goal we can all agree upon. By reducing the number of anti-Israel resolutions passed by the General Assembly, the United Nations can live up to the promise of its charter: ''to practice tolerance and live together in peace with one another as good neighbors.''

Mr. CORZINE. Mr. President, today, along with Senators COLEMAN, LAUTENBERG and VOINOVICH, I am submitting a resolution to address a serious and persistent problem: the unfair and inequitable treatment of Israel in the United

Nations. The resolution urges the President and all members of the United States diplomatic corps to dissuade member states of the United Nations from voting in support of General Assembly resolutions that unfairly castigate Israel, and to promote within the United Nations General Assembly more balanced and constructive approaches to resolving conflict in the Middle East.

On October 21, 2003, the United Nations General Assembly ratified a resolution condemning Israeli security measures. The resolution did not call on the Palestinian Authority to dismantle terrorist organizations, nor did it name those organizations. Yet it passed by a vote of 144–4, with 12 abstentions. Other than the United States, only Micronesia, the Marshall Islands, and Israel itself voted against the resolution.

This resolution was only the latest in a long line of General Assembly resolutions castigating Israel with little regard to the security threats that Israel faces. For decades, the Assembly has devoted a disproportionate amount of time and resources to resolutions related to Israel—conducting, for example, 22 rollcall votes on UN General Assembly resolutions that related to Israel out of the 69 for all of the 57th Session of the Assembly. Besides distracting the United Nations from the countless other critical issues the world faces, these resolutions undermine efforts to achieve peace in the Middle East by casting blame almost entirely on one party. They are also unfair in that they subject Israel to discriminatory treatment not accorded to any other member state of the UN.

It is long past time for the General Assembly to stop ratifying these biased, unproductive resolutions. Voting patterns that discriminate against Israel appeared during the Cold War, when conflict in the Middle East was fueled by the rivalry between the West and the Soviet bloc. The Cold War has ended. So, too, should the polarization it engendered. We have also seen new alliances and relationships emerge in the global war on terrorism, and have witnessed the world come together in condemning terrorist violence. I refer to UN Security Council Resolution 1373, passed on September 28, 2001, which reaffirmed that any act of international terrorism constitutes a threat to international peace and security and called on states to work together to prevent and suppress terrorist acts.

Resolution 1373 reminded us of what the United Nations was meant to be—a forum for the world to come together to identify common threats and find common ways to address them. It offered the hope of a world united in its resolve to fight terrorism, with the United States leading that fight—in Afghanistan and in other parts of the world where international terrorists operate.

It is therefore with great disappointment that we witness business as usual at the General Assembly. The spirit of unity that prevailed for a time after September 11 has not led to a common approach to the conflict in the Middle East, and the United States has thus far been unable to enlist its friends and allies in its effort to ensure that Israel is treated fairly.

Since the inception of the United Nations, the United States has played a unique and critical role in ensuring that the U.N. lives up to the promise of its Charter—to maintain peace and security. As the sole remaining superpower, we have an opportunity to shape a global consensus on terrorism and security, one that requires new, more productive approaches to the conflict in the Middle East. This requires that we recognize the harm that comes from repeated, biased condemnations of a valuable ally in the United Nations General Assembly. It also requires sustained efforts, in the United Nations and within our bilateral and multilateral relationships, to change the voting patterns of friends, allies, and other member states.

We must bring our own values and our own vision of peace and security to the United Nations. Voting against resolutions that unfairly castigate Israel is not enough, particularly when we find ourselves in a tiny minority. We must seek to ally the world with us on this critical matter. The resolution we are introducing today thus urges the President and all members of the United States diplomatic corps to dissuade member states of the United Nations from voting in support of General Assembly resolutions that unfairly castigate Israel, and to promote within the Nations General assembly more balanced and constructive approaches to resolving conflict in the Middle East.

The United Nations can be—must be—a forum for defending our values. Through committed leadership, we can begin to change how other countries approach the General Assembly and how they vote on issues related to the Middle East. By doing so, we will be taking an important step toward peace.

SENATE RESOLUTION 272—DESIGNATING THE WEEK BEGINNING NOVEMBER 16, 2003, AS AMERICAN EDUCATION WEEK

Ms. SNOWE (for herself, Mrs. MURRAY, Mr. WARNER, Mr. BREAUX, Mr. CRAPO, Mr. CONRAD, Mr. DASCHLE, Mr. EDWARDS, Mr. KENNEDY, Mr. JOHNSON, and Mr. GRASSLEY) submitted the following resolution; which was considered and agreed to:

S. RES. 272

Whereas schools are the backbone of democracy in the United States, providing young people with the tools necessary to maintain the precious values of freedom, civility, and equality;

Whereas, by equipping students with both practical skills and broader intellectual abilities, schools give young people in the United States hope for, and access to, a bright and productive future;

Whereas education employees, whether they provide educational, administrative, technical, or custodial services, work tirelessly to serve the children and communities of the United States with care and professionalism;

Whereas schools are the keystones of communities in the United States, bringing together adults and children, educators and volunteers, business leaders, and elected officials in a common enterprise; and

Whereas public school educators first observed American Education Week in 1921 and are now celebrating the 82nd annual observance of American Education Week: Now, therefore, be it

Resolved, That the Senate—

(1) designates the week beginning November 16, 2003, as American Education Week; and

(2) recognizes the importance of public education and the accomplishments of the many education professionals who contribute to the achievement of students across the United States.

SENATE CONCURRENT RESOLUTION 84—RECOGNIZING THE SACRIFICES MADE BY MEMBERS OF THE REGULAR AND RESERVE COMPONENTS OF THE ARMED FORCES, EXPRESSING CONCERN ABOUT THEIR SAFETY AND SECURITY, AND URGING THE SECRETARY OF DEFENSE TO TAKE IMMEDIATE STEPS TO ENSURE THAT THE RESERVE COMPONENTS ARE PROVIDED WITH THE SAME EQUIPMENT AS REGULAR COMPONENTS

Mr. DASCHLE (for Mr. KERRY) submitted the following concurrent resolution; which was referred to the Committee on Armed Services:

S. CON. RES. 84

Whereas, on September 11, 2001, the National Guard and Reserve responded to the horrific terrorist attacks on the United States with professionalism and courage, rescued the injured, saved lives in New York City, provided protection to the Pentagon, and flew combat air patrols over Washington, D.C., and other major cities;

Whereas, on September 14, 2001, in Executive Order 13223, President Bush proclaimed a national emergency, and exercised his authority under section 12302 of title 10, United States Code, to allow him to call up as many as 1,000,000 National Guard and Reserve members to active duty for up to two years;

Whereas more than 300,000 National Guard and Reserve members have been called to active duty under this Executive Order, serving on the front lines by fighting terrorists in Africa and Asia and keeping the peace in Afghanistan, the Balkans, and Iraq;

Whereas the National Guard and Reserve are taking on unprecedented challenges;

Whereas 64 percent of National Guard and Reserve members have been called up for active duty during at least one of the seven major mobilizations since 1990;

Whereas 7,800 National Guard and Reserve members have been mobilized more than once to serve in the Global War on Terrorism, and members serve between 60 and 120 days per year;

Whereas 42,000 of the approximately 160,000 United States troops currently in Iraq are members of the National Guard and Reserve;

Whereas the National Guard and Reserve are being deployed to Iraq without critical protective equipment, such as body armor,

carbines, laser sights, night vision goggles, desert boots, Camel Back water carriers, aviation holsters, aviation protective masks, radios, and desert camouflage uniforms;

Whereas many National Guard and Reserve units are using older and outdated equipment;

Whereas, due to equipment shortages throughout the National Guard and Reserve, units are being stripped of equipment in favor of units being deployed, leaving other units without equipment with which to train;

Whereas at least one National Guard and Reserve unit asked hospitals in the United States to donate medical supplies to cover its shortages; and

Whereas a poll taken in Iraq by *Stars & Stripes* reveals that 48 percent of National Guard and Reserve troops consider their morale ''low'' or ''very low'', compared with only 15 percent reporting ''high'' or ''very high'' morale: Now, therefore, be it

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

(1) recognizes the sacrifices made by the members in the regular and reserve components of the Armed Forces;

(2) expresses concern about their safety and security; and

(3) urges the Secretary of Defense to take immediate steps to ensure that the National Guard and Reserves are provided with the same equipment as the regular components.

(At the request of Mr. DASCHLE, the following statement was ordered to be printed in the RECORD.)

● Mr. KERRY. Mr. President, the relationship between the active and reserve components in the United States military is known as the ''total-force'' concept. Active duty units cannot fight wars without the support and participation of units from the National Guard and Reserve. It is this aspect of the all volunteer military that distinguishes the American armed forces from the praetorian armies of old and links the broader public, intimately, to the costs and sacrifices of war.

The men and women of the American military continue to preform magnificently. They are executing difficult missions in distant lands around the globe. There are more than 130,000 troops in Iraq, 30,000 in Kuwait, 37,000 in Korea, and 10,000 in Afghanistan. At this moment, more than 164,000 national guardsmen and reservists are on active duty, and the Pentagon has recently announced two more rounds of activation, increasing that number by another 58,000 troops. With more than 60 percent of the Army's active combat strength deployed or preparing to deploy, the men and women of the National Guard and Reserves are essential to our efforts in the war on terrorism and the stabilization of Iraq and Afghanistan.

These deployed ''weekend warriors'' are much more than part-time soldiers; they are full-time war-fighters serving alongside active duty units, performing the same missions, facing the same dangers, paying the same bloody price.

Despite this fact, the equipment of the National Guard and Reserves has been substandard when compared to the equipment available to members of the active units for far too long. This peace-time nuisance is a mortal danger in war. It is inexcusable that any U.S. units, whether active or reserve, would deploy to a combat zone without the latest equipment and technology.

But we have heard concerns about National Guard and Reserve units lacking the latest gear or technology: helicopters lacking basic defense systems; Humvees without the additional armor needed to protect their occupants; and inadequate supplies of personal body armor. It is a dereliction of duty to send anyone into harm's way without basic protective gear.

The Concurrent Resolution submit today, expresses our concern for the welfare and security of all the men and women of the United states military, whether they serve in the active duty military, the National Guard, or the reserves. If this is to truly be a ''total-force,'' then we must also commit ourselves to equipping it as such. The courageous, young men and women of our armed forces deserve no less.●

SENATE CONCURRENT RESOLUTION 85—EXPRESSING THE SENSE OF CONGRESS THAT THE CONTINUED PARTICIPATION OF THE RUSSIAN FEDERATION IN THE GROUP OF 8 NATIONS SHOULD BE CONDITIONED ON THE RUSSIAN GOVERNMENT VOLUNTARILY ACCEPTING AND ADHERING TO THE NORMS AND STANDARDS OF DEMOCRACY

Mr. MCCAIN (for himself and Mr. LIEBERMAN) submitted the following concurrent resolution; which was referred to the Committee on Foreign Relations:

S. CON. RES. 85

Whereas the countries that comprise the Group of 7 nations are pluralistic societies with democratic political institutions and practices, committed to the observance of universally recognized standards of human rights, respect for individual liberties, and democratic principles;

Whereas in 1991 and subsequent years, the leaders of the Group of 7 nations, heads of the governments of the major free market economies of the world who meet annually in a summit meeting, invited then-Russian President Boris Yeltsin to a post-summit dialogue;

Whereas in 1998, the leaders of the Group of 7 nations formally invited President Boris Yeltsin of Russia to participate in an annual gathering that subsequently was known as the Group of 8 nations, although the Group of 7 nations have continued to hold informal summit meetings and ministerial meetings that do not include the Russian Federation;

Whereas the invitation to President Yeltsin to participate in the annual summits was in recognition of his commitment to democratization and economic liberalization, despite the fact that the Russian economy remained weak and the commitment of the Russian Government to democratic principles was uncertain;

Whereas under the leadership of President Vladimir Putin, the Russian Government has attempted to control the activities of independent media enterprises, nongovernmental organizations, religious organizations, and other pluralistic elements of Russian society in an attempt to mute criticism of the government;

Whereas the suppression by the Russian Government of independent media enterprises has resulted in widespread government control and influence over the media in Russia, stifling freedom of expression and individual liberties that are essential to any functioning democracy;

Whereas the arrest and prosecution of prominent Russian business leaders who had supported the political opposition to President Putin are examples of selective application of the rule of law for political purposes;

Whereas the courts of Great Britain, Spain, and Greece have consistently ruled against extradition warrants issued by the Russian Government after finding that the cases presented by the Prosecutor General of the Russian Federation have been inherently political in nature;

Whereas Russian military forces continue to commit brutal atrocities against the civilian population in Chechnya;

Whereas the rise to influence within the Russian Government of unelected security officials from the KGB of the former Soviet Union is increasingly undermining the commitment of the Russian Government to democratic principles, accountability, and transparency;

Whereas a wide range of observers at think tanks and nongovernmental organizations have expressed deep concern that the Russian Federation is moving away from the political and legal underpinnings of a market economy; and

Whereas the continued participation of the Russian Federation in the Group of 8 nations, including the opportunity for the Russian Government to host the Group of 8 nations in 2006 as planned, is a privilege that is premised on the Russian Government voluntarily accepting and adhering to the norms and standards of democracy: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of Congress that—

(1) the selective prosecution of political opponents and the suppression of free media by the Russian Federation, and the continued commission of widespread atrocities in the conduct of the brutal war in Chechnya, do not reflect the minimum standards of democratic governance and rule of law that characterize every other member state in the Group of 8 nations;

(2) the continued participation of the Russian Federation in the Group of 8 nations, including the opportunity for the Russian Government to host the Group of 8 nations summit in 2006 as planned, should be conditioned on the Russian Government accepting and adhering to the norms and standards of free, democratic societies as generally practiced by every other member nation of the Group of 8 nations, including—

(A) the rule of law, including protection from selective prosecution and protection from arbitrary state-directed violence;

(B) a court system free of political influence and manipulation;

(C) a free and independent media;

(D) a political system open to participation by all citizens and which protects freedom of expression and association; and

(E) the protection of universally recognized human rights; and

(3) the President of the United States and the Secretary of State should work with the other members of the Group of 7 nations to take all necessary steps to suspend the participation of the Russian Federation in the Group of 8 nations until the President, after consultation with the other members of the Group of 7 nations, determines and reports to Congress that the Russian Government is committed to respecting and upholding the

democratic principles described in paragraph (2).

AMENDMENTS SUBMITTED & PROPOSED

SA 2209. Mr. FRIST (for Mr. DODD) proposed an amendment to the bill S. 1680, to reauthorize the Defense Production Act of 1950, and for other purposes.

SA 2210. Mr. FRIST (for Mr. INHOFE (for himself, Mr. JEFFORDS, Mr. VOINOVICH, and Mrs. CLINTON)) proposed an amendment to the bill S. 1279, to amend the Robert T. Stafford Disaster Relief and Emergency Assistance Act to authorize the President to carry out a program for the protection of the health and safety of residents, workers, volunteers, and others in a disaster area.

SA 2211. Mr. FRIST (for Mr. MCCAIN (for himself and Mr. HOLLINGS)) proposed an amendment to the bill S. 579, to reauthorize the National Transportation Safety Board, and for other purposes.

TEXT OF AMENDMENTS

SA 2209. Mr. FRIST (for Mr. DODD) proposed an amendment to the bill S. 1680, to reauthorize the Defense Production Act of 1950, and for other purposes; as follows:

On page 6, strike line 1 and all that follows through page 7, line 2, and insert the following:

SEC. 7. REPORT ON IMPACT OF OFFSETS ON DOMESTIC CONTRACTORS AND LOWER TIER SUBCONTRACTORS.

(a) EXAMINATION OF IMPACT REQUIRED.—

(1) IN GENERAL.—As part of the annual report required under section 309(a) of the Defense Production Act of 1950 (50 U.S.C. App. 2099(a)), the Secretary of Commerce (in this section referred to as the ''Secretary'') shall—

(A) detail the number of foreign contracts involving domestic contractors that use offsets, industrial participation agreements, or similar arrangements during the preceding 5-year period;

(B) calculate the aggregate, median, and mean values of the contracts and the offsets, industrial participation agreements, and similar arrangements during the preceding 5-year period; and

(C) describe the impact of international or foreign sales of United States defense products and related offsets, industrial participation agreements, and similar arrangements on domestic prime contractors and, to the extent practicable, the first 3 tiers of domestic contractors and subcontractors during the preceding 5-year period in terms of domestic employment, including any job losses, on an annual basis.

(2) USE OF INTERNAL DOCUMENTS.—To the extent that the Department of Commerce is already in possession of relevant data, the Department shall use internal documents or existing departmental records to carry out paragraph (1).

(3) INFORMATION FROM NON-FEDERAL ENTITIES.—

(A) EXISTING INFORMATION.—In carrying out paragraph (1), the Secretary shall only require a non-Federal entity to provide information that is available through the existing data collection and reporting systems of that non-Federal entity.

(B) FORMAT.—The Secretary may require a non-Federal entity to provide information to the Secretary in the same form that is already provided to a foreign government in fulfilling an offset arrangement, industrial participation agreement, or similar arrangement.

(b) REPORT.—

(1) IN GENERAL.—Before the end of the 8-month period beginning on the date of enactment of this Act, the Secretary shall submit to Congress a report containing the findings and conclusions of the Secretary with regard to the examination made pursuant to subsection (a).

(2) COPIES OF REPORT.—The Secretary shall also transmit copies of the report prepared under paragraph (1) to the United States Trade Representative and the interagency team established pursuant to section 123(c) of the Defense Production Act Amendments of 1992 (50 U.S.C. App. 2099 note).

(c) RESPONSIBILITIES REGARDING CONSULTATION WITH FOREIGN NATIONS.—Section 123(c) of the Defense Production Act Amendments of 1992 (50 U.S.C. App. 2099 note) is amended to read as follows:

''(c) NEGOTIATIONS.—

''(1) INTERAGENCY TEAM.—

''(A) IN GENERAL.—It is the policy of Congress that the President shall designate a chairman of an interagency team comprised of the Secretary of Commerce, Secretary of Defense, United States Trade Representative, Secretary of Labor, and Secretary of State to consult with foreign nations on limiting the adverse effects of offsets in defense procurement without damaging the economy or the defense industrial base of the United States or United States defense production or defense preparedness.

''(B) MEETINGS.—The President shall direct the interagency team to meet on a quarterly basis.

''(C) REPORTS.—The President shall direct the interagency team to submit to Congress an annual report, to be included as part of the report required under section 309(a) of the Defense Production Act of 1950 (50 U.S.C. App. 2099(a)), that describes the results of the consultations of the interagency team under subparagraph (A) and the meetings of the interagency team under subparagraph (B).

''(2) RECOMMENDATIONS FOR MODIFICATIONS.—The interagency team shall submit to the President any recommendations for modifications of any existing or proposed memorandum of understanding between officials acting on behalf of the United States and 1 or more foreign countries (or any instrumentality of a foreign country) relating to—

''(A) research, development, or production of defense equipment; or

''(B) the reciprocal procurement of defense items.''.

SA 2210. Mr. FRIST (for Mr. INHOFE (for himself, Mr. JEFFORDS, Mr. VOINOVICH, and Mrs. CLINTON)) proposed an amendment to the bill S. 1279, to amend the Robert T. Stafford Disaster Relief and Emergency Assistance Act to authorize the President to carry out a program for the protection of the health and safety of residents, workers, volunteers, and others in a disaster area; as follows:

On page 19, line 16, insert '', including a local health department,'' after ''institution''.

On page 21, between lines 18 and 19, insert the following:

''(7) PRIVACY.—The President shall carry out each program under paragraph (1) in accordance with regulations relating to privacy promulgated under section 264(c) of the Health Insurance Portability and Accountability Act of 1996 (42 U.S.C. 1320d–2 note; Public Law 104–191).

At the end, add the following:

SEC. 4. PREDISASTER HAZARD MITIGATION.

Section 203(m) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5133(m)) is amended by striking ''December 31, 2003'' and inserting ''September 30, 2006''.

SA 2211. Mr. FRIST (for Mr. MCCAIN (for himself and Mr. HOLLINGS)) proposed an amendments to the bill S. 579, to reauthorize the National Transportation Safety Board, and for other purposes; as follows:

On page 2, line 15, strike ''$3,000,000.'' and insert ''$4,000,000.''.

On page 3, line 6, strike ''paragraph'' and insert ''subsection''.

On page 3, line 16, strike the closing quotation marks and the second period.

On page 3, line 17, strike ''(c)'' and insert '' '(d)''.

On page 3, line 21, insert closing quotation marks and a period after the period.

On page 5, strike lines 7 through 21, and insert the following:

SEC. 4. RELIEF FROM CONTRACTING REQUIREMENTS FOR INVESTIGATIONS SERVICES.

(a) IN GENERAL.—From the date of enactment of this Act through September 30, 2006, the National Transportation Safety Board may enter into agreements or contracts under the authority of section 1113 (b)(1)(B) of title 49, United States Code for investigations conducted under section 1131 of that title without regard to any other provision of law requiring competition if necessary to expedite the investigation.

(b) REPORT ON USAGE.—On February 1, 2006, the National Transportation Safety Board shall transmit a report to the House of Representatives Committee on Transportation and Infrastructure, the House of Representatives Committee on Government Reform, the Senate Committee on Commerce, Science, and Transportation, and the Senate Committee on Government Affairs that—

(1) describes each contract for $25,000 or more executed by the Board to which the authority provided by subsection (a) was applied; and

(2) sets forth the rationale for dispensing with competition requirements with respect to such contract.

On page 5, after line 21, add the following:

SEC. 5. ACCIDENT AND SAFETY DATA CLASSIFICATION AND PUBLICATION.

Section 1119 of title 49, United States Code, is amended by adding at the end the following:

''(c) APPEALS.—

''(1) NOTIFICATION OF RIGHTS.—In any case in which an employee of the Board determines that an occurrence associated with the operation of an aircraft constitutes an accident, the employee shall notify the owner or operator of that aircraft of the right to appeal that determination to the Board.

''(2) PROCEDURE.—The Board shall establish and publish the procedures for appeals under this subsection.

''(3) LIMITATION ON APPLICABILITY.—This subsection shall not apply in the case of an accident that results in a loss of life.''.

SEC. 6. SECRETARY OF TRANSPORTATION'S RESPONSES TO SAFETY RECOMMENDATIONS.

Section 1135(d) of title 49, United States Code, is amended to read as follows:

''(d) REPORTING REQUIREMENTS.—

''(1) ANNUAL SECRETARIAL REGULATORY STATUS REPORTS.—On February 1 of each year, the Secretary shall submit a report to Congress and the Board containing the regulatory status of each recommendation made by the Board to the Secretary (or to an Administration within the Department of

Transportation) that is on the Board's 'most wanted list'. The Secretary shall continue to report on the regulatory status of each such recommendation in the report due on February 1 of subsequent years until final regulatory action is taken on that recommendation or the Secretary (or an Administration within the Department) determines and states in such a report that no action should be taken.

''(2) FAILURE TO REPORT.—If on March 1 of each year the Board has not received the Secretary's report required by this subsection, the Board shall notify the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate of the Secretary's failure to submit the required report.

''(3) TERMINATION.—This subsection shall cease to be in effect after the report required to be filed on February 1, 2008, is filed.''.

SEC. 7. TECHNICAL AMENDMENTS.

Section 1131(a)(2) of title 49, United States Code, is amended by moving subparagraphs (B) and (C) 4 ems to the left.

SEC. 8. DOT INSPECTOR GENERAL INVESTIGATIVE AUTHORITY.

(a) IN GENERAL.—Section 228 of the Motor Carrier Safety Improvement Act of 1999 (113 Stat. 1773) is transferred to, and added at the end of, subchapter III of chapter 3 of title 49, United States Code, as section 354 of that title.

(b) CONFORMING AMENDMENTS.—

(1) The caption of the section is amended to read as follows:

''§ 354. Investigative authority of Inspector General''.

(2) The chapter analysis for chapter 3 of title 49, United States Code, is amended by adding at the end the following:

''354. Investigative authority of Inspector General''.

SEC. 9. REPORTS ON CERTAIN OPEN SAFETY RECOMMENDATIONS.

(a) INITIAL REPORT.—Within 1 year after the date of enactment of this Act, the Secretary of Transportation shall submit a report to Congress and the National Transportation Safety Board containing the regulatory status of each open safety recommendation made by the Board to the Secretary concerning—

(1) 15-passenger van safety;

(2) railroad grade crossing safety; and

(3) medical certifications for a commercial driver's license.

(b) BIENNIAL UPDATES.—The Secretary shall continue to report on the regulatory status of each such recommendation (and any subsequent recommendation made by the Board to the Secretary concerning a matter described in paragraph (1), (2), or (3) of subsection (a)) at 2–year intervals until—

(1) final regulatory action has been taken on the recommendation;

(2) the Secretary determines, and states in the report, that no action should be taken on that recommendation; or

(3) the report, if any, required to be submitted in 2008 is submitted.

(c) FAILURE TO REPORT.—If the Board has not received a report required to be submitted under subsection (a) or (b) within 30 days after the date on which that report is required to be submitted, the Board shall notify the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. CRAIG. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on Friday, November 21 at 9:30 a.m.

The purpose of the oversight hearings is to receive testimony on the implementation of the Energy Employees Occupational Illness Compensation Program.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FINANCE

Mr. CRAIG. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet in open Executive Session during the session on Friday, November 21, 2003; to consider nomination of Arnold I. Havens, to be General Counsel for the Department of the Treasury.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. CRAIG. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Friday, November 21, 2003 at 9 a.m. to hold a hearing on Nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. CRAIG. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs be authorized to meet on Friday, November 21, 2003 at a time and location to be determined to hold a business meeting to consider the nominations of James M. Loy to be Deputy Secretary of Homeland Security, Department of Homeland Security; and Scott J. Bloch to be Special Counsel, Office of Special Counsel.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS

Mr. CRAIG. Mr. President, I ask unanimous consent that the Committee on Health, Education, Labor, and Pensions be authorized to meet for a hearing on The Nomination of Steven J. Law, of the District of Columbia, to be Deputy Secretary of Labor during the session of the Senate on Friday, November 21, 2003 at 10 a.m. in SD–430.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON VETERANS' AFFAIRS

Mr. CRAIG. Mr. President, I ask unanimous consent that the Committee on Veterans' Affairs be authorized to meet during the session of the Senate on November 21, 2003, for a markup on the nominations of Gordon H. Mansfield to be Deputy Secretary of Veterans Affairs, Cynthia R. Church to be Assistant Secretary of Veterans Affairs for Public and Intergovernmental Affairs, Robert N. McFarland to be Assistant Secretary of Veterans Affairs for Information and Technology, Lawrence B. Hagel to be Judge, U.S. Court of Appeals for Veterans Claims, and Alan G. Lance, Sr. to be Judge, U.S. Court of Appeals for Veterans Claims.

The meeting will take place in the Senate Reception Room in the Capitol after the first rollcall vote of the day.

The PRESIDING OFFICER. Without objection, it is so ordered.

PRIVILEGE OF THE FLOOR

Mr. GRAHAM. Mr. President, I ask unanimous consent that Mr. Chad Littleton, a Congressional Fellow in my office, be granted the privilege of the floor for the remainder of the Senate's consideration of this bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Ms. LANDRIEU. Mr. President, I ask unanimous consent that Neil Naraine be granted the privileges of the floor for the duration of the debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRASSLEY. I ask unanimous consent that Christine Evans, of the Finance Committee staff, be afforded the privilege of the floor for the remainder of today's session.

The PRESIDING OFFICER. Without objection, it is so ordered.

FEDERAL RECOGNITION TO CONFEDERATED TRIBES OF GRAND RONDE COMMUNITY OF OREGON MEMORIALIZED

Mr. FRIST. Mr. President, I ask unanimous consent that the Indian Affairs Committee be discharged from further consideration of S. Res. 246 and the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 246) expressing the sense of the Senate that November 22, 1983, the date of the restoration by the Federal Government of Federal recognition to the Confederated Tribes of the Grand Ronde Community of Oregon, should be memorialized.

There being no objection, the Senate proceeded to consider the resolution.

Mr. FRIST. I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, and that any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 246) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 246

Whereas the Grand Ronde Restoration Act (25 U.S.C. 713 et seq.), which was signed by the President on November 22, 1983, restored

Federal recognition to the Confederated Tribes of the Grand Ronde Community of Oregon;

Whereas the Confederated Tribes of the Grand Ronde Community of Oregon historically inhabited land that extended from the summit of the Cascade Range, west along the shores of the Columbia River to the summit of the Coast Range, and south to the California border;

Whereas in addition to restoring Federal recognition, that Act and other Federal Indian statutes have provided the means for the Confederated Tribes to achieve the goals of cultural restoration, economic self-sufficiency, and the attainment of a standard of living equivalent to that enjoyed by other citizens of the United States;

Whereas by enacting the Grand Ronde Restoration Act (25 U.S.C. 713 et seq.), the Federal Government—

(1) declared that the Confederated Tribes of the Grand Ronde Community of Oregon were eligible for all Federal services and benefits provided to federally recognized tribes;

(2) established a tribal reservation; and

(3) granted the Confederated Tribes of the Grand Ronde Community of Oregon self-government for the betterment of tribal members, including the ability to set tribal rolls;

Whereas the Confederated Tribes of the Grand Ronde Community of Oregon have embraced Federal recognition and self-sufficiency statutes and are actively working to better the lives of tribal members; and

Whereas economic self-sufficiency, which was the goal of restoring Federal recognition for the Confederated Tribes of the Grand Ronde Community of Oregon, is being realized through many projects: Now, therefore, be it

Resolved, That it is the sense of the Senate that November 22, 1983, should be memorialized as the date on which the Federal Government restored Federal recognition to the Confederated Tribes of the Grand Ronde Community of Oregon.

DEFENSE PRODUCTION REAUTHORIZATION ACT OF 2003

Mr. FRIST. I ask unanimous consent that the Chair now lay before the Senate the House message to accompany S. 1680, the Defense Production Reauthorization Act.

The PRESIDING OFFICER laid before the Senate the following message from the House, as follows:

Resolved, That the bill from the Senate (S. 1680) entitled ''An Act to reauthorize the Defense Production Act of 1950, and for other purposes'', do pass with the following amendment:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Defense Production Act Reauthorization of 2003''.

SEC. 2. REAUTHORIZATION OF DEFENSE PRODUCTION ACT OF 1950.

(a) IN GENERAL.—The 1st sentence of section 717(a) of the Defense Production Act of 1950 (50 U.S.C. App. 2166(a)) is amended—

(1) by striking ''sections 708'' and inserting ''sections 707, 708,''; and

(2) by striking ''September 30, 2003'' and inserting ''September 30, 2008''.

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 711(b) of the Defense Production Act of 1950 (50 U.S.C. App. 2161(b)) is amended by striking ''through 2003'' and inserting ''through 2008''.

SEC. 3. RESOURCE SHORTFALL FOR RADIATION-HARDENED ELECTRONICS.

(a) IN GENERAL.—Notwithstanding the limitation contained in section 303(a)(6)(C) of the Defense Production Act of 1950 (50 U.S.C. App. 2093(a)(6)(C)), the President may take actions under section 303 of the Defense Production Act of 1950 to correct the industrial resource shortfall for radiation-hardened electronics, to the extent that such Presidential actions do not cause the aggregate outstanding amount of all such actions to exceed $200,000,000.

(b) REPORT BY THE SECRETARY.—Before the end of the 6-month period beginning on the date of the enactment of this Act, the Secretary of Defense 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 describing—

(1) the current state of the domestic industrial base for radiation-hardened electronics;

(2) the projected requirements of the Department of Defense for radiation-hardened electronics;

(3) the intentions of the Department of Defense for the industrial base for radiation-hardened electronics; and

(4) the plans of the Department of Defense for use of providers of radiation-hardened electronics beyond the providers with which the Department had entered into contractual arrangements under the authority of the Defense Production Act of 1950, as of the date of the enactment of this Act.

SEC. 4. CLARIFICATION OF PRESIDENTIAL AUTHORITY.

Subsection (a) of section 705 of the Defense Production Act of 1950 (50 U.S.C. App. 2155(a)) is amended by inserting after the end of the 1st sentence the following new sentence: ''The authority of the President under this section includes the authority to obtain information in order to perform industry studies assessing the capabilities of the United States industrial base to support the national defense.''.

SEC. 5. CRITICAL INFRASTRUCTURE PROTECTION AND RESTORATION.

Section 702 of the Defense Production Act of 1950 (50 U.S.C. App. 2152) is amended—

(1) by redesignating paragraphs (3) through (17) as paragraphs (4) through (18), respectively;

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

''(3) CRITICAL INFRASTRUCTURE.—The term 'critical infrastructure' means any systems and assets, whether physical or cyber-based, so vital to the United States that the degradation or destruction of such systems and assets would have a debilitating impact on national security, including, but not limited to, national economic security and national public health or safety.''; and

(3) in paragraph (14) (as so redesignated by paragraph (1) of this section), by inserting ''and critical infrastructure protection and restoration'' before the period at the end of the last sentence.

SEC. 6. REPORT ON CONTRACTING WITH MINORITY- AND WOMEN-OWNED BUSINESSES.

(a) REPORT REQUIRED.—Before the end of the 1-year period beginning on the date of the enactment of this Act, the Secretary of Defense 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 on the extent to which contracts entered into during the fiscal year ending before the end of such 1-year period under the Defense Production Act of 1950 have been contracts with minority- and women-owned businesses.

(b) CONTENTS OF REPORT.—The report submitted under subsection (a) shall include the following:

(1) The types of goods and services obtained under contracts with minority- and women-owned businesses under the Defense Production Act of 1950 in the fiscal year covered in the report.

(2) The dollar amounts of such contracts.

(3) The ethnicity of the majority owners of such minority- and women-owned businesses.

(4) A description of the types of barriers in the contracting process, such as requirements for security clearances, that limit contracting opportunities for minority- and women-owned businesses, together with such recommendations for legislative or administrative action as the Secretary of Defense may determine to be appropriate for increasing opportunities for contracting with minority- and women-owned businesses and removing barriers to such increased participation.

(c) DEFINITIONS.—For purposes of this section, the terms ''women-owned business'' and ''minority-owned business'' have the meanings given such terms in section 21A(r) of the Federal Home Loan Bank Act, and the term ''minority'' has the meaning given such term in section 1204(c)(3) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989.

SEC. 7. REPORT ON IMPACT OF OFFSETS ON DOMESTIC CONTRACTORS AND HIGHER-TIER SUBCONTRACTORS.

(a) ASSESSMENT OF IMPACT REQUIRED.—In addition to the information required to be included in the annual report under section 309 of the Defense Production Act of 1950, the Secretary of Commerce shall assess the net impact, in the defense trade, of foreign sales and related foreign contracts that have been awarded through offsets, industrial participation agreements, or similar arrangements on domestic prime contractors and at least the first 3 tiers of domestic subcontractors during the 5-year period beginning on January 1, 1998.

(b) REPORT.—Before the end of the 1-year period beginning on the date of the enactment of this Act, the Secretary of Commerce shall submit a report to the Congress containing findings and the conclusions of the Secretary with regard to the assessment made pursuant to subsection (a).

(c) COPIES OF REPORT.—Copies of the report prepared pursuant to subsection (b) shall also be transmitted to the United States Trade Representative and the interagency team established pursuant to section 123(c) of the Defense Production Act Amendments of 1992.

Mr. FRIST. I ask unanimous consent that the Senate concur with the House amendment with an amendment, the motion to reconsider be laid upon the table, and that any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 2209) was agreed to, as follows:

(Purpose: To modify the reporting requirements of the Secretary of Commerce and for other purposes)

On page 6, strike line 1 and all that follows through page 7, line 2, and insert the following:

SEC. 7. REPORT ON IMPACT OF OFFSETS ON DOMESTIC CONTRACTORS AND LOWER TIER SUBCONTRACTORS.

(a) EXAMINATION OF IMPACT REQUIRED.—

(1) IN GENERAL.—As part of the annual report required under section 309(a) of the Defense Production Act of 1950 (50 U.S.C. App. 2099(a)), the Secretary of Commerce (in this section referred to as the ''Secretary'') shall—

(A) detail the number of foreign contracts involving domestic contractors that use offsets, industrial participation agreements, or similar arrangements during the preceding 5-year period;

(B) calculate the aggregate, median, and mean values of the contracts and the offsets, industrial participation agreements, and similar arrangements during the preceding 5-year period; and

(C) describe the impact of international or foreign sales of United States defense products and related offsets, industrial participation agreements, and similar arrangements on domestic prime contractors and, to the extent practicable, the first 3 tiers of domestic contractors and subcontractors during the preceding 5-year period in terms of domestic employment, including any job losses, on an annual basis.

(2) USE OF INTERNAL DOCUMENTS.—To the extent that the Department of Commerce is already in possession of relevant data, the Department shall use internal documents or existing departmental records to carry out paragraph (1).

(3) INFORMATION FROM NON-FEDERAL ENTITIES.—

(A) EXISTING INFORMATION.—In carrying out paragraph (1), the Secretary shall only require a non-Federal entity to provide information that is available through the existing data collection and reporting systems of that non-Federal entity.

(B) FORMAT.—The Secretary may require a non-Federal entity to provide information to the Secretary in the same form that is already provided to a foreign government in fulfilling an offset arrangement, industrial participation agreement, or similar arrangement.

(b) REPORT.—

(1) IN GENERAL.—Before the end of the 8-month period beginning on the date of enactment of this Act, the Secretary shall submit to Congress a report containing the findings and conclusions of the Secretary with regard to the examination made pursuant to subsection (a).

(2) COPIES OF REPORT.—The Secretary shall also transmit copies of the report prepared under paragraph (1) to the United States Trade Representative and the interagency team established pursuant to section 123(c) of the Defense Production Act Amendments of 1992 (50 U.S.C. App. 2099 note).

(c) RESPONSIBILITIES REGARDING CONSULTATION WITH FOREIGN NATIONS.—Section 123(c) of the Defense Production Act Amendments of 1992 (50 U.S.C. App. 2099 note) is amended to read as follows:

''(c) NEGOTIATIONS.—

''(1) INTERAGENCY TEAM.—

''(A) IN GENERAL.—It is the policy of Congress that the President shall designate a chairman of an interagency team comprised of the Secretary of Commerce, Secretary of Defense, United States Trade Representative, Secretary of Labor, and Secretary of State to consult with foreign nations on limiting the adverse effects of offsets in defense procurement without damaging the economy or the defense industrial base of the United States or United States defense production or defense preparedness.

''(B) MEETINGS.—The President shall direct the interagency team to meet on a quarterly basis.

''(C) REPORTS.—The President shall direct the interagency team to submit to Congress an annual report, to be included as part of the report required under section 309(a) of the Defense Production Act of 1950 (50 U.S.C. App. 2099(a)), that describes the results of the consultations of the interagency team under subparagraph (A) and the meetings of the interagency team under subparagraph (B).

''(2) RECOMMENDATIONS FOR MODIFICATIONS.—The interagency team shall submit to the President any recommendations for modifications of any existing or proposed memorandum of understanding between officials acting on behalf of the United States and 1 or more foreign countries (or any instrumentality of a foreign country) relating to—

''(A) research, development, or production of defense equipment; or

''(B) the reciprocal procurement of defense items.''.

MENTAL HEALTH PARITY REAUTHORIZATION ACT OF 2003

Mr. FRIST. I ask unanimous consent that the Senate proceed to the immediate consideration of S. 1929, which was introduced earlier today.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (S. 1929) to amend the Employee Retirement Income Security Act of 1974 and the Public Health Service Act to extend the mental health benefits parity provisions, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mr. FRIST. I ask unanimous consent that the bill be read a third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (S. 1929) was read the third time and passed, as follows:

S. 1929

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 ''Mental Health Parity Reauthorization Act of 2003''.

SEC. 2. EXTENSION OF MENTAL HEALTH PROVISIONS.

(a) ERISA.—Section 712(f) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1185a(f)) is amended by striking ''December 31, 2003'' and inserting ''December 31, 2004''.

(b) PHSA.—Section 2705(f) of the Public Health Service Act (42 U.S.C. 300gg–5(f)) is amended by striking ''December 31, 2003'' and inserting ''December 31, 2004''.

VETERANS' COMPENSATION COST-OF-LIVING ADJUSTMENT ACT OF 2003

Mr. FRIST. I ask unanimous consent that the Veterans Affairs Committee be discharged from further consideration of H.R. 1683 and the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 1683) to increase, effective as of December 1, 2003, the rates of disability compensation for veterans with service-connected disabilities and the rates of dependency and indemnity compensation for survivors of certain service-connected disabled veterans, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mr. FRIST. I ask unanimous consent that the bill be read a third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 1683) was read the third time and passed.

SERVICEMEMBERS CIVIL RELIEF ACT

Mr. FRIST. I ask unanimous consent the Senate now proceed to the immediate consideration of Calendar No. 393, S. 1136.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 1136) to restate, clarify, and revise the Soldiers' and Sailors' Civil Relief Act of 1940.

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Veterans' Affairs, with an amendment to strike all after the enacting clause and insert in lieu thereof the following:

[Strike the part shown in black brackets and insert the part shown in italic.]

S. 1136

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

[SECTION 1. RESTATEMENT OF ACT.

[The Soldiers' and Sailors' Civil Relief Act of 1940 (50 U.S.C. App. 501 et seq.) is amended to read as follows:

[''SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

[''(a) SHORT TITLE.—This Act may be cited as the 'Servicemembers Civil Relief Act'.

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

[''Sec. 1. Short title; table of contents.
[''Sec. 2. Purposes.
[''TITLE I—GENERAL PROVISIONS
[''Sec. 101. Definitions.
[''Sec. 102. Jurisdiction and applicability of Act.
[''Sec. 103. Protection of persons secondarily liable.
[''Sec. 104. Extension of protections to citizens serving with allied forces.
[''Sec. 105. Notification of benefits.
[''Sec. 106. Extension of rights and protections to Reserves ordered to report for military service and to persons ordered to report for induction.
[''Sec. 107. Waiver of rights pursuant to written agreement.
[''Sec. 108. Exercise of rights under Act not to affect certain future financial transactions.
[''Sec. 109. Legal representatives.
[''TITLE II—GENERAL RELIEF
[''Sec. 201. Protection of servicemembers against default judgments.
[''Sec. 202. Stay of proceedings when servicemember defendant has notice.
[''Sec. 203. Fines and penalties under contracts.
[''Sec. 204. Stay or vacation of execution of judgments, attachments, and garnishments.
[''Sec. 205. Duration and term of stays; codefendants not in service.
[''Sec. 206. Statute of limitations.
[''Sec. 207. Maximum rate of interest on debts incurred before military service.
[''TITLE III—RENT, INSTALLMENT CONTRACTS, MORTGAGES, LIENS, ASSIGNMENT, LEASES.
[''Sec. 301. Evictions and distress.

[''Sec. 302. Protection under installment contracts for purchase or lease.
[''Sec. 303. Mortgages and trust deeds.
[''Sec. 304. Settlement of stayed cases relating to personal property.
[''Sec. 305. Termination of leases by lessees.
[''Sec. 306. Protection of life insurance policy.
[''Sec. 307. Enforcement of storage liens.
[''Sec. 308. Extension of protections to dependents.

[''TITLE IV—INSURANCE

[''Sec. 401. Definitions.
[''Sec. 402. Insurance rights and protections.
[''Sec. 403. Application for insurance protection.
[''Sec. 404. Policies entitled to protection and lapse of policies.
[''Sec. 405. Policy restrictions.
[''Sec. 406. Deduction of unpaid premiums.
[''Sec. 407. Premiums and interest guaranteed by United States.
[''Sec. 408. Regulations.
[''Sec. 409. Review of findings of fact and conclusions of law.

[''TITLE V—TAXES AND PUBLIC LANDS

[''Sec. 501. Taxes respecting personal property, money, credits, and real property.
[''Sec. 502. Rights in public lands.
[''Sec. 503. Desert-land entries.
[''Sec. 504. Mining claims.
[''Sec. 505. Mineral permits and leases.
[''Sec. 506. Perfection or defense of rights.
[''Sec. 507. Distribution of information concerning benefits of title.
[''Sec. 508. Land rights of servicemembers.
[''Sec. 509. Regulations.
[''Sec. 510. Income taxes.
[''Sec. 511. Residence for tax purposes.

[''TITLE VI—ADMINISTRATIVE REMEDIES

[''Sec. 601. Inappropriate use of Act.
[''Sec. 602. Certificates of service; persons reported missing.
[''Sec. 603. Interlocutory orders.

[''TITLE VII—FURTHER RELIEF

[''Sec. 701. Anticipatory relief.
[''Sec. 702. Power of attorney.
[''Sec. 703. Professional liability protection.
[''Sec. 704. Health insurance reinstatement.
[''Sec. 705. Guarantee of residency for military personnel.
[''Sec. 706. Business or trade obligations.
[''Sec. 707. Return to classes at no extra cost.

[''SEC. 2. PURPOSES.

[''The purposes of this Act are—

[''(1) to provide for, strengthen, and expedite the national defense through protection extended by this Act to servicemembers of the United States to enable such persons to devote their entire energy to the defense needs of the Nation; and

[''(2) to provide for the temporary suspension of judicial and administrative proceedings and transactions that may adversely affect the civil rights of servicemembers during their military service.

[''TITLE I—GENERAL PROVISIONS

[''SEC. 101. DEFINITIONS.

[''For the purposes of this Act:

[''(1) SERVICEMEMBER.—The term 'servicemember' means a member of the uniformed services, as that term is defined in section 101(a)(5) of title 10, United States Code.

[''(2) MILITARY SERVICE.—

[''(A) With respect to a member of the Army, Navy, Air Force, Marine Corps, or Coast Guard, the term 'military service' means active duty, as that term is defined in section 101(d)(1) of title 10, United States Code.

[''(B) Active service of commissioned officers of the Public Health Service or National Oceanic and Atmospheric Administration shall be deemed to be 'military service' for the purposes of this Act.

[''(C) Service of a member of the National Guard under a call to active service authorized by the President or the Secretary of Defense for a period of more than 30 consecutive days under section 502(f) of title 32, United States Code, for purposes of responding to a national emergency declared by the President and supported by Federal funds shall be deemed to be 'military service' for the purposes of this Act.

[''(3) PERIOD OF MILITARY SERVICE.—The term 'period of military service' means the period beginning on the date on which a servicemember enters military service and ending on the date on which the servicemember is released from military service or dies while in military service.

[''(4) DEPENDENT.—The term 'dependent', with respect to a servicemember, means—

[''(A) the servicemember's spouse;

[''(B) the servicemember's child (as defined in section 101(4) of title 38, United States Code); or

[''(C) an individual for whom the servicemember provided more than one-half of the individual's support for 180 days immediately preceding an application for relief under this Act.

[''(5) COURT.—The term 'court' means a court or an administrative agency of the United States or of any State (including any political subdivision of a State), whether or not a court or administrative agency of record.

[''(6) STATE.—The term 'State' includes—

[''(A) a commonwealth, territory, or possession of the United States; and

[''(B) the District of Columbia.

[''(7) SECRETARY CONCERNED.—The term 'Secretary concerned'—

[''(A) with respect to a member of the armed forces, has the meaning given that term in section 101(a)(9) of title 10, United States Code;

[''(B) with respect to a commissioned officer of the Public Health Service, means the Secretary of Health and Human Services; and

[''(C) with respect to a commissioned officer of the National Oceanic and Atmospheric Administration, means the Secretary of Commerce.

[''(8) MOTOR VEHICLE.—The term 'motor vehicle' has the meaning given that term in section 30102(a)(6) of title 49, United States Code.

[''SEC. 102. JURISDICTION AND APPLICABILITY OF ACT.

[''(a) JURISDICTION.—This Act applies to—

[''(1) the United States;

[''(2) each of the States, including the political subdivisions thereof; and

[''(3) all territory subject to the jurisdiction of the United States.

[''(b) APPLICABILITY TO PROCEEDINGS.—This Act applies to any judicial or administrative proceeding commenced in any court or agency in any jurisdiction subject to this Act. This Act does not apply to criminal proceedings.

[''(c) COURT IN WHICH APPLICATION MAY BE MADE.—When under this Act any application is required to be made to a court in which no proceeding has already been commenced with respect to the matter, such application may be made to any court which would otherwise have jurisdiction over the matter.

[''SEC. 103. PROTECTION OF PERSONS SECONDARILY LIABLE.

[''(a) EXTENSION OF PROTECTION WHEN ACTIONS STAYED, POSTPONED, OR SUSPENDED.—Whenever pursuant to this Act a court stays, postpones, or suspends (1) the enforcement of an obligation or liability, (2) the prosecution of a suit or proceeding, (3) the entry or enforcement of an order, writ, judgment, or decree, or (4) the performance of any other act, the court may likewise grant such a stay, postponement, or suspension to a surety, guarantor, endorser, accommodation maker, comaker, or other person who is or may be primarily or secondarily subject to the obligation or liability the performance or enforcement of which is stayed, postponed, or suspended.

[''(b) VACATION OR SET-ASIDE OF JUDGMENTS.—When a judgment or decree is vacated or set aside, in whole or in part, pursuant to this Act, the court may also set aside or vacate, as the case may be, the judgment or decree as to a surety, guarantor, endorser, accommodation maker, comaker, or other person who is or may be primarily or secondarily liable on the contract or liability for the enforcement of the judgment or decree.

[''(c) BAIL BOND NOT TO BE ENFORCED DURING PERIOD OF MILITARY SERVICE.—A court may not enforce a bail bond during the period of military service of the principal on the bond when military service prevents the surety from obtaining the attendance of the principal. The court may discharge the surety and exonerate the bail, in accordance with principles of equity and justice, during or after the period of military service of the principal.

[''(d) WAIVER OF RIGHTS.—

[''(1) WAIVERS NOT PRECLUDED.—This Act does not prevent a waiver in writing by a surety, guarantor, endorser, accommodation maker, comaker, or other person (whether primarily or secondarily liable on an obligation or liability) of the protections provided under subsections (a) and (b). Any such waiver is effective only if it is executed as an instrument separate from the obligation or liability with respect to which it applies.

[''(2) WAIVER INVALIDATED UPON ENTRANCE TO MILITARY SERVICE.—If a waiver under paragraph (1) is executed by an individual who after the execution of the waiver enters military service, or by a dependent of an individual who after the execution of the waiver enters military service, the waiver is not valid after the beginning of the period of such military service unless the waiver was executed by such individual or dependent during the period specified in section 106.

[''SEC. 104. EXTENSION OF PROTECTIONS TO CITIZENS SERVING WITH ALLIED FORCES.

[''A citizen of the United States who is serving with the forces of a nation with which the United States is allied in the prosecution of a war or military action is entitled to the relief and protections provided under this Act if that service with the allied force is similar to military service as defined in this Act. The relief and protections provided to such citizen shall terminate on the date of discharge or release from such service.

[''SEC. 105. NOTIFICATION OF BENEFITS.

[''The Secretary concerned shall ensure that notice of the benefits accorded by this Act is provided to persons in military service and to persons entering military service.

[''SEC. 106. EXTENSION OF RIGHTS AND PROTECTIONS TO RESERVES ORDERED TO REPORT FOR MILITARY SERVICE AND TO PERSONS ORDERED TO REPORT FOR INDUCTION.

[''(a) RESERVES ORDERED TO REPORT FOR MILITARY SERVICE.—A member of a reserve component who is ordered to report for military service is entitled to the rights and protections of this title and titles II and III during the period beginning on the date of the member's receipt of the order and ending on the date on which the member reports for

military service (or, if the order is revoked before the member so reports, or the date on which the order is revoked).

[''(b) PERSONS ORDERED TO REPORT FOR INDUCTION.—A person who has been ordered to report for induction under the Military Selective Service Act (50 U.S.C. App. 451 et seq.) is entitled to the rights and protections provided a servicemember under this title and titles II and III during the period beginning on the date of receipt of the order for induction and ending on the date on which the person reports for induction, on the date on which the order is revoked).

[''SEC. 107. WAIVER OF RIGHTS PURSUANT TO WRITTEN AGREEMENT.

[''(a) IN GENERAL.—A servicemember may waive any of the rights and protections provided by this Act. In the case of a waiver that permits an action described in subsection (b), the waiver is effective only if made pursuant to a written agreement of the parties that is executed during or after the servicemember's period of military service. The written agreement shall specify the legal instrument to which the waiver applies and, if the servicemember is not a party to that instrument, the servicemember concerned.

[''(b) ACTIONS REQUIRING WAIVERS IN WRITING.—The requirement in subsection (a) for a written waiver applies to the following:

[''(1) The modification, termination, or cancellation of—

[''(A) a contract, lease, or bailment; or

[''(B) an obligation secured by a mortgage, trust, deed, lien, or other security in the nature of a mortgage.

[''(2) The repossession, retention, foreclosure, sale, forfeiture, or taking possession of property that—

[''(A) is security for any obligation; or

[''(B) was purchased or received under a contract, lease, or bailment.

[''(c) COVERAGE OF PERIODS AFTER ORDERS RECEIVED.—For the purposes of this section—

[''(1) a person to whom section 106 applies shall be considered to be a servicemember; and

[''(2) the period with respect to such a person specified in subsection (a) or (b), as the case may be, of section 106 shall be considered to be a period of military service.

[''SEC. 108. EXERCISE OF RIGHTS UNDER ACT NOT TO AFFECT CERTAIN FUTURE FINANCIAL TRANSACTIONS.

[''Application by a servicemember for, or receipt by a servicemember of, a stay, postponement, or suspension pursuant to this Act in the payment of a tax, fine, penalty, insurance premium, or other civil obligation or liability of that servicemember shall not itself (without regard to other considerations) provide the basis for any of the following:

[''(1) A determination by a lender or other person that the servicemember is unable to pay the civil obligation or liability in accordance with its terms.

[''(2) With respect to a credit transaction between a creditor and the servicemember—

[''(A) a denial or revocation of credit by the creditor;

[''(B) a change by the creditor in the terms of an existing credit arrangement; or

[''(C) a refusal by the creditor to grant credit to the servicemember in substantially the amount or on substantially the terms requested.

[''(3) An adverse report relating to the creditworthiness of the servicemember by or to a person engaged in the practice of assembling or evaluating consumer credit information.

[''(4) A refusal by an insurer to insure the servicemember.

[''(5) An annotation in a servicemember's record by a creditor or a person engaged in the practice of assembling or evaluating consumer credit information, identifying the servicemember as a member of the National Guard or a reserve component.

[''(6) A change in the terms offered or conditions required for the issuance of insurance.

[''SEC. 109. LEGAL REPRESENTATIVES.

[''(a) REPRESENTATIVE.—A legal representative of a servicemember for purposes of this Act is either of the following:

[''(1) An attorney acting on the behalf of a servicemember.

[''(2) An individual possessing a power of attorney.

[''(b) APPLICATION.—Whenever the term 'servicemember' is used in this Act, such term shall be treated as including a reference to a legal representative of the servicemember.

[''TITLE II—GENERAL RELIEF

[''SEC. 201. PROTECTION OF SERVICEMEMBERS AGAINST DEFAULT JUDGMENTS.

[''(a) APPLICABILITY OF SECTION.—This section applies to any civil action or proceeding in which the defendant does not make an appearance.

[''(b) AFFIDAVIT REQUIREMENT.—

[''(1) PLAINTIFF TO FILE AFFIDAVIT.—In any action or proceeding covered by this section, the court, before entering judgment for the plaintiff, shall require the plaintiff to file with the court an affidavit—

[''(A) stating whether or not the defendant is in military service and showing necessary facts to support the affidavit; or

[''(B) if the plaintiff is unable to determine whether or not the defendant is in military service, stating that the plaintiff is unable to determine whether or not the defendant is in military service.

[''(2) APPOINTMENT OF ATTORNEY TO REPRESENT DEFENDANT IN MILITARY SERVICE.—If in an action covered by this section it appears that the defendant is in military service, the court may not enter a judgment until after the court appoints an attorney to represent the defendant. If an attorney appointed under this section to represent a servicemember cannot locate the servicemember, actions by the attorney in the case shall not waive any defense of the servicemember or otherwise bind the servicemember.

[''(3) DEFENDANT'S MILITARY STATUS NOT ASCERTAINED BY AFFIDAVIT.—If based upon the affidavits filed in such an action, the court is unable to determine whether the defendant is in military service, the court, before entering judgment, may require the plaintiff to file a bond in an amount approved by the court. If the defendant is later found to be in military service, the bond shall be available to indemnify the defendant against any loss or damage the defendant may suffer by reason of any judgment for the plaintiff against the defendant, should the judgment be set aside in whole or in part. The bond shall remain in effect until expiration of the time for appeal and setting aside of a judgment under applicable Federal or State law or regulation or under any applicable ordinance of a political subdivision of a State. The court may issue such orders or enter such judgments as the court determines necessary to protect the rights of the defendant under this Act.

[''(4) SATISFACTION OF REQUIREMENT FOR AFFIDAVIT.—The requirement for an affidavit under paragraph (1) may be satisfied by a statement, declaration, verification, or certificate, in writing, subscribed and certified or declared to be true under penalty of perjury.

[''(c) PENALTY FOR MAKING OR USING FALSE AFFIDAVIT.—A person who makes or uses an affidavit permitted under subsection (b) (or a statement, declaration, verification, or certificate as authorized under subsection (b)(4)) knowing it to be false, shall be fined as provided in title 18, United States Code, imprisoned for not more than one year, or both.

[''(d) STAY OF PROCEEDINGS.—In an action covered by this section in which the defendant is in military service, the court shall grant a stay of proceedings for a minimum period of 90 days under this subsection upon application of counsel, or on the court's own motion, if the court determines that—

[''(1) there may be a defense to the action and a defense cannot be presented without the presence of the defendant; or

[''(2) after due diligence, counsel has been unable to contact the defendant or otherwise determine if a meritorious defense exists.

[''(e) INAPPLICABILITY OF SECTION 202 PROCEDURES.—A stay of proceedings under subsection (d) shall not be controlled by procedures or requirements under section 202.

[''(f) SECTION 202 PROTECTION.—If a servicemember who is a defendant in an action covered by this section receives actual notice of the action, the servicemember may request a stay of proceeding under section 202.

[''(g) VACATION OR SETTING ASIDE OF DEFAULT JUDGMENTS.—

[''(1) AUTHORITY FOR COURT TO VACATE OR SET ASIDE JUDGMENT.—If a default judgment is entered in an action covered by this section against a servicemember during the servicemember's period of military service (or within 60 days after termination of or release from such military service), the court entering the judgment shall, upon application by or on behalf of the servicemember, reopen the judgment for the purpose of allowing the servicemember to defend the action if it appears that—

[''(A) the servicemember was materially affected by reason of that military service in making a defense to the action; and

[''(B) the servicemember has a meritorious or legal defense to the action or some part of it.

[''(2) TIME FOR FILING APPLICATION.—An application under this subsection must be filed not later than 90 days after the date of the termination of or release from military service.

[''(h) PROTECTION OF BONA FIDE PURCHASER.—If a court vacates, sets aside, or reverses a default judgment against a servicemember and the vacating, setting aside, or reversing is because of a provision of this Act, that action shall not impair a right or title acquired by a bona fide purchaser for value under the default judgment.

[''SEC. 202. STAY OF PROCEEDINGS WHEN SERVICEMEMBER DEFENDANT HAS NOTICE.

[''(a) APPLICABILITY OF SECTION.—This section applies to any civil action or proceeding in which the defendant at the time of filing an application under this section—

[''(1) is in military service or is within 90 days after termination of or release from military service; and

[''(2) has received notice of the action or proceeding.

[''(b) AUTOMATIC STAY.—

[''(1) AUTHORITY FOR STAY.—At any stage before final judgment in a civil action or proceeding in which a servicemember described in subsection (a) is a party, the court may on its own motion and shall, upon application by the servicemember, stay the action for a period of not less than 90 days, if the conditions in paragraph (2) are met.

[''(2) CONDITIONS FOR STAY.—An application for a stay under paragraph (1) shall include the following:

[''(A) A letter or other communication setting forth facts stating the manner in which

current military duty requirements materially affect the servicemember's ability to appear and stating a date when the servicemember will be available to appear.

[''(B) A letter or other communication from the servicemember's commanding officer stating that the servicemember's current military duty prevents appearance and that military leave is not authorized for the servicemember at the time of the letter.

[''(c) APPLICATION NOT A WAIVER OF DEFENSES.—An application for a stay by a servicemember or a servicemember's representative under this section does not constitute an appearance for jurisdictional purposes and does not constitute a waiver of any substantive or procedural defense (including a defense relating to lack of personal jurisdiction).

[''(d) ADDITIONAL STAY.—

[''(1) APPLICATION.—A servicemember who is granted a stay of a civil action or proceeding under subsection (b) may apply for an additional stay based on continuing material affect of military duty on the servicemember's ability to appear. Such an application may be made by the servicemember at the time of the initial application under subsection (b) or when it appears that the servicemember is unavailable to prosecute or defend the action. The same information required under subsection (b)(2) shall be included in an application under this subsection.

[''(2) APPOINTMENT OF COUNSEL WHEN ADDITIONAL STAY REFUSED.—If the court refuses to grant an additional stay of proceedings under paragraph (1), the court shall appoint counsel to represent the servicemember in the action or proceeding.

[''(e) COORDINATION WITH SECTION 201.—A servicemember who applies for a stay under this section and is unsuccessful may not seek the protections afforded by section 201.

[''(f) INAPPLICABILITY TO SECTION 301.—The protections of this section do not apply to section 301.

[''SEC. 203. FINES AND PENALTIES UNDER CONTRACTS.

[''(a) PROHIBITION OF PENALTIES.—When an action for compliance with the terms of a contract is stayed pursuant to this Act, a penalty shall not accrue for failure to comply with the terms of the contract during the period of the stay.

[''(b) REDUCTION OR WAIVER OF FINES OR PENALTIES.—If a servicemember fails to perform an obligation arising under a contract and a penalty is incurred arising from that nonperformance, a court may reduce or waive the fine or penalty if—

[''(1) the servicemember was in military service at the time the fine or penalty was incurred; and

[''(2) the ability of the servicemember to perform the obligation was materially affected by such military service.

[''SEC. 204. STAY OR VACATION OF EXECUTION OF JUDGMENTS, ATTACHMENTS, AND GARNISHMENTS.

[''(a) COURT ACTION UPON MATERIAL AFFECT DETERMINATION.—If a servicemember, in the opinion of the court, is materially affected by reason of military service in complying with a court judgment or order, the court may on its own motion and shall on application by the servicemember—

[''(1) stay the execution of such judgment or order entered against the servicemember; and

[''(2) vacate or stay an attachment or garnishment of property, money, or debts in the possession of the servicemember or a third party, whether before or after such judgment.

[''(b) APPLICABILITY.—This section applies to an action or proceeding commenced in a court against a servicemember before or during the period of the servicemember's military service or within 60 days after such service terminates.

[''SEC. 205. DURATION AND TERM OF STAYS; CODEFENDANTS NOT IN SERVICE.

[''(a) PERIOD OF STAY.—A stay of an action, proceeding, attachment, or execution made pursuant to the provisions of this Act by a court may be ordered for the period of military service and 90 days thereafter, or for any part of that period. The court may set the terms and amounts for such installment payments as is considered reasonable by the court.

[''(b) CODEFENDANTS.—If the servicemember is a codefendant with others who are not in military service and who are not entitled to the relief and protections provided under this Act, the plaintiff may proceed against those other defendants with the approval of the court.

[''(c) INAPPLICABILITY OF SECTION.—This section does not apply to sections 202 and 701.

[''SEC. 206. STATUTE OF LIMITATIONS.

[''(a) TOLLING OF STATUTES OF LIMITATION DURING MILITARY SERVICE.—The period of a servicemember's military service may not be included in computing any period limited by law, regulation, or order for the bringing of any action or proceeding in a court, or in any board, bureau, commission, department, or other agency of a State (or political subdivision of a State) or the United States by or against the servicemember or the servicemember's heirs, executors, administrators, or assigns.

[''(b) REDEMPTION OF REAL PROPERTY.—A period of military service may not be included in computing any period provided by law for the redemption of real property sold or forfeited to enforce an obligation, tax, or assessment.

[''(c) INAPPLICABILITY TO INTERNAL REVENUE LAWS.—This section does not apply to any period of limitation prescribed by or under the internal revenue laws of the United States.

[''SEC. 207. MAXIMUM RATE OF INTEREST ON DEBTS INCURRED BEFORE MILITARY SERVICE.

[''(a) INTEREST RATE LIMITATION.—

[''(1) 6-PERCENT LIMIT.—An obligation or liability bearing interest at a rate in excess of 6 percent per year that is incurred by a servicemember, or the servicemember and the servicemember's spouse jointly, before the servicemember enters military service shall not bear interest at a rate in excess of 6 percent per year during the period of military service.

[''(2) APPLICABILITY TO STUDENT LOANS.—Notwithstanding section 428(d) of the Higher Education Act of 1965 (20 U.S.C. 1078(d)), paragraph (1) applies with respect to an obligation or liability of a servicemember, or the servicemember and the servicemember's spouse jointly, entered into under the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.)

[''(3) FORGIVENESS OF INTEREST IN EXCESS OF 6 PERCENT.—Interest at a rate in excess of 6 percent per year that would otherwise be incurred but for the prohibition in paragraph (1) is forgiven.

[''(4) PREVENTION OF ACCELERATION OF PRINCIPAL.—The amount of any periodic payment due from a servicemember under the terms of the instrument that created an obligation or liability covered by this section shall be reduced by the amount of the interest forgiven under paragraph (3) that is allocable to the period for which such payment is made.

[''(b) IMPLEMENTATION OF LIMITATION.—

[''(1) WRITTEN NOTICE TO CREDITOR.—In order for an obligation or liability of a servicemember to be subject to the interest rate limitation in subsection (a), the servicemember shall provide to the creditor written notice and a copy of the military orders calling the servicemember to military service and any orders further extending military service, not later than 180 days after the date of the servicemember's termination or release from military service.

[''(2) LIMITATION EFFECTIVE AS OF DATE OF ORDER TO ACTIVE DUTY.—Upon receipt of written notice and a copy of orders calling a servicemember to military service, the creditor shall treat the debt in accordance with subsection (a), effective as of the date on which the servicemember is called to military service.

[''(c) CREDITOR PROTECTION.—A court may grant a creditor relief from the limitations of this section if, in the opinion of the court, the ability of the servicemember to pay interest upon the obligation or liability at a rate in excess of 6 percent per year is not materially affected by reason of the servicemember's military service.

[''(d) INTEREST DEFINED.—As used in this section, the term 'interest' means simple interest plus service charges, renewal charges, fees, or any other charges (except bona fide insurance) with respect to an obligation or liability.

[''TITLE III—RENT, INSTALLMENT CONTRACTS, MORTGAGES, LIENS, ASSIGNMENT, LEASES

[''SEC. 301. EVICTIONS AND DISTRESS.

[''(a) COURT-ORDERED EVICTION.—Except by court order, a landlord (or another person with paramount title) may not—

[''(1) evict a servicemember, or the dependents of a servicemember, during a period of military service of the servicemember, from premises—

[''(A) that are occupied or intended to be occupied primarily as a residence; and

[''(B) for which the monthly rent does not exceed the greater of—

[''(i) $1,950; or

[''(ii) the monthly basic allowance for housing to which the servicemember is entitled under section 403 of title 37, United States Code; or

[''(2) subject such premises to a distress during the period of military service.

[''(b) STAY OF EXECUTION.—

[''(1) COURT AUTHORITY.—Upon an application for eviction or distress with respect to premises covered by this section, the court may on its own motion and shall, if a request is made by or on behalf of a servicemember whose ability to pay the agreed rent is materially affected by military service—

[''(A) stay the proceedings for a period of 90 days, unless in the opinion of the court, justice and equity require a longer or shorter period of time; or

[''(B) adjust the obligation under the lease to preserve the interests of all parties.

[''(2) RELIEF TO LANDLORD.—If a stay is granted under paragraph (1), the court may grant to the landlord (or other person with paramount title) such relief as equity may require.

[''(c) PENALTIES.—

[''(1) MISDEMEANOR.—Except as provided in subsection (a), a person who knowingly takes part in an eviction or distress described in subsection (a), or who knowingly attempts to do so, shall be fined as provided in title 18, United States Code, imprisoned for not more than one year, or both.

[''(2) PRESERVATION OF OTHER REMEDIES AND RIGHTS.—The remedies and rights provided under this section are in addition to and do not preclude any remedy for wrongful conversion (or wrongful eviction) otherwise available under the law to the person claiming relief under this section, including any award for consequential and punitive damages.

[''(d) RENT ALLOTMENT FROM PAY OF SERVICEMEMBER.—To the extent required by a court order related to property which is the subject of a court action under this section, the Secretary concerned shall make an allotment from the pay of a servicemember to satisfy the terms of such order, except that any such allotment shall be subject to regulations prescribed by the Secretary concerned establishing the maximum amount of pay of servicemembers that may be allotted under this subsection.

[''(e) LIMITATION OF APPLICABILITY.—Section 202 is not applicable to this section.

[''SEC. 302. PROTECTION UNDER INSTALLMENT CONTRACTS FOR PURCHASE OR LEASE.

[''(a) PROTECTION UPON BREACH OF CONTRACT.—

[''(1) PROTECTION AFTER ENTERING MILITARY SERVICE.—After a servicemember enters military service, a contract by the servicemember for—

[''(A) the purchase of real or personal property (including a motor vehicle); or

[''(B) the lease or bailment of such property,

may not be rescinded or terminated for a breach of terms of the contract occurring before or during that person's military service, nor may the property be repossessed for such breach without a court order.

[''(2) APPLICABILITY.—This section applies only to a contract for which a deposit or installment has been paid by the servicemember before the servicemember enters military service.

[''(b) PENALTIES.—

[''(1) MISDEMEANOR.—A person who knowingly resumes possession of property in violation of subsection (a), or in violation of section 108, or who knowingly attempts to do so, shall be fined as provided in title 18, United States Code, imprisoned for not more than one year, or both.

[''(2) PRESERVATION OF OTHER REMEDIES AND RIGHTS.—The remedies and rights provided under this section are in addition to and do not preclude any remedy for wrongful conversion otherwise available under law to the person claiming relief under this section, including any award for consequential and punitive damages.

[''(c) AUTHORITY OF COURT.—In a hearing based on this section, the court—

[''(1) may order repayment to the servicemember of all or part of the prior installments or deposits as a condition of terminating the contract and resuming possession of the property;

[''(2) may, on its own motion, and shall on application by a servicemember when the servicemember's ability to comply with the contract is materially affected by military service, stay the proceedings for a period of time as, in the opinion of the court, justice and equity require; or

[''(3) may make other disposition as is equitable to preserve the interests of all parties.

[''SEC. 303. MORTGAGES AND TRUST DEEDS.

[''(a) MORTGAGE AS SECURITY.—This section applies only to an obligation on real or personal property owned by a servicemember that—

[''(1) originated before the period of the servicemember's military service and for which the servicemember is still obligated; and

[''(2) is secured by a mortgage, trust deed, or other security in the nature of a mortgage.

[''(b) STAY OF PROCEEDINGS AND ADJUSTMENT OF OBLIGATION.—In an action filed during, or within 90 days after, a servicemember's period of military service to enforce an obligation described in subsection (a), the court may after a hearing and on its own motion and shall upon application by a servicemember when the servicemember's ability to comply with the obligation is materially affected by military service—

[''(1) stay the proceedings for a period of time as justice and equity require, or

[''(2) adjust the obligation to preserve the interests of all parties.

[''(c) SALE OR FORECLOSURE.—A sale, foreclosure, or seizure of property for a breach of an obligation described in subsection (a) shall not be valid if made during, or within 90 days after, the period of the servicemember's military service except—

[''(1) upon a court order granted before such sale, foreclosure, or seizure with a return made and approved by the court; or

[''(2) if made pursuant to an agreement as provided in section 108.

[''(d) PENALTIES.—

[''(1) MISDEMEANOR.—A person who knowingly makes or causes to be made a sale, foreclosure, or seizure of property that is prohibited by subsection (c), or who knowingly attempts to do so, shall be fined as provided in title 18, United States Code, imprisoned for not more than one year, or both.

[''(2) PRESERVATION OF OTHER REMEDIES.—The remedies and rights provided under this section are in addition to and do not preclude any remedy for wrongful conversion otherwise available under law to the person claiming relief under this section, including consequential and punitive damages.

[''SEC. 304. SETTLEMENT OF STAYED CASES RELATING TO PERSONAL PROPERTY.

[''(a) APPRAISAL OF PROPERTY.—When a stay is granted pursuant to this Act in a proceeding to foreclose a mortgage on or to repossess personal property, or to rescind or terminate a contract for the purchase of personal property, the court may appoint three disinterested parties to appraise the property.

[''(b) EQUITY PAYMENT.—Based on the appraisal, and if undue hardship to the servicemember's dependents will not result, the court may order that the amount of the servicemember's equity in the property be paid to the servicemember, or the servicemember's dependents, as a condition of foreclosing the mortgage, repossessing the property, or rescinding or terminating the contract.

[''SEC. 305. TERMINATION OF LEASES BY LESSEES.

[''(a) COVERED LEASES OF REAL PROPERTY.—This section applies to the lease of premises occupied, or intended to be occupied, by a servicemember or a servicemember's dependents for a residential, professional, business, agricultural, or similar purpose if—

[''(1) the lease is executed by or on behalf of a person who thereafter and during the term of the lease enters military service; or

[''(2) the servicemember, while in military service, executes a lease and thereafter receives military orders for a permanent change of station or to deploy with a military unit for a period of not less than 90 days.

[''(b) COVERED LEASES OF VEHICLES.—This section applies to the lease of a motor vehicle used, or intended to be used, by a servicemember or a servicemember's dependents if the lease is executed by or on behalf of a person who thereafter and during the term of the lease enters military service.

[''(c) NOTICE TO LESSOR.—

[''(1) DELIVERY OF NOTICE.—A lease described in subsection (a) or (b) is terminated when written notice is delivered by the lessee to the lessor (or the lessor's grantee) or to the lessor's agent (or the agent's grantee).

[''(2) TIME FOR NOTICE.—The written notice may be delivered at any time after the lessee's entry into military service or, in the case of a lease described in subsection (a), the date of the military orders for a permanent change of station or to deploy for a period of not less than 90 days.

[''(3) NATURE OF NOTICE.—Delivery may be accomplished—

[''(A) by hand delivery;

[''(B) by private business carrier; or

[''(C) by placing the written notice in an envelope with sufficient postage and addressed to the lessor (or the lessor's grantee) or to the lessor's agent (or the agent's grantee) and depositing the written notice in the United States mails.

[''(d) EFFECTIVE DATE OF TERMINATION.—

[''(1) LEASE WITH MONTHLY RENT.—Termination of a lease providing for monthly payment of rent shall be effective 30 days after the first date on which the next rental payment is due and payable after the date on which the notice is delivered.

[''(2) OTHER LEASE.—All other leases terminate on the last day of the month following the month in which the notice is delivered.

[''(e) ARREARAGES.—Rents or lease amounts unpaid for the period preceding termination shall be paid on a prorated basis.

[''(f) AMOUNTS PAID IN ADVANCE.—Rents or lease amounts paid in advance for a period succeeding termination shall be refunded to the lessee by the lessor (or the lessor's assignee or the assignee's agent).

[''(g) RELIEF TO LESSOR.—Upon application by the lessor to a court before the termination date provided in the written notice, relief granted by this section to a servicemember may be modified as justice and equity require.

[''(h) PENALTIES.—

[''(1) MISDEMEANOR.—Any person who knowingly seizes, holds, or detains the personal effects, security deposit, or other property of a servicemember or a servicemember's dependent who lawfully terminates a lease covered by this section, or who knowingly interferes with the removal of such property from premises covered by such lease, for the purpose of subjecting or attempting to subject any of such property to a claim for rent or lease payments accruing after the date of termination of such lease, or attempts to do so, shall be fined as provided in title 18, United States Code, imprisoned for not more than one year, or both.

[''(2) PRESERVATION OF OTHER REMEDIES.—The remedy and rights provided under this section are in addition to and do not preclude any remedy for wrongful conversion otherwise available under law to the person claiming relief under this section, including any award for consequential or punitive damages.

[''SEC. 306. PROTECTION OF LIFE INSURANCE POLICY.

[''(a) ASSIGNMENT OF POLICY PROTECTED.—If a life insurance policy on the life of a servicemember is assigned before military service to secure the payment of an obligation, the assignee of the policy (except the insurer in connection with a policy loan) may not exercise, during a period of military service of the servicemember or within one year thereafter, any right or option obtained under the assignment without a court order.

[''(b) EXCEPTION.—The prohibition in subsection (a) shall not apply—

[''(1) if the assignee has the written consent of the insured made during the period described in subsection (a);

[''(2) when the premiums on the policy are due and unpaid; or

[''(3) upon the death of the insured.

[''(c) ORDER REFUSED BECAUSE OF MATERIAL AFFECT.—A court which receives an application for an order required under subsection (a) may refuse to grant such order if

the court determines the ability of the servicemember to comply with the terms of the obligation is materially affected by military service.

[''(d) TREATMENT OF GUARANTEED PREMIUMS.—For purposes of this subsection, premiums guaranteed under the provisions of title IV shall not be considered due and unpaid.

[''(e) PENALTIES.—

[''(1) MISDEMEANOR.—A person who knowingly takes an action contrary to this section, or attempts to do so, shall be fined as provided in title 18, United States Code, imprisoned for not more than one year, or both.

[''(2) PRESERVATION OF OTHER REMEDIES.—The remedy and rights provided under this section are in addition to and do not preclude any remedy for wrongful conversion otherwise available under law to the person claiming relief under this section, including any consequential or punitive damages.

[''SEC. 307. ENFORCEMENT OF STORAGE LIENS.

[''(a) LIENS.—

[''(1) LIMITATION ON FORECLOSURE OR ENFORCEMENT.—A person holding a lien on the property or effects of a servicemember may not, during any period of military service of the servicemember and for 90 days thereafter, foreclose or enforce any lien on such property or effects without a court order granted before foreclosure or enforcement.

[''(2) LIEN DEFINED.—For the purposes of paragraph (1), the term 'lien' includes a lien for storage, repair, or cleaning of the property or effects of a servicemember or a lien on such property or effects for any other reason.

[''(b) STAY OF PROCEEDINGS.—In a proceeding to foreclose or enforce a lien subject to this section, the court may on its own motion, and shall if requested by a servicemember whose ability to comply with the obligation resulting in the proceeding is materially affected by military service—

[''(1) stay the proceeding for a period of time as justice and equity require; or

[''(2) adjust the obligation to preserve the interests of all parties.

The provisions of this subsection do not affect the scope of section 303.

[''(c) PENALTIES.—

[''(1) MISDEMEANOR.—A person who knowingly takes an action contrary to this section, or attempts to do so, shall be fined as provided in title 18, United States Code, imprisoned for not more than one year, or both.

[''(2) PRESERVATION OF OTHER REMEDIES.—The remedy and rights provided under this section are in addition to and do not preclude any remedy for wrongful conversion otherwise available under law to the person claiming relief under this section, including any consequential or punitive damages.

[''SEC. 308. EXTENSION OF PROTECTIONS TO DEPENDENTS.

[''Upon application to a court, a dependent of a servicemember is entitled to the protections of this title if the dependent's ability to comply with a lease, contract, bailment, or other obligation is materially affected by reason of the servicemember's military service.

[''TITLE IV—INSURANCE

[''SEC. 401. DEFINITIONS.

[''For the purposes of this title:

[''(1) POLICY.—The term 'policy' means any contract for whole, endowment, universal, or term life insurance, including any benefit in the nature of such insurance arising out of membership in any fraternal or beneficial association which—

[''(A) provides that the insurer may not—

[''(i) decrease the amount of coverage or increase the amount of premiums if the insured is in military service; or

[''(ii) limit or restrict coverage for any activity required by military service; and

[''(B) is in force not less than 180 days before the date of the insured's entry into military service and at the time of application under this title.

[''(2) PREMIUM.—The term 'premium' means the amount specified in an insurance policy to be paid to keep the policy in force.

[''(3) INSURED.—The term 'insured' means a servicemember whose life is insured under a policy.

[''(4) INSURER.—The term 'insurer' includes any firm, corporation, partnership, association, or business that is chartered or authorized to provide insurance and issue contracts or policies by the laws of a State or the United States.

[''SEC. 402. INSURANCE RIGHTS AND PROTECTIONS.

[''(a) RIGHTS AND PROTECTIONS.—The rights and protections under this title apply to the insured when the insured, the insured's designee, or the insured's beneficiary applies in writing for protection under this title, unless the Secretary of Veterans Affairs determines that the insured's policy is not entitled to protection under this title.

[''(b) NOTIFICATION AND APPLICATION.—The Secretary of Veterans Affairs shall notify the Secretary concerned of the procedures to be used to apply for the protections provided under this title. The applicant shall send the original application to the insurer and a copy to the Secretary of Veterans Affairs.

[''(c) LIMITATION ON AMOUNT.—The total amount of life insurance coverage protection provided by this title for a servicemember may not exceed $250,000, or an amount equal to the Servicemember's Group Life Insurance maximum limit, whichever is greater, regardless of the number of policies submitted.

[''SEC. 403. APPLICATION FOR INSURANCE PROTECTION.

[''(a) APPLICATION PROCEDURE.—An application for protection under this title shall—

[''(1) be in writing and signed by the insured, the insured's designee, or the insured's beneficiary, as the case may be;

[''(2) identify the policy and the insurer; and

[''(3) include an acknowledgement that the insured's rights under the policy are subject to and modified by the provisions of this title.

[''(b) ADDITIONAL REQUIREMENTS.—The Secretary of Veterans Affairs may require additional information from the applicant, the insured, and the insurer to determine if the policy is entitled to protection under this title.

[''(c) NOTICE TO THE SECRETARY BY THE INSURED.—Upon receipt of the application of the insured, the insurer shall furnish a report concerning the policy to the Secretary of Veterans Affairs as required by regulations prescribed by the Secretary.

[''(d) POLICY MODIFICATION.—Upon application for protection under this title, the insured and the insurer shall have constructively agreed to any policy modification necessary to give this title full force and effect.

[''SEC. 404. POLICIES ENTITLED TO PROTECTION AND LAPSE OF POLICIES.

[''(a) DETERMINATION.—The Secretary of Veterans Affairs shall determine whether a policy is entitled to protection under this title and shall notify the insured and the insurer of that determination.

[''(b) LAPSE PROTECTION.—A policy that the Secretary determines is entitled to protection under this title shall not lapse or otherwise terminate or be forfeited for the nonpayment of a premium, or interest or indebtedness on a premium, after the date of the application for protection.

[''(c) TIME APPLICATION.—The protection provided by this title applies during the insured's period of military service and for a period of two years thereafter.

[''SEC. 405. POLICY RESTRICTIONS.

[''(a) DIVIDENDS.—While a policy is protected under this title, a dividend or other monetary benefit under a policy may not be paid to an insured or used to purchase dividend additions without the approval of the Secretary of Veterans Affairs. If such approval is not obtained, the dividends or benefits shall be added to the value of the policy to be used as a credit when final settlement is made with the insurer.

[''(b) SPECIFIC RESTRICTIONS.—While a policy is protected under this title, cash value, loan value, withdrawal of dividend accumulation, unearned premiums, or other value of similar character may not be available to the insured without the approval of the Secretary. The right of the insured to change a beneficiary designation or select an optional settlement for a beneficiary shall not be affected by the provisions of this title.

[''SEC. 406. DEDUCTION OF UNPAID PREMIUMS.

[''(a) SETTLEMENT OF PROCEEDS.—If a policy matures as a result of a servicemember's death or otherwise during the period of protection of the policy under this title, the insurer in making settlement shall deduct from the insurance proceeds the amount of the unpaid premiums guaranteed under this title, together with interest due at the rate fixed in the policy for policy loans.

[''(b) INTEREST RATE.—If the interest rate is not specifically fixed in the policy, the rate shall be the same as for policy loans in other policies issued by the insurer at the time the insured's policy was issued.

[''(c) REPORTING REQUIREMENT.—The amount deducted under this section, if any, shall be reported by the insurer to the Secretary of Veterans Affairs.

[''SEC. 407. PREMIUMS AND INTEREST GUARANTEED BY UNITED STATES.

[''(a) GUARANTEE OF PREMIUMS AND INTEREST BY THE UNITED STATES.—

[''(1) GUARANTEE.—Payment of premiums, and interest on premiums at the rate specified in section 406, which become due on a policy under the protection of this title is guaranteed by the United States. If the amount guaranteed is not paid to the insurer before the period of insurance protection under this title expires, the amount due shall be treated by the insurer as a policy loan on the policy.

[''(2) POLICY TERMINATION.—If, at the expiration of insurance protection under this title, the cash surrender value of a policy is less than the amount due to pay premiums and interest on premiums on the policy, the policy shall terminate. Upon such termination, the United States shall pay the insurer the difference between the amount due and the cash surrender value.

[''(b) RECOVERY FROM INSURED OF AMOUNTS PAID BY THE UNITED STATES.—

[''(1) DEBT PAYABLE TO THE UNITED STATES.—The amount paid by the United States to an insurer under this title shall be a debt payable to the United States by the insured on whose policy payment was made.

[''(2) COLLECTION.—Such amount may be collected by the United States, either as an offset from any amount due the insured by the United States or as otherwise authorized by law.

[''(3) DEBT NOT DISCHARGEABLE IN BANKRUPTCY.—Such debt payable to the United States is not dischargeable in bankruptcy proceedings.

[''(c) CREDITING OF AMOUNTS RECOVERED.—Any amounts received by the United States as repayment of debts incurred by an insured under this title shall be credited to the appropriation for the payment of claims under this title.

["SEC. 408. REGULATIONS.

["The Secretary of Veterans Affairs shall prescribe regulations for the implementation of this title.

["SEC. 409. REVIEW OF FINDINGS OF FACT AND CONCLUSIONS OF LAW.

["The findings of fact and conclusions of law made by the Secretary of Veterans Affairs in administering this title may be reviewed by the Board of Veterans' Appeals and the United States Court of Appeals for Veterans Claims.

["TITLE V—TAXES AND PUBLIC LANDS

["SEC. 501. TAXES RESPECTING PERSONAL PROPERTY, MONEY, CREDITS, AND REAL PROPERTY.

["(a) APPLICATION.—This section applies in any case in which a tax or assessment, whether general or special (other than a tax on personal income), falls due and remains unpaid before or during a period of military service with respect to a servicemember's—

["(1) personal property; or

["(2) real property occupied for dwelling, professional, business, or agricultural purposes by a servicemember or the servicemember's dependents or employees—

["(A) before the servicemember's entry into military service; and

["(B) during the time the tax or assessment remains unpaid.

["(b) SALE OF PROPERTY.—

["(1) LIMITATION ON SALE OF PROPERTY TO ENFORCE TAX ASSESSMENT.—Property described in subsection (a) may not be sold to enforce the collection of such tax or assessment except by court order and upon the determination by the court that military service does not materially affect the servicemember's ability to pay the unpaid tax or assessment.

["(2) STAY OF COURT PROCEEDINGS.—A court may stay a proceeding to enforce the collection of such tax or assessment, or sale of such property, during a period of military service of the servicemember and for a period not more than 180 days after the termination of, or release of the servicemember from, military service.

["(c) REDEMPTION.—When property described in subsection (a) is sold or forfeited to enforce the collection of a tax or assessment, a servicemember shall have the right to redeem or commence an action to redeem the servicemember's property during the period of military service or within 180 days after termination of or release from military service. This subsection may not be construed to shorten any period provided by the law of a State (including any political subdivision of a State) for redemption.

["(d) INTEREST ON TAX OR ASSESSMENT.—Whenever a servicemember does not pay a tax or assessment on property described in subsection (a) when due, the amount of the tax or assessment due and unpaid shall bear interest until paid at the rate of 6 percent per year. An additional penalty or interest shall not be incurred by reason of nonpayment. A lien for such unpaid tax or assessment may include interest under this subsection.

["(e) JOINT OWNERSHIP APPLICATION.—This section applies to all forms of property described in subsection (a) owned individually by a servicemember or jointly by a servicemember and a dependent or dependents.

["SEC. 502. RIGHTS IN PUBLIC LANDS.

["(a) RIGHTS NOT FORFEITED.—The rights of a servicemember to lands owned or controlled by the United States, and initiated or acquired by the servicemember under the laws of the United States (including the mining and mineral leasing laws) before military service, shall not be forfeited or prejudiced as a result of being absent from the land, or by failing to begin or complete any work or improvements to the land, during the period of military service.

["(b) TEMPORARY SUSPENSION OF PERMITS OR LICENSES.—If a permittee or licensee under the Act of June 28, 1934 (43 U.S.C. 315 et seq.), enters military service, the permittee or licensee may suspend the permit or license for the period of military service and for 180 days after termination of or release from military service.

["(c) REGULATIONS.—Regulations prescribed by the Secretary of the Interior shall provide for such suspension of permits and licenses and for the remission, reduction, or refund of grazing fees during the period of such suspension.

["SEC. 503. DESERT-LAND ENTRIES.

["(a) DESERT-LAND RIGHTS NOT FORFEITED.—A desert-land entry made or held under the desert-land laws before the entrance of the entryman or the entryman's successor in interest into military service shall not be subject to contest or cancellation—

["(1) for failure to expend any required amount per acre per year in improvements upon the claim;

["(2) for failure to effect the reclamation of the claim during the period the entryman or the entryman's successor in interest is in the military service, or for 180 days after termination of or release from military service; or

["(3) during any period of hospitalization or rehabilitation due to an injury or disability incurred in the line of duty.

The time within which the entryman or claimant is required to make such expenditures and effect reclamation of the land shall be exclusive of the time periods described in paragraphs (2) and (3).

["(b) SERVICE-RELATED DISABILITY.—If an entryman or claimant is honorably discharged and is unable to accomplish reclamation of, and payment for, desert land due to a disability incurred in the line of duty, the entryman or claimant may make proof without further reclamation or payments, under regulations prescribed by the Secretary of the Interior, and receive a patent for the land entered or claimed.

["(c) FILING REQUIREMENT.—In order to obtain the protection of this section, the entryman or claimant shall, within 180 days after entry into military service, cause to be filed in the land office of the district where the claim is situated a notice communicating the fact of military service and the desire to hold the claim under this section.

["SEC. 504. MINING CLAIMS.

["(a) REQUIREMENTS SUSPENDED.—The provisions of section 2324 of the Revised Statutes of the United States (30 U.S.C. 28) specified in subsection (b) shall not apply to a servicemember's claims or interests in claims, regularly located and recorded, during a period of military service and 180 days thereafter, or during any period of hospitalization or rehabilitation due to injuries or disabilities incurred in the line of duty.

["(b) REQUIREMENTS.—The provisions in section 2324 of the Revised Statutes that shall not apply under subsection (a) are those which require that on each mining claim located after May 10, 1872, and until a patent has been issued for such claim, not less than $100 worth of labor shall be performed or improvements made during each year.

["(c) PERIOD OF PROTECTION FROM FORFEITURE.—A mining claim or an interest in a claim owned by a servicemember that has been regularly located and recorded shall not be subject to forfeiture for nonperformance of annual assessments during the period of military service and for 180 days thereafter, or for any period of hospitalization or rehabilitation described in subsection (a).

["(d) FILING REQUIREMENT.—In order to obtain the protections of this section, the claimant of a mining location shall, before the end of the assessment year in which military service is begun or within 60 days after the end of such assessment year, cause to be filed in the office where the location notice or certificate is recorded a notice communicating the fact of military service and the desire to hold the mining claim under this section.

["SEC. 505. MINERAL PERMITS AND LEASES.

["(a) SUSPENSION DURING MILITARY SERVICE.—A person holding a permit or lease on the public domain under the Federal mineral leasing laws who enters military service may suspend all operations under the permit or lease for the duration of military service and for 180 days thereafter. The term of the permit or lease shall not run during the period of suspension, nor shall any rental or royalties be charged against the permit or lease during the period of suspension.

["(b) NOTIFICATION.—In order to obtain the protection of this section, the permittee or lessee shall, within 180 days after entry into military service, notify the Secretary of the Interior by registered mail of the fact that military service has begun and of the desire to hold the claim under this section.

["(c) CONTRACT MODIFICATION.—This section shall not be construed to supersede the terms of any contract for operation of a permit or lease.

["SEC. 506. PERFECTION OR DEFENSE OF RIGHTS.

["(a) RIGHT TO TAKE ACTION NOT AFFECTED.—This title shall not affect the right of a servicemember to take action during a period of military service that is authorized by law or regulations of the Department of the Interior, for the perfection, defense, or further assertion of rights initiated or acquired before entering military service.

["(b) AFFIDAVITS AND PROOFS.—

["(1) IN GENERAL.—A servicemember during a period of military service may make any affidavit or submit any proof required by law, practice, or regulation of the Department of the Interior in connection with the entry, perfection, defense, or further assertion of rights initiated or acquired before entering military service before an officer authorized to provide notary services under section 1044a of title 10, United States Code, or any superior commissioned officer.

["(2) LEGAL STATUS OF AFFIDAVITS.—Such affidavits shall be binding in law and subject to the same penalties as prescribed by section 1001 of title 18, United State Code.

["SEC. 507. DISTRIBUTION OF INFORMATION CONCERNING BENEFITS OF TITLE.

["(a) DISTRIBUTION OF INFORMATION BY SECRETARY CONCERNED.—The Secretary concerned shall issue to servicemembers information explaining the provisions of this title.

["(b) APPLICATION FORMS.—The Secretary concerned shall provide application forms to servicemembers requesting relief under this title.

["(c) INFORMATION FROM SECRETARY OF THE INTERIOR.—The Secretary of the Interior shall furnish to the Secretary concerned information explaining the provisions of this title (other than sections 501, 510, and 511) and related application forms.

["SEC. 508. LAND RIGHTS OF SERVICEMEMBERS.

["(a) NO AGE LIMITATIONS.—Any servicemember under the age of 21 in military service shall be entitled to the same rights under the laws relating to lands owned or controlled by the United States, including mining and mineral leasing laws, as those servicemembers who are 21 years of age.

["(b) RESIDENCY REQUIREMENT.—Any requirement related to the establishment of a

residence within a limited time shall be suspended as to entry by a servicemember in military service until 180 days after termination of or release from military service.

[''(c) ENTRY APPLICATIONS.—Applications for entry may be verified before a person authorized to administer oaths under section 1044a of title 10, United States Code, or under the laws of the State where the land is situated.

[''SEC. 509. REGULATIONS.

[''The Secretary of the Interior may issue regulations necessary to carry out this title (other than sections 501, 510, and 511).

[''SEC. 510. INCOME TAXES.

[''(a) DEFERRAL OF TAX.—Upon notice to the Internal Revenue Service or the tax authority of a State or a political subdivision of a State, the collection of income tax on the income of a servicemember falling due before or during military service shall be deferred for a period not more than 180 days after termination of or release from military service, if a servicemember's ability to pay such income tax is materially affected by military service.

[''(b) ACCRUAL OF INTEREST OR PENALTY.—No interest or penalty shall accrue for the period of deferment by reason of nonpayment on any amount of tax deferred under this section.

[''(c) STATUTE OF LIMITATIONS.—The running of a statute of limitations against the collection of tax deferred under this section, by seizure or otherwise, shall be suspended for the period of military service of the servicemember and for an additional period of 270 days thereafter.

[''(d) APPLICATION LIMITATION.—This section shall not apply to the tax imposed on employees by section 3101 of the Internal Revenue Code of 1986.

[''SEC. 511. RESIDENCE FOR TAX PURPOSES.

[''(a) RESIDENCE OR DOMICILE.—A servicemember shall neither lose nor acquire a residence or domicile for purposes of taxation with respect to the person, personal property, or income of the servicemember by reason of being absent or present in any tax jurisdiction of the United States solely in compliance with military orders.

[''(b) MILITARY SERVICE COMPENSATION.—Compensation of a servicemember for military service shall not be deemed to be income for services performed or from sources within a tax jurisdiction of the United States if the servicemember is not a resident or domiciliary of the jurisdiction in which the servicemember is serving in compliance with military orders.

[''(c) PERSONAL PROPERTY.—

[''(1) RELIEF FROM PERSONAL PROPERTY TAXES.—The personal property of a servicemember shall not be deemed to be located or present in, or to have a situs for taxation in, the tax jurisdiction in which the servicemember is serving in compliance with military orders.

[''(2) EXCEPTION FOR PROPERTY WITHIN MEMBER'S DOMICILE OR RESIDENCE.—This subsection applies to personal property or its use within any tax jurisdiction other than the servicemember's domicile or residence.

[''(3) EXCEPTION FOR PROPERTY USED IN TRADE OR BUSINESS.—This section does not prevent taxation by a tax jurisdiction with respect to personal property used in or arising from a trade or business, if it has jurisdiction.

[''(4) RELATIONSHIP TO LAW OF STATE OF DOMICILE.—Eligibility for relief from personal property taxes under this subsection is not contingent on whether or not such taxes are paid to the State of domicile.

[''(d) INCREASE OF TAX LIABILITY.—A tax jurisdiction may not use the military compensation of a nonresident servicemember to increase the tax liability imposed on other income earned by the nonresident servicemember or spouse subject to tax by the jurisdiction.

[''(e) FEDERAL INDIAN RESERVATIONS.—An Indian servicemember whose legal residence or domicile is a Federal Indian reservation shall be taxed by the laws applicable to Federal Indian reservations and not the State where the reservation is located.

[''(f) DEFINITIONS.—For purposes of this section:

[''(1) PERSONAL PROPERTY.—The term 'personal property' means intangible and tangible property (including motor vehicles).

[''(2) TAXATION.—The term 'taxation' includes licenses, fees, or excises imposed with respect to motor vehicles and their use, if the license, fee, or excise is paid by the servicemember in the servicemember's State of domicile or residence.

[''(3) TAX JURISDICTION.—The term 'tax jurisdiction' means a State or a political subdivision of a State.

[''TITLE VI—ADMINISTRATIVE REMEDIES

[''SEC. 601. INAPPROPRIATE USE OF ACT.

[''If a court determines, in any proceeding to enforce a civil right, that any interest, property, or contract has been transferred or acquired with the intent to delay the just enforcement of such right by taking advantage of this Act, the court shall enter such judgment or make such order as might lawfully be entered or made concerning such transfer or acquisition.

[''SEC. 602. CERTIFICATES OF SERVICE; PERSONS REPORTED MISSING.

[''(a) PRIMA FACIE EVIDENCE.—In any proceeding under this Act, a certificate signed by the Secretary concerned is prima facie evidence as to any of the following facts stated in the certificate:

[''(1) That a person named is, is not, has been, or has not been in military service.

[''(2) The time and the place the person entered military service.

[''(3) The person's residence at the time the person entered military service.

[''(4) The rank, branch, and unit of military service of the person upon entry.

[''(5) The inclusive dates of the person's military service.

[''(6) The monthly pay received by the person at the date of the certificate's issuance.

[''(7) The time and place of the person's termination of or release from military service, or the person's death during military service.

[''(b) CERTIFICATES.—The Secretary concerned shall furnish a certificate under subsection (a) upon receipt of an application for such a certificate. A certificate appearing to be signed by the Secretary concerned is prima facie evidence of its contents and of the signer's authority to issue it.

[''(c) TREATMENT OF SERVICEMEMBERS IN MISSING STATUS.—A servicemember who has been reported missing is presumed to continue in service until accounted for. A requirement under this Act that begins or ends with the death of a servicemember does not begin or end until the servicemember's death is reported to, or determined by, the Secretary concerned or by a court of competent jurisdiction.

[''SEC. 603. INTERLOCUTORY ORDERS.

[''An interlocutory order issued by a court under this Act may be revoked, modified, or extended by the court upon its own motion or otherwise, upon notification to affected parties as required by the court.

[''TITLE VII—FURTHER RELIEF

[''SEC. 701. ANTICIPATORY RELIEF.

[''(a) APPLICATION FOR RELIEF.—A servicemember may, during military service or within 180 days of termination of or release from military service, apply to a court for relief—

[''(1) from any obligation or liability incurred by the servicemember before the servicemember's military service; or

[''(2) from a tax or assessment falling due before or during the servicemember's military service.

[''(b) TAX LIABILITY OR ASSESSMENT.—In a case covered by subsection (a), the court may, if the ability of the servicemember to comply with the terms of such obligation or liability or pay such tax or assessment has been materially affected by reason of military service, after appropriate notice and hearing, grant the following relief:

[''(1) STAY OF ENFORCEMENT OF REAL ESTATE CONTRACTS.—

[''(A) In the case of an obligation payable in installments under a contract for the purchase of real estate, or secured by a mortgage or other instrument in the nature of a mortgage upon real estate, the court may grant a stay of the enforcement of the obligation—

[''(i) during the servicemember's period of military service; and

[''(ii) from the date of termination of or release from military service, or from the date of application if made after termination of or release from military service.

[''(B) Any stay under this paragraph shall be—

[''(i) for a period equal to the remaining life of the installment contract or other instrument, plus a period of time equal to the period of military service of the servicemember, or any part of such combined period; and

[''(ii) subject to payment of the balance of the principal and accumulated interest due and unpaid at the date of termination or release from the applicant's military service or from the date of application in equal installments during the combined period at the rate of interest on the unpaid balance prescribed in the contract or other instrument evidencing the obligation, and subject to other terms as may be equitable.

[''(2) STAY OF ENFORCEMENT OF OTHER CONTRACTS.—

[''(A) In the case of any other obligation, liability, tax, or assessment, the court may grant a stay of enforcement—

[''(i) during the servicemember's military service; and

[''(ii) from the date of termination of or release from military service, or from the date of application if made after termination or release from military service.

[''(B) Any stay under this paragraph shall be—

[''(i) for a period of time equal to the period of the servicemember's military service or any part of such period; and

[''(ii) subject to payment of the balance of principal and accumulated interest due and unpaid at the date of termination or release from military service, or the date of application, in equal periodic installments during this extended period at the rate of interest as may be prescribed for this obligation, liability, tax, or assessment, if paid when due, and subject to other terms as may be equitable.

[''(c) AFFECT OF STAY ON FINE OR PENALTY.—When a court grants a stay under this section, a fine or penalty shall not accrue on the obligation, liability, tax, or assessment for the period of compliance with the terms and conditions of the stay.

[''SEC. 702. POWER OF ATTORNEY.

[''(a) AUTOMATIC EXTENSION.—A power of attorney of a servicemember shall be automatically extended for the period the servicemember is in a missing status (as defined in section 551(2) of title 37, United States Code) if the power of attorney—

[''(1) was duly executed by the servicemember—

[''(A) while in military service; or

[''(B) before entry into military service but after the servicemember—

[''(i) received a call or order to report for military service; or

[''(ii) was notified by an official of the Department of Defense that the person could receive a call or order to report for military service;

[''(2) designates the servicemember's spouse, parent, or other named relative as the servicemember's attorney in fact for certain, specified, or all purposes; and

[''(3) expires by its terms after the servicemember entered a missing status.

[''(b) LIMITATION ON POWER OF ATTORNEY EXTENSION.—A power of attorney executed by a servicemember may not be extended under subsection (a) if the document by its terms clearly indicates that the power granted expires on the date specified even though the servicemember, after the date of execution of the document, enters a missing status.

[''SEC. 703. PROFESSIONAL LIABILITY PROTECTION.

[''(a) APPLICABILITY.—This section applies to a servicemember who—

[''(1) after July 31, 1990, is ordered to active duty (other than for training) pursuant to sections 688, 12301(a), 12301(g), 12302, 12304, 12306, or 12307 of title 10, United States Code, or who is ordered to active duty under section 12301(d) of such title during a period when members are on active duty pursuant to any of the preceding sections; and

[''(2) immediately before receiving the order to active duty—

[''(A) was engaged in the furnishing of health-care or legal services or other services determined by the Secretary of Defense to be professional services; and

[''(B) had in effect a professional liability insurance policy that does not continue to cover claims filed with respect to the servicemember during the period of the servicemember's active duty unless the premiums are paid for such coverage for such period.

[''(b) SUSPENSION OF COVERAGE.—

[''(1) SUSPENSION.—Coverage of a servicemember referred to in subsection (a) by a professional liability insurance policy shall be suspended by the insurance carrier in accordance with this subsection upon receipt of a written request from the servicemember, or the servicemember's legal representative, by the insurance carrier.

[''(2) PREMIUMS FOR SUSPENDED CONTRACTS.—A professional liability insurance carrier—

[''(A) may not require that premiums be paid by or on behalf of a servicemember for any professional liability insurance coverage suspended pursuant to paragraph (1); and

[''(B) shall refund any amount paid for coverage for the period of such suspension or, upon the election of such servicemember, apply such amount for the payment of any premium becoming due upon the reinstatement of such coverage.

[''(3) NONLIABILITY OF CARRIER DURING SUSPENSION.—A professional liability insurance carrier shall not be liable with respect to any claim that is based on professional conduct (including any failure to take any action in a professional capacity) of a servicemember that occurs during a period of suspension of that servicemember's professional liability insurance under this subsection.

[''(4) CERTAIN CLAIMS CONSIDERED TO ARISE BEFORE SUSPENSION.—For the purposes of paragraph (3), a claim based upon the failure of a professional to make adequate provision for a patient, client, or other person to receive professional services or other assistance during the period of the professional's active duty service shall be considered to be based on an action or failure to take action before the beginning of the period of the suspension of professional liability insurance under this subsection, except in a case in which professional services were provided after the date of the beginning of such period.

[''(c) REINSTATEMENT OF COVERAGE.—

[''(1) REINSTATEMENT REQUIRED.—Professional liability insurance coverage suspended in the case of any servicemember pursuant to subsection (b) shall be reinstated by the insurance carrier on the date on which that servicemember transmits to the insurance carrier a written request for reinstatement.

[''(2) TIME AND PREMIUM FOR REINSTATEMENT.—The request of a servicemember for reinstatement shall be effective only if the servicemember transmits the request to the insurance carrier within 30 days after the date on which the servicemember is released from active duty. The insurance carrier shall notify the servicemember of the due date for payment of the premium of such insurance. Such premium shall be paid by the servicemember within 30 days after receipt of that notice.

[''(3) PERIOD OF REINSTATED COVERAGE.—The period for which professional liability insurance coverage shall be reinstated for a servicemember under this subsection may not be less than the balance of the period for which coverage would have continued under the insurance policy if the coverage had not been suspended.

[''(d) INCREASE IN PREMIUM.—

[''(1) LIMITATION ON PREMIUM INCREASES.—An insurance carrier may not increase the amount of the premium charged for professional liability insurance coverage of any servicemember for the minimum period of the reinstatement of such coverage required under subsection (c)(3) to an amount greater than the amount chargeable for such coverage for such period before the suspension.

[''(2) EXCEPTION.—Paragraph (1) does not prevent an increase in premium to the extent of any general increase in the premiums charged by that carrier for the same professional liability coverage for persons similarly covered by such insurance during the period of the suspension.

[''(e) CONTINUATION OF COVERAGE OF UNAFFECTED PERSONS.—This section does not—

[''(1) require a suspension of professional liability insurance protection for any person who is not a person referred to in subsection (a) and who is covered by the same professional liability insurance as a person referred to in such subsection; or

[''(2) relieve any person of the obligation to pay premiums for the coverage not required to be suspended.

[''(f) STAY OF CIVIL OR ADMINISTRATIVE ACTIONS.—

[''(1) STAY OF ACTIONS.—A civil or administrative action for damages on the basis of the alleged professional negligence or other professional liability of a servicemember whose professional liability insurance coverage has been suspended under subsection (b) shall be stayed until the end of the period of the suspension if—

[''(A) the action was commenced during the period of the suspension;

[''(B) the action is based on an act or omission that occurred before the date on which the suspension became effective; and

[''(C) the suspended professional liability insurance would, except for the suspension, on its face cover the alleged professional negligence or other professional liability negligence or other professional liability of the servicemember.

[''(2) DATE OF COMMENCEMENT OF ACTION.—Whenever a civil or administrative action for damages is stayed under paragraph (1) in the case of any servicemember, the action shall have been deemed to have been filed on the date on which the professional liability insurance coverage of the servicemember is reinstated under subsection (c).

[''(g) EFFECT OF SUSPENSION UPON LIMITATIONS PERIOD.—In the case of a civil or administrative action for which a stay could have been granted under subsection (f) by reason of the suspension of professional liability insurance coverage of the defendant under this section, the period of the suspension of the coverage shall be excluded from the computation of any statutory period of limitation on the commencement of such action.

[''(h) DEATH DURING PERIOD OF SUSPENSION.—If a servicemember whose professional liability insurance coverage is suspended under subsection (b) dies during the period of the suspension—

[''(1) the requirement for the grant or continuance of a stay in any civil or administrative action against such servicemember under subsection (f)(1) shall terminate on the date of the death of such servicemember; and

[''(2) the carrier of the professional liability insurance so suspended shall be liable for any claim for damages for professional negligence or other professional liability of the deceased servicemember in the same manner and to the same extent as such carrier would be liable if the servicemember had died while covered by such insurance but before the claim was filed.

[''(i) DEFINITIONS.—For purposes of this section:

[''(1) The term 'active duty' has the meaning given that term in section 101(d)(1) of title 10, United States Code.

[''(2) The term 'profession' includes occupation.

[''(3) The term 'professional' includes occupational.

[''SEC. 704. HEALTH INSURANCE REINSTATEMENT.

[''(a) REINSTATEMENT OF HEALTH INSURANCE.—A servicemember who, by reason of military service as defined in section 703(a)(1), is entitled to the rights and protections of this Act shall also be entitled upon termination or release from such service to reinstatement of any health insurance that—

[''(1) was in effect on the day before such service commenced; and

[''(2) was terminated effective on a date during the period of such service.

[''(b) NO EXCLUSION OR WAITING PERIOD.—The reinstatement of health care insurance coverage for the health or physical condition of a servicemember described in subsection (a), or any other person who is covered by the insurance by reason of the coverage of the servicemember, shall not be subject to an exclusion or a waiting period, if—

[''(1) the condition arose before or during the period of such service;

[''(2) an exclusion or a waiting period would not have been imposed for the condition during the period of coverage; and

[''(3) if the condition relates to the servicemember, the condition has not been determined by the Secretary of Veterans Affairs to be a disability incurred or aggravated in the line of duty (within the meaning of section 105 of title 38, United States Code).

[''(c) EXCEPTIONS.—Subsection (a) does not apply to a servicemember entitled to participate in employer-offered insurance benefits pursuant to the provisions of chapter 43 of title 38, United States Code.

[''(d) TIME FOR APPLYING FOR REINSTATEMENT.—An application under this section must be filed not later than 120 days after the date of the termination of or release from military service.

[“SEC. 705. GUARANTEE OF RESIDENCY FOR MILITARY PERSONNEL.

[“For the purposes of voting for any Federal office (as defined in section 301 of the Federal Election Campaign Act of 1971 (2 U.S.C. 431)) or a State or local office, a person who is absent from a State in compliance with military or naval orders shall not, solely by reason of that absence—

[“(1) be deemed to have lost a residence or domicile in that State, without regard to whether or not the person intends to return to that State;

[“(2) be deemed to have acquired a residence or domicile in any other State; or

[“(3) be deemed to have become a resident in or a resident of any other State.

[“SEC. 706. BUSINESS OR TRADE OBLIGATIONS.

[“(a) AVAILABILITY OF NON-BUSINESS ASSETS TO SATISFY OBLIGATIONS.—If the trade or business (without regard to the form in which such trade or business is carried out) of a servicemember has an obligation or liability for which the servicemember is personally liable, the assets of the servicemember not held in connection with the trade or business may not be available for satisfaction of the obligation or liability during the servicemember's military service.

[“(b) RELIEF TO OBLIGORS.—Upon application to a court by the holder of an obligation or liability covered by this section, relief granted by this section to a servicemember may be modified as justice and equity require.

[“SEC. 707. RETURN TO CLASSES AT NO ADDITIONAL COST.

[“(a) IN GENERAL.—Each institution of higher education that receives Federal assistance or participates in a program assisted under the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.) shall permit each student who is enrolled in the institution and enters into military service—

[“(1) to return to the institution of higher education after completion of the period of military service; and

[“(2) complete, at no additional cost, each class the student was unable to complete as a result of the period of military service.

[“(b) INSTITUTION OF HIGHER EDUCATION DEFINED.—In this section, the term ‘institution of higher education’ has the meaning given the term in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001).”.

[SEC. 2. CONFORMING AMENDMENTS.

[(a) MILITARY SELECTIVE SERVICE ACT.—Section 14 of the Military Selective Service Act (50 U.S.C. App. 464) is repealed.

[(b) TITLE 5, UNITED STATES CODE.—(1) Section 5520a(k)(2)(A) of title 5, United States Code, is amended by striking ‘‘Soldiers' and Sailors' Civil Relief Act of 1940'' and inserting ‘‘Servicemembers Civil Relief Act''; and

[(2) Section 5569(e) of title 5, United States Code, is amended—

[(A) in paragraph (1), by striking ‘‘provided by the Soldiers' and Sailors' Civil Relief Act of 1940'' and all that follows through ‘‘of such Act'' and inserting ‘‘provided by the Servicemembers Civil Relief Act, including the benefits provided by section 702 of such Act but excluding the benefits provided by sections 104 and 106, title IV, and title V (other than sections 501 and 510) of such Act''; and

[(B) in paragraph (2), by striking ‘‘person in the military service'' and inserting ‘‘servicemember''.

[(c) TITLE 10, UNITED STATES CODE.—Section 1408(b)(1)(D) of title 10, United States Code, is amended by striking ‘‘Soldiers' and Sailors' Civil Relief Act of 1940'' and inserting ‘‘Servicemembers Civil Relief Act''.

[(d) INTERNAL REVENUE CODE.—Section 7654(d)(1) of the Internal Revenue Code of 1986 is amended by striking ‘‘Soldiers' and Sailors' Civil Relief Act'' and inserting ‘‘Servicemembers Civil Relief Act''.

[(e) PUBLIC LAW 91–621.—Section 3(a)(3) of Public Law 91–621 (33 U.S.C. 857–3(a)(3)) is amended by striking ‘‘Soldiers' and Sailors' Civil Relief Act of 1940, as amended'' and inserting ‘‘Servicemembers Civil Relief Act''.

[(f) PUBLIC HEALTH SERVICE ACT.—Section 212(e) of the Public Health Service Act (42 U.S.C. 213(e)) is amended by striking ‘‘Soldiers' and Sailors' Civil Relief Act of 1940'' and inserting ‘‘Servicemembers Civil Relief Act''.

[(g) ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965.—Section 8001 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7701) is amended by striking ‘‘section 514 of the Soldiers' and Sailors' Civil Relief Act of 1940 (50 U.S.C. App. 574)'' in the matter preceding paragraph (1) and inserting ‘‘section 511 of the Servicemembers Civil Relief Act''.

[SEC. 3. EFFECTIVE DATE.

[The amendment made by section 1 shall apply to any case decided after the date of the enactment of this Act.]

SECTION 1. RESTATEMENT OF ACT.

The Soldiers' and Sailors' Civil Relief Act of 1940 (50 U.S.C. App. 501 et seq.) is amended to read as follows:

“SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

‘‘(a) SHORT TITLE.—This Act may be cited as the ‘Servicemembers Civil Relief Act'.

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

‘‘Sec. 1. Short title; table of contents.
‘‘Sec. 2. Purpose.

‘‘TITLE I—GENERAL PROVISIONS

‘‘Sec. 101. Definitions.
‘‘Sec. 102. Jurisdiction and applicability of Act.
‘‘Sec. 103. Protection of persons secondarily liable.
‘‘Sec. 104. Extension of protections to citizens serving with allied forces.
‘‘Sec. 105. Notification of benefits.
‘‘Sec. 106. Extension of rights and protections to Reserves ordered to report for military service and to persons ordered to report for induction.
‘‘Sec. 107. Waiver of rights pursuant to written agreement.
‘‘Sec. 108. Exercise of rights under Act not to affect certain future financial transactions.
‘‘Sec. 109. Legal representatives.

‘‘TITLE II—GENERAL RELIEF

‘‘Sec. 201. Protection of servicemembers against default judgments.
‘‘Sec. 202. Stay of proceedings when servicemember has notice.
‘‘Sec. 203. Fines and penalties under contracts.
‘‘Sec. 204. Stay or vacation of execution of judgments, attachments, and garnishments.
‘‘Sec. 205. Duration and term of stays; codefendants not in service.
‘‘Sec. 206. Statute of limitations.
‘‘Sec. 207. Maximum rate of interest on debts incurred before military service.

‘‘TITLE III—RENT, INSTALLMENT CONTRACTS, MORTGAGES, LIENS, ASSIGNMENT, LEASES

‘‘Sec. 301. Evictions and distress.
‘‘Sec. 302. Protection under installment contracts for purchase or lease.
‘‘Sec. 303. Mortgages and trust deeds.
‘‘Sec. 304. Settlement of stayed cases relating to personal property.
‘‘Sec. 305. Termination of residential or motor vehicle leases.
‘‘Sec. 306. Protection of life insurance policy.
‘‘Sec. 307. Enforcement of storage liens.
‘‘Sec. 308. Extension of protections to dependents.

‘‘TITLE IV—LIFE INSURANCE

‘‘Sec. 401. Definitions.
‘‘Sec. 402. Insurance rights and protections.
‘‘Sec. 403. Application for insurance protection.
‘‘Sec. 404. Policies entitled to protection and lapse of policies.
‘‘Sec. 405. Policy restrictions.
‘‘Sec. 406. Deduction of unpaid premiums.
‘‘Sec. 407. Premiums and interest guaranteed by United States.
‘‘Sec. 408. Regulations.
‘‘Sec. 409. Review of findings of fact and conclusions of law.

‘‘TITLE V—TAXES AND PUBLIC LANDS

‘‘Sec. 501. Taxes respecting personal property, money, credits, and real property.
‘‘Sec. 502. Rights in public lands.
‘‘Sec. 503. Desert-land entries.
‘‘Sec. 504. Mining claims.
‘‘Sec. 505. Mineral permits and leases.
‘‘Sec. 506. Perfection or defense of rights.
‘‘Sec. 507. Distribution of information concerning benefits of title.
‘‘Sec. 508. Land rights of servicemembers.
‘‘Sec. 509. Regulations.
‘‘Sec. 510. Income taxes.
‘‘Sec. 511. Residence for tax purposes.

‘‘TITLE VI—ADMINISTRATIVE REMEDIES

‘‘Sec. 601. Inappropriate use of Act.
‘‘Sec. 602. Certificates of service; persons reported missing.
‘‘Sec. 603. Interlocutory orders.

‘‘TITLE VII—FURTHER RELIEF

‘‘Sec. 701. Anticipatory relief.
‘‘Sec. 702. Power of attorney.
‘‘Sec. 703. Professional liability protection.
‘‘Sec. 704. Health insurance reinstatement.
‘‘Sec. 705. Guarantee of residency for military personnel.
‘‘Sec. 706. Business or trade obligations.

“SEC. 2. PURPOSE.

‘‘The purposes of this Act are—

‘‘(1) to provide for, strengthen, and expedite the national defense through protection extended by this Act to servicemembers of the United States to enable such persons to devote their entire energy to the defense needs of the Nation; and

‘‘(2) to provide for the temporary suspension of judicial and administrative proceedings and transactions that may adversely affect the civil rights of servicemembers during their military service.

“TITLE I—GENERAL PROVISIONS

“SEC. 101. DEFINITIONS.

‘‘For the purposes of this Act:

‘‘(1) SERVICEMEMBER.—The term ‘servicemember' means a member of the uniformed services, as that term is defined in section 101(a)(5) of title 10, United States Code.

‘‘(2) MILITARY SERVICE.—The term ‘military service' means—

‘‘(A) in the case of a servicemember who is a member of the Army, Navy, Air Force, Marine Corps, or Coast Guard—

‘‘(i) active duty, as defined in section 101(d)(1) of title 10, United States Code, and

‘‘(ii) in the case of a member of the National Guard, includes service under a call to active service authorized by the President or the Secretary of Defense for a period of more than 30 consecutive days under section 502(f) of title 32, United States Code, for purposes of responding to a national emergency declared by the President and supported by Federal funds;

‘‘(B) in the case of a servicemember who is a commissioned officer of the Public Health Service or the National Oceanic and Atmospheric Administration, active service; and

‘‘(C) any period during which a servicemember is absent from duty on account of sickness, wounds, leave, or other lawful cause.

‘‘(3) PERIOD OF MILITARY SERVICE.—The term ‘period of military service' means the period beginning on the date on which a servicemember enters military service and ending on the date on which the servicemember is released from military service or dies while in military service.

''(4) DEPENDENT.—The term 'dependent', with respect to a servicemember, means—

''(A) the servicemember's spouse;

''(B) the servicemember's child (as defined in section 101(4) of title 38, United States Code); or

''(C) an individual for whom the servicemember provided more than one-half of the individual's support for 180 days immediately preceding an application for relief under this Act.

''(5) COURT.—The term 'court' means a court or an administrative agency of the United States or of any State (including any political subdivision of a State), whether or not a court or administrative agency of record.

''(6) STATE.—The term 'State' includes—

''(A) a commonwealth, territory, or possession of the United States; and

''(B) the District of Columbia.

''(7) SECRETARY CONCERNED.—The term 'Secretary concerned'—

''(A) with respect to a member of the armed forces, has the meaning given that term in section 101(a)(9) of title 10, United States Code;

''(B) with respect to a commissioned officer of the Public Health Service, means the Secretary of Health and Human Services; and

''(C) with respect to a commissioned officer of the National Oceanic and Atmospheric Administration, means the Secretary of Commerce.

''(8) MOTOR VEHICLE.—The term 'motor vehicle' has the meaning given that term in section 30102(a)(6) of title 49, United States Code.

''SEC. 102. JURISDICTION AND APPLICABILITY OF ACT.

''(a) JURISDICTION.—This Act applies to—

''(1) the United States;

''(2) each of the States, including the political subdivisions thereof; and

''(3) all territory subject to the jurisdiction of the United States.

''(b) APPLICABILITY TO PROCEEDINGS.—This Act applies to any judicial or administrative proceeding commenced in any court or agency in any jurisdiction subject to this Act. This Act does not apply to criminal proceedings.

''(c) COURT IN WHICH APPLICATION MAY BE MADE.—When under this Act any application is required to be made to a court in which no proceeding has already been commenced with respect to the matter, such application may be made to any court which would otherwise have jurisdiction over the matter.

''SEC. 103. PROTECTION OF PERSONS SECONDARILY LIABLE.

''(a) EXTENSION OF PROTECTION WHEN ACTIONS STAYED, POSTPONED, OR SUSPENDED.—Whenever pursuant to this Act a court stays, postpones, or suspends (1) the enforcement of an obligation or liability, (2) the prosecution of a suit or proceeding, (3) the entry or enforcement of an order, writ, judgment, or decree, or (4) the performance of any other act, the court may likewise grant such a stay, postponement, or suspension to a surety, guarantor, endorser, accommodation maker, comaker, or other person who is or may be primarily or secondarily subject to the obligation or liability the performance or enforcement of which is stayed, postponed, or suspended.

''(b) VACATION OR SET-ASIDE OF JUDGMENTS.—When a judgment or decree is vacated or set aside, in whole or in part, pursuant to this Act, the court may also set aside or vacate, as the case may be, the judgment or decree as to a surety, guarantor, endorser, accommodation maker, comaker, or other person who is or may be primarily or secondarily liable on the contract or liability for the enforcement of the judgment or decree.

''(c) BAIL BOND NOT TO BE ENFORCED DURING PERIOD OF MILITARY SERVICE.—A court may not enforce a bail bond during the period of military service of the principal on the bond when military service prevents the surety from obtaining the attendance of the principal. The court may discharge the surety and exonerate the bail, in accordance with principles of equity and justice, during or after the period of military service of the principal.

''(d) WAIVER OF RIGHTS.—

''(1) WAIVERS NOT PRECLUDED.—This Act does not prevent a waiver in writing by a surety, guarantor, endorser, accommodation maker, comaker, or other person (whether primarily or secondarily liable on an obligation or liability) of the protections provided under subsections (a) and (b). Any such waiver is effective only if it is executed as an instrument separate from the obligation or liability with respect to which it applies.

''(2) WAIVER INVALIDATED UPON ENTRANCE TO MILITARY SERVICE.—If a waiver under paragraph (1) is executed by an individual who after the execution of the waiver enters military service, or by a dependent of an individual who after the execution of the waiver enters military service, the waiver is not valid after the beginning of the period of such military service unless the waiver was executed by such individual or dependent during the period specified in section 106.

''SEC. 104. EXTENSION OF PROTECTIONS TO CITIZENS SERVING WITH ALLIED FORCES.

''A citizen of the United States who is serving with the forces of a nation with which the United States is allied in the prosecution of a war or military action is entitled to the relief and protections provided under this Act if that service with the allied force is similar to military service as defined in this Act. The relief and protections provided to such citizen shall terminate on the date of discharge or release from such service.

''SEC. 105. NOTIFICATION OF BENEFITS.

''The Secretary concerned shall ensure that notice of the benefits accorded by this Act is provided in writing to persons in military service and to persons entering military service.

''SEC. 106. EXTENSION OF RIGHTS AND PROTECTIONS TO RESERVES ORDERED TO REPORT FOR MILITARY SERVICE AND TO PERSONS ORDERED TO REPORT FOR INDUCTION.

''(a) RESERVES ORDERED TO REPORT FOR MILITARY SERVICE.—A member of a reserve component who is ordered to report for military service is entitled to the rights and protections of this title and titles II and III during the period beginning on the date of the member's receipt of the order and ending on the date on which the member reports for military service (or, if the order is revoked before the member so reports, or the date on which the order is revoked).

''(b) PERSONS ORDERED TO REPORT FOR INDUCTION.—A person who has been ordered to report for induction under the Military Selective Service Act (50 U.S.C. App. 451 et seq.) is entitled to the rights and protections provided a servicemember under this title and titles II and III during the period beginning on the date of receipt of the order for induction and ending on the date on which the person reports for induction (or, if the order to report for induction is revoked before the date on which the person reports for induction, on the date on which the order is revoked).

''SEC. 107. WAIVER OF RIGHTS PURSUANT TO WRITTEN AGREEMENT.

''(a) IN GENERAL.—A servicemember may waive any of the rights and protections provided by this Act. In the case of a waiver that permits an action described in subsection (b), the waiver is effective only if made pursuant to a written agreement of the parties that is executed during or after the servicemember's period of military service. The written agreement shall specify the legal instrument to which the waiver applies and, if the servicemember is not a party to that instrument, the servicemember concerned.

''(b) ACTIONS REQUIRING WAIVERS IN WRITING.—The requirement in subsection (a) for a written waiver applies to the following:

''(1) The modification, termination, or cancellation of—

''(A) a contract, lease, or bailment; or

''(B) an obligation secured by a mortgage, trust, deed, lien, or other security in the nature of a mortgage.

''(2) The repossession, retention, foreclosure, sale, forfeiture, or taking possession of property that—

''(A) is security for any obligation; or

''(B) was purchased or received under a contract, lease, or bailment.

''(c) COVERAGE OF PERIODS AFTER ORDERS RECEIVED.—For the purposes of this section—

''(1) a person to whom section 106 applies shall be considered to be a servicemember; and

''(2) the period with respect to such a person specified in subsection (a) or (b), as the case may be, of section 106 shall be considered to be a period of military service.

''SEC. 108. EXERCISE OF RIGHTS UNDER ACT NOT TO AFFECT CERTAIN FUTURE FINANCIAL TRANSACTIONS.

''Application by a servicemember for, or receipt by a servicemember of, a stay, postponement, or suspension pursuant to this Act in the payment of a tax, fine, penalty, insurance premium, or other civil obligation or liability of that servicemember shall not itself (without regard to other considerations) provide the basis for any of the following:

''(1) A determination by a lender or other person that the servicemember is unable to pay the civil obligation or liability in accordance with its terms.

''(2) With respect to a credit transaction between a creditor and the servicemember—

''(A) a denial or revocation of credit by the creditor;

''(B) a change by the creditor in the terms of an existing credit arrangement; or

''(C) a refusal by the creditor to grant credit to the servicemember in substantially the amount or on substantially the terms requested.

''(3) An adverse report relating to the creditworthiness of the servicemember by or to a person engaged in the practice of assembling or evaluating consumer credit information.

''(4) A refusal by an insurer to insure the servicemember.

''(5) An annotation in a servicemember's record by a creditor or a person engaged in the practice of assembling or evaluating consumer credit information, identifying the servicemember as a member of the National Guard or a reserve component.

''(6) A change in the terms offered or conditions required for the issuance of insurance.

''SEC. 109. LEGAL REPRESENTATIVES.

''(a) REPRESENTATIVE.—A legal representative of a servicemember for purposes of this Act is either of the following:

''(1) An attorney acting on the behalf of a servicemember.

''(2) An individual possessing a power of attorney.

''(b) APPLICATION.—Whenever the term 'servicemember' is used in this Act, such term shall be treated as including a reference to a legal representative of the servicemember.

''TITLE II—GENERAL RELIEF

''SEC. 201. PROTECTION OF SERVICEMEMBERS AGAINST DEFAULT JUDGMENTS.

''(a) APPLICABILITY OF SECTION.—This section applies to any civil action or proceeding in which the defendant does not make an appearance.

''(b) AFFIDAVIT REQUIREMENT.—

''(1) PLAINTIFF TO FILE AFFIDAVIT.—In any action or proceeding covered by this section, the court, before entering judgment for the plaintiff, shall require the plaintiff to file with the court an affidavit—

''(A) stating whether or not the defendant is in military service and showing necessary facts to support the affidavit; or

''(B) if the plaintiff is unable to determine whether or not the defendant is in military service, stating that the plaintiff is unable to determine whether or not the defendant is in military service.

''(2) APPOINTMENT OF ATTORNEY TO REPRESENT DEFENDANT IN MILITARY SERVICE.—If in an action covered by this section it appears that the defendant is in military service, the court may not enter a judgment until after the court appoints an attorney to represent the defendant. If an attorney appointed under this section to represent a servicemember cannot locate the servicemember, actions by the attorney in the case shall not waive any defense of the servicemember or otherwise bind the servicemember.

''(3) DEFENDANT'S MILITARY STATUS NOT ASCERTAINED BY AFFIDAVIT.—If based upon the affidavits filed in such an action, the court is unable to determine whether the defendant is in military service, the court, before entering judgment, may require the plaintiff to file a bond in an amount approved by the court. If the defendant is later found to be in military service, the bond shall be available to indemnify the defendant against any loss or damage the defendant may suffer by reason of any judgment for the plaintiff against the defendant, should the judgment be set aside in whole or in part. The bond shall remain in effect until expiration of the time for appeal and setting aside of a judgment under applicable Federal or State law or regulation or under any applicable ordinance of a political subdivision of a State. The court may issue such orders or enter such judgments as the court determines necessary to protect the rights of the defendant under this Act.

''(4) SATISFACTION OF REQUIREMENT FOR AFFIDAVIT.—The requirement for an affidavit under paragraph (1) may be satisfied by a statement, declaration, verification, or certificate, in writing, subscribed and certified or declared to be true under penalty of perjury.

''(c) PENALTY FOR MAKING OR USING FALSE AFFIDAVIT.—A person who makes or uses an affidavit permitted under subsection (b) (or a statement, declaration, verification, or certificate as authorized under subsection (b)(4)) knowing it to be false, shall be fined as provided in title 18, United States Code, or imprisoned for not more than one year, or both.

''(d) STAY OF PROCEEDINGS.—In an action covered by this section in which the defendant is in military service, the court shall grant a stay of proceedings for a minimum period of 90 days under this subsection upon application of counsel, or on the court's own motion, if the court determines that—

''(1) there may be a defense to the action and a defense cannot be presented without the presence of the defendant; or

''(2) after due diligence, counsel has been unable to contact the defendant or otherwise determine if a meritorious defense exists.

''(e) INAPPLICABILITY OF SECTION 202 PROCEDURES.—A stay of proceedings under subsection (d) shall not be controlled by procedures or requirements under section 202.

''(f) SECTION 202 PROTECTION.—If a servicemember who is a defendant in an action covered by this section receives actual notice of the action, the servicemember may request a stay of proceeding under section 202.

''(g) VACATION OR SETTING ASIDE OF DEFAULT JUDGMENTS.—

''(1) AUTHORITY FOR COURT TO VACATE OR SET ASIDE JUDGMENT.—If a default judgment is entered in an action covered by this section against a servicemember during the servicemember's period of military service (or within 60 days after termination of or release from such military service), the court entering the judgment shall, upon application by or on behalf of the servicemember, reopen the judgment for the purpose of allowing the servicemember to defend the action if it appears that—

''(A) the servicemember was materially affected by reason of that military service in making a defense to the action; and

''(B) the servicemember has a meritorious or legal defense to the action or some part of it.

''(2) TIME FOR FILING APPLICATION.—An application under this subsection must be filed not later than 90 days after the date of the termination of or release from military service.

''(h) PROTECTION OF BONA FIDE PURCHASER.—If a court vacates, sets aside, or reverses a default judgment against a servicemember and the vacating, setting aside, or reversing is because of a provision of this Act, that action shall not impair a right or title acquired by a bona fide purchaser for value under the default judgment.

''SEC. 202. STAY OF PROCEEDINGS WHEN SERVICEMEMBER HAS NOTICE.

''(a) APPLICABILITY OF SECTION.—This section applies to any civil action or proceeding in which the defendant at the time of filing an application under this section—

''(1) is in military service or is within 90 days after termination of or release from military service; and

''(2) has received notice of the action or proceeding.

''(b) STAY OF PROCEEDINGS.—

''(1) AUTHORITY FOR STAY.—At any stage before final judgment in a civil action or proceeding in which a servicemember described in subsection (a) is a party, the court may on its own motion and shall, upon application by the servicemember, stay the action for a period of not less than 90 days, if the conditions in paragraph (2) are met.

''(2) CONDITIONS FOR STAY.—An application for a stay under paragraph (1) shall include the following:

''(A) A letter or other communication setting forth facts stating the manner in which current military duty requirements materially affect the servicemember's ability to appear and stating a date when the servicemember will be available to appear.

''(B) A letter or other communication from the servicemember's commanding officer stating that the servicemember's current military duty prevents appearance and that military leave is not authorized for the servicemember at the time of the letter.

''(c) APPLICATION NOT A WAIVER OF DEFENSES.—An application for a stay under this section does not constitute an appearance for jurisdictional purposes and does not constitute a waiver of any substantive or procedural defense (including a defense relating to lack of personal jurisdiction).

''(d) ADDITIONAL STAY.—

''(1) APPLICATION.—A servicemember who is granted a stay of a civil action or proceeding under subsection (b) may apply for an additional stay based on continuing material affect of military duty on the servicemember's ability to appear. Such an application may be made by the servicemember at the time of the initial application under subsection (b) or when it appears that the servicemember is unavailable to prosecute or defend the action. The same information required under subsection (b)(2) shall be included in an application under this subsection.

''(2) APPOINTMENT OF COUNSEL WHEN ADDITIONAL STAY REFUSED.—If the court refuses to grant an additional stay of proceedings under paragraph (1), the court shall appoint counsel to represent the servicemember in the action or proceeding.

''(e) COORDINATION WITH SECTION 201.—A servicemember who applies for a stay under this section and is unsuccessful may not seek the protections afforded by section 201.

''(f) INAPPLICABILITY TO SECTION 301.—The protections of this section do not apply to section 301.

''SEC. 203. FINES AND PENALTIES UNDER CONTRACTS.

''(a) PROHIBITION OF PENALTIES.—When an action for compliance with the terms of a contract is stayed pursuant to this Act, a penalty shall not accrue for failure to comply with the terms of the contract during the period of the stay.

''(b) REDUCTION OR WAIVER OF FINES OR PENALTIES.—If a servicemember fails to perform an obligation arising under a contract and a penalty is incurred arising from that nonperformance, a court may reduce or waive the fine or penalty if—

''(1) the servicemember was in military service at the time the fine or penalty was incurred; and

''(2) the ability of the servicemember to perform the obligation was materially affected by such military service.

''SEC. 204. STAY OR VACATION OF EXECUTION OF JUDGMENTS, ATTACHMENTS, AND GARNISHMENTS.

''(a) COURT ACTION UPON MATERIAL AFFECT DETERMINATION.—If a servicemember, in the opinion of the court, is materially affected by reason of military service in complying with a court judgment or order, the court may on its own motion and shall on application by the servicemember—

''(1) stay the execution of any judgment or order entered against the servicemember; and

''(2) vacate or stay an attachment or garnishment of property, money, or debts in the possession of the servicemember or a third party, whether before or after judgment.

''(b) APPLICABILITY.—This section applies to an action or proceeding commenced in a court against a servicemember before or during the period of the servicemember's military service or within 90 days after such service terminates.

''SEC. 205. DURATION AND TERM OF STAYS; CODEFENDANTS NOT IN SERVICE.

''(a) PERIOD OF STAY.—A stay of an action, proceeding, attachment, or execution made pursuant to the provisions of this Act by a court may be ordered for the period of military service and 90 days thereafter, or for any part of that period. The court may set the terms and amounts for such installment payments as is considered reasonable by the court.

''(b) CODEFENDANTS.—If the servicemember is a codefendant with others who are not in military service and who are not entitled to the relief and protections provided under this Act, the plaintiff may proceed against those other defendants with the approval of the court.

''(c) INAPPLICABILITY OF SECTION.—This section does not apply to sections 202 and 701.

''SEC. 206. STATUTE OF LIMITATIONS.

''(a) TOLLING OF STATUTES OF LIMITATION DURING MILITARY SERVICE.—The period of a servicemember's military service may not be included in computing any period limited by law, regulation, or order for the bringing of any action or proceeding in a court, or in any board, bureau, commission, department, or other agency of a State (or political subdivision of a State) or the United States by or against the servicemember or the servicemember's heirs, executors, administrators, or assigns.

''(b) REDEMPTION OF REAL PROPERTY.—A period of military service may not be included in computing any period provided by law for the redemption of real property sold or forfeited to enforce an obligation, tax, or assessment.

''(c) INAPPLICABILITY TO INTERNAL REVENUE LAWS.—This section does not apply to any period of limitation prescribed by or under the internal revenue laws of the United States.

''SEC. 207. MAXIMUM RATE OF INTEREST ON DEBTS INCURRED BEFORE MILITARY SERVICE.

''(a) INTEREST RATE LIMITATION.—

''(1) LIMITATION TO 6 PERCENT.—An obligation or liability bearing interest at a rate in excess of 6 percent per year that is incurred by a servicemember, or the servicemember and the servicemember's spouse jointly, before the servicemember enters military service shall not bear interest at a rate in excess of 6 percent per year during the period of military service.

''(2) FORGIVENESS OF INTEREST IN EXCESS OF 6 PERCENT.—Interest at a rate in excess of 6 percent per year that would otherwise be incurred but for the prohibition in paragraph (1) is forgiven.

''(3) PREVENTION OF ACCELERATION OF PRINCIPAL.—The amount of any periodic payment due from a servicemember under the terms of the instrument that created an obligation or liability covered by this section shall be reduced by the amount of the interest forgiven under paragraph (2) that is allocable to the period for which such payment is made.

''(b) IMPLEMENTATION OF LIMITATION.—

''(1) WRITTEN NOTICE TO CREDITOR.—In order for an obligation or liability of a servicemember to be subject to the interest rate limitation in subsection (a), the servicemember shall provide to the creditor written notice and a copy of the military orders calling the servicemember to military service and any orders further extending military service, not later than 180 days after the date of the servicemember's termination or release from military service.

''(2) LIMITATION EFFECTIVE AS OF DATE OF ORDER TO ACTIVE DUTY.—Upon receipt of written notice and a copy of orders calling a servicemember to military service, the creditor shall treat the debt in accordance with subsection (a), effective as of the date on which the servicemember is called to military service.

''(c) CREDITOR PROTECTION.—A court may grant a creditor relief from the limitations of this section if, in the opinion of the court, the ability of the servicemember to pay interest upon the obligation or liability at a rate in excess of 6 percent per year is not materially affected by reason of the servicemember's military service.

''(d) INTEREST.—As used in this section, the term 'interest' includes service charges, renewal charges, fees, or any other charges (except bona fide insurance) with respect to an obligation or liability.

''TITLE III—RENT, INSTALLMENT CONTRACTS, MORTGAGES, LIENS, ASSIGNMENT, LEASES

''SEC. 301. EVICTIONS AND DISTRESS.

''(a) COURT-ORDERED EVICTION.—

''(1) IN GENERAL.—Except by court order, a landlord (or another person with paramount title) may not—

''(A) evict a servicemember, or the dependents of a servicemember, during a period of military service of the servicemember, from premises—

''(i) that are occupied or intended to be occupied primarily as a residence; and

''(ii) for which the monthly rent does not exceed $2,400, as adjusted under paragraph (2) for years after 2003; or

''(B) subject such premises to a distress during the period of military service.

''(2) HOUSING PRICE INFLATION ADJUSTMENT.—(A) For calendar years beginning with 2004, the amount in effect under paragraph (1)(A)(ii) shall be increased by the housing price inflation adjustment for the calendar year involved.

''(B) For purposes of this paragraph—

''(i) The housing price inflation adjustment for any calendar year is the percentage change (if any) by which—

''(I) the CPI housing component for November of the preceding calendar year, exceeds

''(II) the CPI housing component for November of 1984.

''(ii) The term 'CPI housing component' means the index published by the Bureau of Labor Statistics of the Department of Labor known as the Consumer Price Index, All Urban Consumers, Rent of Primary Residence, U.S. City Average.

''(3) PUBLICATION OF HOUSING PRICE INFLATION ADJUSTMENT.—The Secretary of Defense shall cause to be published in the Federal Register each year the amount in effect under paragraph (1)(A)(ii) for that year following the housing price inflation adjustment for that year pursuant to paragraph (2). Such publication shall be made for a year not later than 60 days after such adjustment is made for that year.

''(b) STAY OF EXECUTION.—

''(1) COURT AUTHORITY.—Upon an application for eviction or distress with respect to premises covered by this section, the court may on its own motion and shall, if a request is made by or on behalf of a servicemember whose ability to pay the agreed rent is materially affected by military service—

''(A) stay the proceedings for a period of 90 days, unless in the opinion of the court, justice and equity require a longer or shorter period of time; or

''(B) adjust the obligation under the lease to preserve the interests of all parties.

''(2) RELIEF TO LANDLORD.—If a stay is granted under paragraph (1), the court may grant to the landlord (or other person with paramount title) such relief as equity may require.

''(c) PENALTIES.—

''(1) MISDEMEANOR.—Except as provided in subsection (a), a person who knowingly takes part in an eviction or distress described in subsection (a), or who knowingly attempts to do so, shall be fined as provided in title 18, United States Code, or imprisoned for not more than one year, or both.

''(2) PRESERVATION OF OTHER REMEDIES AND RIGHTS.—The remedies and rights provided under this section are in addition to and do not preclude any remedy for wrongful conversion (or wrongful eviction) otherwise available under the law to the person claiming relief under this section, including any award for consequential and punitive damages.

''(d) RENT ALLOTMENT FROM PAY OF SERVICEMEMBER.—To the extent required by a court order related to property which is the subject of a court action under this section, the Secretary concerned shall make an allotment from the pay of a servicemember to satisfy the terms of such order, except that any such allotment shall be subject to regulations prescribed by the Secretary concerned establishing the maximum amount of pay of servicemembers that may be allotted under this subsection.

''(e) LIMITATION OF APPLICABILITY.—Section 202 is not applicable to this section.

''SEC. 302. PROTECTION UNDER INSTALLMENT CONTRACTS FOR PURCHASE OR LEASE.

''(a) PROTECTION UPON BREACH OF CONTRACT.—

''(1) PROTECTION AFTER ENTERING MILITARY SERVICE.—After a servicemember enters military service, a contract by the servicemember for—

''(A) the purchase of real or personal property (including a motor vehicle); or

''(B) the lease or bailment of such property, may not be rescinded or terminated for a breach of terms of the contract occurring before or during that person's military service, nor may the property be repossessed for such breach without a court order.

''(2) APPLICABILITY.—This section applies only to a contract for which a deposit or installment has been paid by the servicemember before the servicemember enters military service.

''(b) PENALTIES.—

''(1) MISDEMEANOR.—A person who knowingly resumes possession of property in violation of subsection (a), or in violation of section 107 of this Act, or who knowingly attempts to do so, shall be fined as provided in title 18, United States Code, or imprisoned for not more than one year, or both.

''(2) PRESERVATION OF OTHER REMEDIES AND RIGHTS.—The remedies and rights provided under this section are in addition to and do not preclude any remedy for wrongful conversion otherwise available under law to the person claiming relief under this section, including any award for consequential and punitive damages.

''(c) AUTHORITY OF COURT.—In a hearing based on this section, the court—

''(1) may order repayment to the servicemember of all or part of the prior installments or deposits as a condition of terminating the contract and resuming possession of the property;

''(2) may, on its own motion, and shall on application by a servicemember when the servicemember's ability to comply with the contract is materially affected by military service, stay the proceedings for a period of time as, in the opinion of the court, justice and equity require; or

''(3) may make other disposition as is equitable to preserve the interests of all parties.

''SEC. 303. MORTGAGES AND TRUST DEEDS.

''(a) MORTGAGE AS SECURITY.—This section applies only to an obligation on real or personal property owned by a servicemember that—

''(1) originated before the period of the servicemember's military service and for which the servicemember is still obligated; and

''(2) is secured by a mortgage, trust deed, or other security in the nature of a mortgage.

''(b) STAY OF PROCEEDINGS AND ADJUSTMENT OF OBLIGATION.—In an action filed during, or within 90 days after, a servicemember's period of military service to enforce an obligation described in subsection (a), the court may after a hearing and on its own motion and shall upon application by a servicemember when the servicemember's ability to comply with the obligation is materially affected by military service—

''(1) stay the proceedings for a period of time as justice and equity require, or

''(2) adjust the obligation to preserve the interests of all parties.

''(c) SALE OR FORECLOSURE.—A sale, foreclosure, or seizure of property for a breach of an obligation described in subsection (a) shall not be valid if made during, or within 90 days after, the period of the servicemember's military service except—

''(1) upon a court order granted before such sale, foreclosure, or seizure with a return made and approved by the court; or

''(2) if made pursuant to an agreement as provided in section 107.

''(d) PENALTIES.—

''(1) MISDEMEANOR.—A person who knowingly makes or causes to be made a sale, foreclosure, or seizure of property that is prohibited by subsection (c), or who knowingly attempts to do so, shall be fined as provided in title 18, United States Code, or imprisoned for not more than one year, or both.

''(2) PRESERVATION OF OTHER REMEDIES.—The remedies and rights provided under this section are in addition to and do not preclude any remedy for wrongful conversion otherwise available under law to the person claiming relief under this section, including consequential and punitive damages.

''SEC. 304. SETTLEMENT OF STAYED CASES RELATING TO PERSONAL PROPERTY.

''(a) APPRAISAL OF PROPERTY.—When a stay is granted pursuant to this Act in a proceeding to foreclose a mortgage on or to repossess personal property, or to rescind or terminate a contract for the purchase of personal property, the court may appoint three disinterested parties to appraise the property.

''(b) EQUITY PAYMENT.—Based on the appraisal, and if undue hardship to the servicemember's dependents will not result, the court may order that the amount of the servicemember's equity in the property be paid to the servicemember, or the servicemember's dependents, as a condition of foreclosing the mortgage, repossessing the property, or rescinding or terminating the contract.

''SEC. 305. TERMINATION OF RESIDENTIAL OR MOTOR VEHICLE LEASES.

''(a) TERMINATION BY LESSEE.—The lessee on a lease described in subsection (b) may, at the lessee's option, terminate the lease at any time after—

''(1) the lessee's entry into military service; or

''(2) the date of the lessee's military orders described in paragraph (1)(B) or (2)(B) of subsection (b), as the case may be.

''(b) COVERED LEASES.—This section applies to the following leases:

''(1) LEASES OF PREMISES.—A lease of premises occupied, or intended to be occupied, by a servicemember or a servicemember's dependents for a residential, professional, business, agricultural, or similar purpose if—

''(A) the lease is executed by or on behalf of a person who thereafter and during the term of the lease enters military service; or

''(B) the servicemember, while in military service, executes the lease and thereafter receives military orders for a permanent change of station or to deploy with a military unit for a period of not less than 90 days.

''(2) LEASES OF MOTOR VEHICLES.—A lease of a motor vehicle used, or intended to be used, by a servicemember or a servicemember's dependents for personal or business transportation if—

''(A) the lease is executed by or on behalf of a person who thereafter and during the term of the lease enters military service under a call or order specifying a period of not less than 180 days (or who enters military service under a call or order specifying a period of 180 days or less and who, without a break in service, receives orders extending the period of military service to a period of not less than 180 days); or

''(B) the servicemember, while in military service, executes the lease and thereafter receives military orders for a permanent change of station outside of the continental United States or to deploy with a military unit for a period of not less than 180 days.

''(c) MANNER OF TERMINATION.—

''(1) IN GENERAL.—Termination of a lease under subsection (a) is made—

''(A) by delivery by the lessee of written notice of such termination, and a copy of the servicemember's military orders, to the lessor (or the lessor's grantee), or to the lessor's agent (or the agent's grantee); and

''(B) in the case of a lease of a motor vehicle, by return of the motor vehicle by the lessee to the lessor (or the lessor's grantee), or to the lessor's agent (or the agent's grantee), not later than 15 days after the date of the delivery of written notice under subparagraph (A).

''(2) DELIVERY OF NOTICE.—Delivery of notice under paragraph (1)(A) may be accomplished—

''(A) by hand delivery;

''(B) by private business carrier; or

''(C) by placing the written notice in an envelope with sufficient postage and with return receipt requested, and addressed as designated by the lessor (or the lessor's grantee) or to the lessor's agent (or the agent's grantee), and depositing the written notice in the United States mails.

''(d) EFFECTIVE DATE OF LEASE TERMINATION.—

''(1) LEASE OF PREMISES.—In the case of a lease described in subsection (b)(1) that provides for monthly payment of rent, termination of the lease under subsection (a) is effective 30 days after the first date on which the next rental payment is due and payable after the date on which the notice under subsection (c) is delivered. In the case of any other lease described in subsection (b)(1), termination of the lease under subsection (a) is effective on the last day of the month following the month in which the notice is delivered.

''(2) LEASE OF MOTOR VEHICLES.—In the case of a lease described in subsection (b)(2), termination of the lease under subsection (a) is effective on the day on which the requirements of subsection (c) are met for such termination.

''(e) ARREARAGES AND OTHER OBLIGATIONS AND LIABILITIES.—Rents or lease amounts unpaid for the period preceding the effective date of the lease termination shall be paid on a prorated basis. In the case of the lease of a motor vehicle, the lessor may not impose an early termination charge, but any taxes, summonses, and title and registration fees and any other obligation and liability of the lessee in accordance with the terms of the lease, including reasonable charges to the lessee for excess wear, use and mileage, that are due and unpaid at the time of termination of the lease shall be paid by the lessee.

''(f) RENT PAID IN ADVANCE.—Rents or lease amounts paid in advance for a period after the effective date of the termination of the lease shall be refunded to the lessee by the lessor (or the lessor's assignee or the assignee's agent) within 30 days of the effective date of the termination of the lease.

''(g) RELIEF TO LESSOR.—Upon application by the lessor to a court before the termination date provided in the written notice, relief granted by this section to a servicemember may be modified as justice and equity require.

''(h) PENALTIES.—

''(1) MISDEMEANOR.—Any person who knowingly seizes, holds, or detains the personal effects, security deposit, or other property of a servicemember or a servicemember's dependent who lawfully terminates a lease covered by this section, or who knowingly interferes with the removal of such property from premises covered by such lease, for the purpose of subjecting or attempting to subject any of such property to a claim for rent accruing subsequent to the date of termination of such lease, or attempts to do so, shall be fined as provided in title 18, United States Code, or imprisoned for not more than one year, or both.

''(2) PRESERVATION OF OTHER REMEDIES.—The remedy and rights provided under this section are in addition to and do not preclude any remedy for wrongful conversion otherwise available under law to the person claiming relief under this section, including any award for consequential or punitive damages.

''SEC. 306. PROTECTION OF LIFE INSURANCE POLICY.

''(a) ASSIGNMENT OF POLICY PROTECTED.—If a life insurance policy on the life of a servicemember is assigned before military service to secure the payment of an obligation, the assignee of the policy (except the insurer in connection with a policy loan) may not exercise, during a period of military service of the servicemember or within one year thereafter, any right or option obtained under the assignment without a court order.

''(b) EXCEPTION.—The prohibition in subsection (a) shall not apply—

''(1) if the assignee has the written consent of the insured made during the period described in subsection (a);

''(2) when the premiums on the policy are due and unpaid; or

''(3) upon the death of the insured.

''(c) ORDER REFUSED BECAUSE OF MATERIAL AFFECT.—A court which receives an application for an order required under subsection (a) may refuse to grant such order if the court determines the ability of the servicemember to comply with the terms of the obligation is materially affected by military service.

''(d) TREATMENT OF GUARANTEED PREMIUMS.—For purposes of this subsection, premiums guaranteed under the provisions of title IV of this Act shall not be considered due and unpaid.

''(e) PENALTIES.—

''(1) MISDEMEANOR.—A person who knowingly takes an action contrary to this section, or attempts to do so, shall be fined as provided in title 18, United States Code, or imprisoned for not more than one year, or both.

''(2) PRESERVATION OF OTHER REMEDIES.—The remedy and rights provided under this section are in addition to and do not preclude any remedy for wrongful conversion otherwise available under law to the person claiming relief under this section, including any consequential or punitive damages.

''SEC. 307. ENFORCEMENT OF STORAGE LIENS.

''(a) LIENS.—

''(1) LIMITATION ON FORECLOSURE OR ENFORCEMENT.—A person holding a lien on the property or effects of a servicemember may not, during any period of military service of the servicemember and for 90 days thereafter, foreclose or enforce any lien on such property or effects without a court order granted before foreclosure or enforcement.

''(2) LIEN DEFINED.—For the purposes of paragraph (1), the term 'lien' includes a lien for storage, repair, or cleaning of the property or effects of a servicemember or a lien on such property or effects for any other reason.

''(b) STAY OF PROCEEDINGS.—In a proceeding to foreclose or enforce a lien subject to this section, the court may on its own motion, and shall if requested by a servicemember whose ability to comply with the obligation resulting in the proceeding is materially affected by military service—

''(1) stay the proceeding for a period of time as justice and equity require; or

''(2) adjust the obligation to preserve the interests of all parties.

The provisions of this subsection do not affect the scope of section 303.

''(c) PENALTIES.—

''(1) MISDEMEANOR.—A person who knowingly takes an action contrary to this section, or attempts to do so, shall be fined as provided in title 18, United States Code, or imprisoned for not more than one year, or both.

''(2) PRESERVATION OF OTHER REMEDIES.—The remedy and rights provided under this section are in addition to and do not preclude any remedy for wrongful conversion otherwise available under law to the person claiming relief under this section, including any consequential or punitive damages.

''SEC. 308. EXTENSION OF PROTECTIONS TO DEPENDENTS.

''Upon application to a court, a dependent of a servicemember is entitled to the protections of this title if the dependent's ability to comply with a lease, contract, bailment, or other obligation is materially affected by reason of the servicemember's military service.

''TITLE IV—LIFE INSURANCE

''SEC. 401. DEFINITIONS.

''For the purposes of this title:

''(1) POLICY.—The term 'policy' means any individual contract for whole, endowment, universal, or term life insurance (other than group term life insurance coverage), including any benefit in the nature of such insurance arising out of membership in any fraternal or beneficial association which—

''(A) provides that the insurer may not—

''(i) decrease the amount of coverage or require the payment of an additional amount as premiums if the insured engages in military service (except increases in premiums in individual term insurance based upon age); or

''(ii) limit or restrict coverage for any activity required by military service; and

''(B) is in force not less than 180 days before the date of the insured's entry into military service and at the time of application under this title.

''(2) PREMIUM.—The term 'premium' means the amount specified in an insurance policy to be paid to keep the policy in force.

''(3) INSURED.—The term 'insured' means a servicemember whose life is insured under a policy.

''(4) INSURER.—The term 'insurer' includes any firm, corporation, partnership, association, or business that is chartered or authorized to provide insurance and issue contracts or policies by the laws of a State or the United States.

''SEC. 402. INSURANCE RIGHTS AND PROTECTIONS.

''(a) RIGHTS AND PROTECTIONS.—The rights and protections under this title apply to the insured when—

''(1) the insured,

''(2) the insured's legal representative, or

''(3) the insured's beneficiary in the case of an insured who is outside a State,

applies in writing for protection under this title, unless the Secretary of Veterans Affairs determines that the insured's policy is not entitled to protection under this title.

''(b) NOTIFICATION AND APPLICATION.—The Secretary of Veterans Affairs shall notify the Secretary concerned of the procedures to be used to apply for the protections provided under this title. The applicant shall send the original application to the insurer and a copy to the Secretary of Veterans Affairs.

''(c) LIMITATION ON AMOUNT.—The total amount of life insurance coverage protection provided by this title for a servicemember may not exceed $250,000, or an amount equal to the Servicemember's Group Life Insurance maximum limit, whichever is greater, regardless of the number of policies submitted.

''SEC. 403. APPLICATION FOR INSURANCE PROTECTION.

''(a) APPLICATION PROCEDURE.—An application for protection under this title shall—

''(1) be in writing and signed by the insured, the insured's legal representative, or the insured's beneficiary, as the case may be;

''(2) identify the policy and the insurer; and

''(3) include an acknowledgement that the insured's rights under the policy are subject to and modified by the provisions of this title.

''(b) ADDITIONAL REQUIREMENTS.—The Secretary of Veterans Affairs may require additional information from the applicant, the insured and the insurer to determine if the policy is entitled to protection under this title.

''(c) NOTICE TO THE SECRETARY BY THE INSURER.—Upon receipt of the application of the insured, the insurer shall furnish a report concerning the policy to the Secretary of Veterans Affairs as required by regulations prescribed by the Secretary.

''(d) POLICY MODIFICATION.—Upon application for protection under this title, the insured and the insurer shall have constructively agreed to any policy modification necessary to give this title full force and effect.

''SEC. 404. POLICIES ENTITLED TO PROTECTION AND LAPSE OF POLICIES.

''(a) DETERMINATION.—The Secretary of Veterans Affairs shall determine whether a policy is entitled to protection under this title and shall notify the insured and the insurer of that determination.

''(b) LAPSE PROTECTION.—A policy that the Secretary determines is entitled to protection under this title shall not lapse or otherwise terminate or be forfeited for the nonpayment of a premium, or interest or indebtedness on a premium, after the date on which the application for protection is received by the Secretary.

''(c) TIME APPLICATION.—The protection provided by this title applies during the insured's period of military service and for a period of two years thereafter.

''SEC. 405. POLICY RESTRICTIONS.

''(a) DIVIDENDS.—While a policy is protected under this title, a dividend or other monetary benefit under a policy may not be paid to an insured or used to purchase dividend additions without the approval of the Secretary of Veterans Affairs. If such approval is not obtained, the dividends or benefits shall be added to the value of the policy to be used as a credit when final settlement is made with the insurer.

''(b) SPECIFIC RESTRICTIONS.—While a policy is protected under this title, cash value, loan value, withdrawal of dividend accumulation, unearned premiums, or other value of similar character may not be available to the insured without the approval of the Secretary. The right of the insured to change a beneficiary designation or select an optional settlement for a beneficiary shall not be affected by the provisions of this title.

''SEC. 406. DEDUCTION OF UNPAID PREMIUMS.

''(a) SETTLEMENT OF PROCEEDS.—If a policy matures as a result of a servicemember's death or otherwise during the period of protection of the policy under this title, the insurer in making settlement shall deduct from the insurance proceeds the amount of the unpaid premiums guaranteed under this title, together with interest due at the rate fixed in the policy for policy loans.

''(b) INTEREST RATE.—If the interest rate is not specifically fixed in the policy, the rate shall be the same as for policy loans in other policies issued by the insurer at the time the insured's policy was issued.

''(c) REPORTING REQUIREMENT.—The amount deducted under this section, if any, shall be reported by the insurer to the Secretary of Veterans Affairs.

''SEC. 407. PREMIUMS AND INTEREST GUARANTEED BY UNITED STATES.

''(a) GUARANTEE OF PREMIUMS AND INTEREST BY THE UNITED STATES.—

''(1) GUARANTEE.—Payment of premiums, and interest on premiums at the rate specified in section 406, which become due on a policy under the protection of this title is guaranteed by the United States. If the amount guaranteed is not paid to the insurer before the period of insurance protection under this title expires, the amount due shall be treated by the insurer as a policy loan on the policy.

''(2) POLICY TERMINATION.—If, at the expiration of insurance protection under this title, the cash surrender value of a policy is less than the amount due to pay premiums and interest on premiums on the policy, the policy shall terminate. Upon such termination, the United States shall pay the insurer the difference between the amount due and the cash surrender value.

''(b) RECOVERY FROM INSURED OF AMOUNTS PAID BY THE UNITED STATES.—

''(1) DEBT PAYABLE TO THE UNITED STATES.—The amount paid by the United States to an insurer under this title shall be a debt payable to the United States by the insured on whose policy payment was made.

''(2) COLLECTION.—Such amount may be collected by the United States, either as an offset from any amount due the insured by the United States or as otherwise authorized by law.

''(3) DEBT NOT DISCHARGEABLE IN BANKRUPTCY.—Such debt payable to the United States is not dischargeable in bankruptcy proceedings.

''(c) CREDITING OF AMOUNTS RECOVERED.—Any amounts received by the United States as repayment of debts incurred by an insured under this title shall be credited to the appropriation for the payment of claims under this title.

''SEC. 408. REGULATIONS.

''The Secretary of Veterans Affairs shall prescribe regulations for the implementation of this title.

''SEC. 409. REVIEW OF FINDINGS OF FACT AND CONCLUSIONS OF LAW.

''The findings of fact and conclusions of law made by the Secretary of Veterans Affairs in administering this title are subject to review on appeal to the Board of Veterans' Appeals pursuant to chapter 71 of title 38, United States Code, and to judicial review only as provided in chapter 72 of such title.

''TITLE V—TAXES AND PUBLIC LANDS

''SEC. 501. TAXES RESPECTING PERSONAL PROPERTY, MONEY, CREDITS, AND REAL PROPERTY.

''(a) APPLICATION.—This section applies in any case in which a tax or assessment, whether general or special (other than a tax on personal income), falls due and remains unpaid before or during a period of military service with respect to a servicemember's—

''(1) personal property (including motor vehicles); or

''(2) real property occupied for dwelling, professional, business, or agricultural purposes by a servicemember or the servicemember's dependents or employees—

''(A) before the servicemember's entry into military service; and

''(B) during the time the tax or assessment remains unpaid.

''(b) SALE OF PROPERTY.—

''(1) LIMITATION ON SALE OF PROPERTY TO ENFORCE TAX ASSESSMENT.—Property described in subsection (a) may not be sold to enforce the collection of such tax or assessment except by court order and upon the determination by the court that military service does not materially affect the servicemember's ability to pay the unpaid tax or assessment.

''(2) STAY OF COURT PROCEEDINGS.—A court may stay a proceeding to enforce the collection of such tax or assessment, or sale of such property, during a period of military service of the servicemember and for a period not more than 180 days after the termination of, or release of the servicemember from, military service.

''(c) REDEMPTION.—When property described in subsection (a) is sold or forfeited to enforce the collection of a tax or assessment, a servicemember shall have the right to redeem or commence an action to redeem the servicemember's property during the period of military service or within 180 days after termination of or release from military service. This subsection may not be construed to shorten any period provided by the law of a State (including any political subdivision of a State) for redemption.

''(d) INTEREST ON TAX OR ASSESSMENT.—Whenever a servicemember does not pay a tax or assessment on property described in subsection (a) when due, the amount of the tax or assessment due and unpaid shall bear interest until paid at the rate of 6 percent per year. An additional penalty or interest shall not be incurred by reason of nonpayment. A lien for such unpaid tax or assessment may include interest under this subsection.

''(e) JOINT OWNERSHIP APPLICATION.—This section applies to all forms of property described in subsection (a) owned individually by a servicemember or jointly by a servicemember and a dependent or dependents.

''SEC. 502. RIGHTS IN PUBLIC LANDS.

''(a) RIGHTS NOT FORFEITED.—The rights of a servicemember to lands owned or controlled by the United States, and initiated or acquired by the servicemember under the laws of the United States (including the mining and mineral leasing laws) before military service, shall not be forfeited or prejudiced as a result of being absent from the land, or by failing to begin or complete any work or improvements to the land, during the period of military service.

''(b) TEMPORARY SUSPENSION OF PERMITS OR LICENSES.—If a permittee or licensee under the Act of June 28, 1934 (43 U.S.C. 315 et seq.), enters military service, the permittee or licensee may suspend the permit or license for the period of military service and for 180 days after termination of or release from military service.

''(c) REGULATIONS.—Regulations prescribed by the Secretary of the Interior shall provide for such suspension of permits and licenses and for the remission, reduction, or refund of grazing fees during the period of such suspension.

''SEC. 503. DESERT-LAND ENTRIES.

''(a) DESERT-LAND RIGHTS NOT FORFEITED.—A desert-land entry made or held under the desert-land laws before the entrance of the entryman or the entryman's successor in interest into military service shall not be subject to contest or cancellation—

''(1) for failure to expend any required amount per acre per year in improvements upon the claim;

''(2) for failure to effect the reclamation of the claim during the period the entryman or the entryman's successor in interest is in the military service, or for 180 days after termination of or release from military service; or

''(3) during any period of hospitalization or rehabilitation due to an injury or disability incurred in the line of duty.

The time within which the entryman or claimant is required to make such expenditures and

effect reclamation of the land shall be exclusive of the time periods described in paragraphs (2) and (3).

''(b) SERVICE-RELATED DISABILITY.—If an entryman or claimant is honorably discharged and is unable to accomplish reclamation of, and payment for, desert land due to a disability incurred in the line of duty, the entryman or claimant may make proof without further reclamation or payments, under regulations prescribed by the Secretary of the Interior, and receive a patent for the land entered or claimed.

''(c) FILING REQUIREMENT.—In order to obtain the protection of this section, the entryman or claimant shall, within 180 days after entry into military service, cause to be filed in the land office of the district where the claim is situated a notice communicating the fact of military service and the desire to hold the claim under this section.

''SEC. 504. MINING CLAIMS.

''(a) REQUIREMENTS SUSPENDED.—The provisions of section 2324 of the Revised Statutes of the United States (30 U.S.C. 28) specified in subsection (b) shall not apply to a servicemember's claims or interests in claims, regularly located and recorded, during a period of military service and 180 days thereafter, or during any period of hospitalization or rehabilitation due to injuries or disabilities incurred in the line of duty.

''(b) REQUIREMENTS.—The provisions in section 2324 of the Revised Statutes that shall not apply under subsection (a) are those which require that on each mining claim located after May 10, 1872, and until a patent has been issued for such claim, not less than $100 worth of labor shall be performed or improvements made during each year.

''(c) PERIOD OF PROTECTION FROM FORFEITURE.—A mining claim or an interest in a claim owned by a servicemember that has been regularly located and recorded shall not be subject to forfeiture for nonperformance of annual assessments during the period of military service and for 180 days thereafter, or for any period of hospitalization or rehabilitation described in subsection (a).

''(d) FILING REQUIREMENT.—In order to obtain the protections of this section, the claimant of a mining location shall, before the end of the assessment year in which military service is begun or within 60 days after the end of such assessment year, cause to be filed in the office where the location notice or certificate is recorded a notice communicating the fact of military service and the desire to hold the mining claim under this section.

''SEC. 505. MINERAL PERMITS AND LEASES.

''(a) SUSPENSION DURING MILITARY SERVICE.—A person holding a permit or lease on the public domain under the Federal mineral leasing laws who enters military service may suspend all operations under the permit or lease for the duration of military service and for 180 days thereafter. The term of the permit or lease shall not run during the period of suspension, nor shall any rental or royalties be charged against the permit or lease during the period of suspension.

''(b) NOTIFICATION.—In order to obtain the protection of this section, the permittee or lessee shall, within 180 days after entry into military service, notify the Secretary of the Interior by registered mail of the fact that military service has begun and of the desire to hold the claim under this section.

''(c) CONTRACT MODIFICATION.—This section shall not be construed to supersede the terms of any contract for operation of a permit or lease.

''SEC. 506. PERFECTION OR DEFENSE OF RIGHTS.

''(a) RIGHT TO TAKE ACTION NOT AFFECTED.—This title shall not affect the right of a servicemember to take action during a period of military service that is authorized by law or regulations of the Department of the Interior, for the perfection, defense, or further assertion of rights initiated or acquired before entering military service.

''(b) AFFIDAVITS AND PROOFS.—

''(1) IN GENERAL.—A servicemember during a period of military service may make any affidavit or submit any proof required by law, practice, or regulation of the Department of the Interior in connection with the entry, perfection, defense, or further assertion of rights initiated or acquired before entering military service before an officer authorized to provide notary services under section 1044a of title 10, United States Code, or any superior commissioned officer.

''(2) LEGAL STATUS OF AFFIDAVITS.—Such affidavits shall be binding in law and subject to the same penalties as prescribed by section 1001 of title 18, United State Code.

''SEC. 507. DISTRIBUTION OF INFORMATION CONCERNING BENEFITS OF TITLE.

''(a) DISTRIBUTION OF INFORMATION BY SECRETARY CONCERNED.—The Secretary concerned shall issue to servicemembers information explaining the provisions of this title.

''(b) APPLICATION FORMS.—The Secretary concerned shall provide application forms to servicemembers requesting relief under this title.

''(c) INFORMATION FROM SECRETARY OF THE INTERIOR.—The Secretary of the Interior shall furnish to the Secretary concerned information explaining the provisions of this title (other than sections 501, 510, and 511) and related application forms.

''SEC. 508. LAND RIGHTS OF SERVICEMEMBERS.

''(a) NO AGE LIMITATIONS.—Any servicemember under the age of 21 in military service shall be entitled to the same rights under the laws relating to lands owned or controlled by the United States, including mining and mineral leasing laws, as those servicemembers who are 21 years of age.

''(b) RESIDENCY REQUIREMENT.—Any requirement related to the establishment of a residence within a limited time shall be suspended as to entry by a servicemember in military service until 180 days after termination of or release from military service.

''(c) ENTRY APPLICATIONS.—Applications for entry may be verified before a person authorized to administer oaths under section 1044a of title 10, United States Code, or under the laws of the State where the land is situated.

''SEC. 509. REGULATIONS.

''The Secretary of the Interior may issue regulations necessary to carry out this title (other than sections 501, 510, and 511).

''SEC. 510. INCOME TAXES.

''(a) DEFERRAL OF TAX.—Upon notice to the Internal Revenue Service or the tax authority of a State or a political subdivision of a State, the collection of income tax on the income of a servicemember falling due before or during military service shall be deferred for a period not more than 180 days after termination of or release from military service, if a servicemember's ability to pay such income tax is materially affected by military service.

''(b) ACCRUAL OF INTEREST OR PENALTY.—No interest or penalty shall accrue for the period of deferment by reason of nonpayment on any amount of tax deferred under this section.

''(c) STATUTE OF LIMITATIONS.—The running of a statute of limitations against the collection of tax deferred under this section, by seizure or otherwise, shall be suspended for the period of military service of the servicemember and for an additional period of 270 days thereafter.

''(d) APPLICATION LIMITATION.—This section shall not apply to the tax imposed on employees by section 3101 of the Internal Revenue Code of 1986.

''SEC. 511. RESIDENCE FOR TAX PURPOSES.

''(a) RESIDENCE OR DOMICILE.—A servicemember shall neither lose nor acquire a residence or domicile for purposes of taxation with respect to the person, personal property, or income of the servicemember by reason of being absent or present in any tax jurisdiction of the United States solely in compliance with military orders.

''(b) MILITARY SERVICE COMPENSATION.—Compensation of a servicemember for military service shall not be deemed to be income for services performed or from sources within a tax jurisdiction of the United States if the servicemember is not a resident or domiciliary of the jurisdiction in which the servicemember is serving in compliance with military orders.

''(c) PERSONAL PROPERTY.—

''(1) RELIEF FROM PERSONAL PROPERTY TAXES.—The personal property of a servicemember shall not be deemed to be located or present in, or to have a situs for taxation in, the tax jurisdiction in which the servicemember is serving in compliance with military orders.

''(2) EXCEPTION FOR PROPERTY WITHIN MEMBER'S DOMICILE OR RESIDENCE.—This subsection applies to personal property or its use within any tax jurisdiction other than the servicemember's domicile or residence.

''(3) EXCEPTION FOR PROPERTY USED IN TRADE OR BUSINESS.—This section does not prevent taxation by a tax jurisdiction with respect to personal property used in or arising from a trade or business, if it has jurisdiction.

''(4) RELATIONSHIP TO LAW OF STATE OF DOMICILE.—Eligibility for relief from personal property taxes under this subsection is not contingent on whether or not such taxes are paid to the State of domicile.

''(d) INCREASE OF TAX LIABILITY.—A tax jurisdiction may not use the military compensation of a nonresident servicemember to increase the tax liability imposed on other income earned by the nonresident servicemember or spouse subject to tax by the jurisdiction.

''(e) FEDERAL INDIAN RESERVATIONS.—An Indian servicemember whose legal residence or domicile is a Federal Indian reservation shall be taxed by the laws applicable to Federal Indian reservations and not the State where the reservation is located.

''(f) DEFINITIONS.—For purposes of this section:

''(1) PERSONAL PROPERTY.—The term 'personal property' means intangible and tangible property (including motor vehicles).

''(2) TAXATION.—The term 'taxation' includes licenses, fees, or excises imposed with respect to motor vehicles and their use, if the license, fee, or excise is paid by the servicemember in the servicemember's State of domicile or residence.

''(3) TAX JURISDICTION.—The term 'tax jurisdiction' means a State or a political subdivision of a State.

''TITLE VI—ADMINISTRATIVE REMEDIES

''SEC. 601. INAPPROPRIATE USE OF ACT.

''If a court determines, in any proceeding to enforce a civil right, that any interest, property, or contract has been transferred or acquired with the intent to delay the just enforcement of such right by taking advantage of this Act, the court shall enter such judgment or make such order as might lawfully be entered or made concerning such transfer or acquisition.

''SEC. 602. CERTIFICATES OF SERVICE; PERSONS REPORTED MISSING.

''(a) PRIMA FACIE EVIDENCE.—In any proceeding under this Act, a certificate signed by the Secretary concerned is prima facie evidence as to any of the following facts stated in the certificate:

''(1) That a person named is, is not, has been, or has not been in military service.

''(2) The time and the place the person entered military service.

''(3) The person's residence at the time the person entered military service.

''(4) The rank, branch, and unit of military service of the person upon entry.

''(5) The inclusive dates of the person's military service.

''(6) The monthly pay received by the person at the date of the certificate's issuance.

''(7) The time and place of the person's termination of or release from military service, or the person's death during military service.

''(b) CERTIFICATES.—The Secretary concerned shall furnish a certificate under subsection (a) upon receipt of an application for such a certificate. A certificate appearing to be signed by the Secretary concerned is prima facie evidence of its contents and of the signer's authority to issue it.

''(c) TREATMENT OF SERVICEMEMBERS IN MISSING STATUS.—A servicemember who has been reported missing is presumed to continue in service until accounted for. A requirement under this Act that begins or ends with the death of a servicemember does not begin or end until the servicemember's death is reported to, or determined by, the Secretary concerned or by a court of competent jurisdiction.

''SEC. 603. INTERLOCUTORY ORDERS.

''An interlocutory order issued by a court under this Act may be revoked, modified, or extended by that court upon its own motion or otherwise, upon notification to affected parties as required by the court.

''TITLE VII—FURTHER RELIEF

''SEC. 701. ANTICIPATORY RELIEF.

''(a) APPLICATION FOR RELIEF.—A servicemember may, during military service or within 180 days of termination of or release from military service, apply to a court for relief—

''(1) from any obligation or liability incurred by the servicemember before the servicemember's military service; or

''(2) from a tax or assessment falling due before or during the servicemember's military service.

''(b) TAX LIABILITY OR ASSESSMENT.—In a case covered by subsection (a), the court may, if the ability of the servicemember to comply with the terms of such obligation or liability or pay such tax or assessment has been materially affected by reason of military service, after appropriate notice and hearing, grant the following relief:

''(1) STAY OF ENFORCEMENT OF REAL ESTATE CONTRACTS.—

''(A) In the case of an obligation payable in installments under a contract for the purchase of real estate, or secured by a mortgage or other instrument in the nature of a mortgage upon real estate, the court may grant a stay of the enforcement of the obligation—

''(i) during the servicemember's period of military service; and

''(ii) from the date of termination of or release from military service, or from the date of application if made after termination of or release from military service.

''(B) Any stay under this paragraph shall be—

''(i) for a period equal to the remaining life of the installment contract or other instrument, plus a period of time equal to the period of military service of the servicemember, or any part of such combined period; and

''(ii) subject to payment of the balance of the principal and accumulated interest due and unpaid at the date of termination or release from the applicant's military service or from the date of application in equal installments during the combined period at the rate of interest on the unpaid balance prescribed in the contract or other instrument evidencing the obligation, and subject to other terms as may be equitable.

''(2) STAY OF ENFORCEMENT OF OTHER CONTRACTS.—

''(A) In the case of any other obligation, liability, tax, or assessment, the court may grant a stay of enforcement—

''(i) during the servicemember's military service; and

''(ii) from the date of termination of or release from military service, or from the date of application if made after termination or release from military service.

''(B) Any stay under this paragraph shall be—

''(i) for a period of time equal to the period of the servicemember's military service or any part of such period; and

''(ii) subject to payment of the balance of principal and accumulated interest due and unpaid at the date of termination or release from military service, or the date of application, in equal periodic installments during this extended period at the rate of interest as may be prescribed for this obligation, liability, tax, or assessment, if paid when due, and subject to other terms as may be equitable.

''(c) AFFECT OF STAY ON FINE OR PENALTY.—When a court grants a stay under this section, a fine or penalty shall not accrue on the obligation, liability, tax, or assessment for the period of compliance with the terms and conditions of the stay.

''SEC. 702. POWER OF ATTORNEY.

''(a) AUTOMATIC EXTENSION.—A power of attorney of a servicemember shall be automatically extended for the period the servicemember is in a missing status (as defined in section 551(2) of title 37, United States Code) if the power of attorney—

''(1) was duly executed by the servicemember—

''(A) while in military service; or

''(B) before entry into military service but after the servicemember—

''(i) received a call or order to report for military service; or

''(ii) was notified by an official of the Department of Defense that the person could receive a call or order to report for military service;

''(2) designates the servicemember's spouse, parent, or other named relative as the servicemember's attorney in fact for certain, specified, or all purposes; and

''(3) expires by its terms after the servicemember entered a missing status.

''(b) LIMITATION ON POWER OF ATTORNEY EXTENSION.—A power of attorney executed by a servicemember may not be extended under subsection (a) if the document by its terms clearly indicates that the power granted expires on the date specified even though the servicemember, after the date of execution of the document, enters a missing status.

''SEC. 703. PROFESSIONAL LIABILITY PROTECTION.

''(a) APPLICABILITY.—This section applies to a servicemember who—

''(1) after July 31, 1990, is ordered to active duty (other than for training) pursuant to sections 688, 12301(a), 12301(g), 12302, 12304, 12306, or 12307 of title 10, United States Code, or who is ordered to active duty under section 12301(d) of such title during a period when members are on active duty pursuant to any of the preceding sections; and

''(2) immediately before receiving the order to active duty—

''(A) was engaged in the furnishing of healthcare or legal services or other services determined by the Secretary of Defense to be professional services; and

''(B) had in effect a professional liability insurance policy that does not continue to cover claims filed with respect to the servicemember during the period of the servicemember's active duty unless the premiums are paid for such coverage for such period.

''(b) SUSPENSION OF COVERAGE.—

''(1) SUSPENSION.—Coverage of a servicemember referred to in subsection (a) by a professional liability insurance policy shall be suspended by the insurance carrier in accordance with this subsection upon receipt of a written request from the servicemember by the insurance carrier.

''(2) PREMIUMS FOR SUSPENDED CONTRACTS.—A professional liability insurance carrier—

''(A) may not require that premiums be paid by or on behalf of a servicemember for any professional liability insurance coverage suspended pursuant to paragraph (1); and

''(B) shall refund any amount paid for coverage for the period of such suspension or, upon the election of such servicemember, apply such amount for the payment of any premium becoming due upon the reinstatement of such coverage.

''(3) NONLIABILITY OF CARRIER DURING SUSPENSION.—A professional liability insurance carrier shall not be liable with respect to any claim that is based on professional conduct (including any failure to take any action in a professional capacity) of a servicemember that occurs during a period of suspension of that servicemember's professional liability insurance under this subsection.

''(4) CERTAIN CLAIMS CONSIDERED TO ARISE BEFORE SUSPENSION.—For the purposes of paragraph (3), a claim based upon the failure of a professional to make adequate provision for a patient, client, or other person to receive professional services or other assistance during the period of the professional's active duty service shall be considered to be based on an action or failure to take action before the beginning of the period of the suspension of professional liability insurance under this subsection, except in a case in which professional services were provided after the date of the beginning of such period.

''(c) REINSTATEMENT OF COVERAGE.—

''(1) REINSTATEMENT REQUIRED.—Professional liability insurance coverage suspended in the case of any servicemember pursuant to subsection (b) shall be reinstated by the insurance carrier on the date on which that servicemember transmits to the insurance carrier a written request for reinstatement.

''(2) TIME AND PREMIUM FOR REINSTATEMENT.—The request of a servicemember for reinstatement shall be effective only if the servicemember transmits the request to the insurance carrier within 30 days after the date on which the servicemember is released from active duty. The insurance carrier shall notify the servicemember of the due date for payment of the premium of such insurance. Such premium shall be paid by the servicemember within 30 days after receipt of that notice.

''(3) PERIOD OF REINSTATED COVERAGE.—The period for which professional liability insurance coverage shall be reinstated for a servicemember under this subsection may not be less than the balance of the period for which coverage would have continued under the insurance policy if the coverage had not been suspended.

''(d) INCREASE IN PREMIUM.—

''(1) LIMITATION ON PREMIUM INCREASES.—An insurance carrier may not increase the amount of the premium charged for professional liability insurance coverage of any servicemember for the minimum period of the reinstatement of such coverage required under subsection (c)(3) to an amount greater than the amount chargeable for such coverage for such period before the suspension.

''(2) EXCEPTION.—Paragraph (1) does not prevent an increase in premium to the extent of any general increase in the premiums charged by that carrier for the same professional liability coverage for persons similarly covered by such insurance during the period of the suspension.

''(e) CONTINUATION OF COVERAGE OF UNAFFECTED PERSONS.—This section does not—

''(1) require a suspension of professional liability insurance protection for any person who is not a person referred to in subsection (a) and who is covered by the same professional liability insurance as a person referred to in such subsection; or

''(2) relieve any person of the obligation to pay premiums for the coverage not required to be suspended.

''(f) STAY OF CIVIL OR ADMINISTRATIVE ACTIONS.—

''(1) STAY OF ACTIONS.—A civil or administrative action for damages on the basis of the alleged professional negligence or other professional liability of a servicemember whose professional liability insurance coverage has been suspended under subsection (b) shall be stayed until the end of the period of the suspension if—

''(A) the action was commenced during the period of the suspension;

''(B) the action is based on an act or omission that occurred before the date on which the suspension became effective; and

''(C) the suspended professional liability insurance would, except for the suspension, on its face cover the alleged professional negligence or other professional liability negligence or other professional liability of the servicemember.

''(2) DATE OF COMMENCEMENT OF ACTION.—Whenever a civil or administrative action for damages is stayed under paragraph (1) in the case of any servicemember, the action shall have been deemed to have been filed on the date on which the professional liability insurance coverage of the servicemember is reinstated under subsection (c).

''(g) EFFECT OF SUSPENSION UPON LIMITATIONS PERIOD.—In the case of a civil or administrative action for which a stay could have been granted under subsection (f) by reason of the suspension of professional liability insurance coverage of the defendant under this section, the period of the suspension of the coverage shall be excluded from the computation of any statutory period of limitation on the commencement of such action.

''(h) DEATH DURING PERIOD OF SUSPENSION.—If a servicemember whose professional liability insurance coverage is suspended under subsection (b) dies during the period of the suspension—

''(1) the requirement for the grant or continuance of a stay in any civil or administrative action against such servicemember under subsection (f)(1) shall terminate on the date of the death of such servicemember; and

''(2) the carrier of the professional liability insurance so suspended shall be liable for any claim for damages for professional negligence or other professional liability of the deceased servicemember in the same manner and to the same extent as such carrier would be liable if the servicemember had died while covered by such insurance but before the claim was filed.

''(i) DEFINITIONS.—For purposes of this section:

''(1) ACTIVE DUTY.—The term 'active duty' has the meaning given that term in section 101(d)(1) of title 10, United States Code.

''(2) PROFESSION.—The term 'profession' includes occupation.

''(3) PROFESSIONAL.—The term 'professional' includes occupational.

''SEC. 704. HEALTH INSURANCE REINSTATEMENT.

''(a) REINSTATEMENT OF HEALTH INSURANCE.—A servicemember who, by reason of military service as defined in section 703(a)(1), is entitled to the rights and protections of this Act shall also be entitled upon termination or release from such service to reinstatement of any health insurance that—

''(1) was in effect on the day before such service commenced; and

''(2) was terminated effective on a date during the period of such service.

''(b) NO EXCLUSION OR WAITING PERIOD.—The reinstatement of health care insurance coverage for the health or physical condition of a servicemember described in subsection (a), or any other person who is covered by the insurance by reason of the coverage of the servicemember, shall not be subject to an exclusion or a waiting period, if—

''(1) the condition arose before or during the period of such service;

''(2) an exclusion or a waiting period would not have been imposed for the condition during the period of coverage; and

''(3) if the condition relates to the servicemember, the condition has not been determined by the Secretary of Veterans Affairs to be a disability incurred or aggravated in the line of duty (within the meaning of section 105 of title 38, United States Code).

''(c) EXCEPTIONS.—Subsection (a) does not apply to a servicemember entitled to participate in employer-offered insurance benefits pursuant to the provisions of chapter 43 of title 38, United States Code.

''(d) TIME FOR APPLYING FOR REINSTATEMENT.—An application under this section must be filed not later than 120 days after the date of the termination of or release from military service.

''SEC. 705. GUARANTEE OF RESIDENCY FOR MILITARY PERSONNEL.

''For the purposes of voting for any Federal office (as defined in section 301 of the Federal Election Campaign Act of 1971 (2 U.S.C. 431)) or a State or local office, a person who is absent from a State in compliance with military or naval orders shall not, solely by reason of that absence—

''(1) be deemed to have lost a residence or domicile in that State, without regard to whether or not the person intends to return to that State;

''(2) be deemed to have acquired a residence or domicile in any other State; or

''(3) be deemed to have become a resident in or a resident of any other State.

''SEC. 706. BUSINESS OR TRADE OBLIGATIONS.

''(a) AVAILABILITY OF NON-BUSINESS ASSETS TO SATISFY OBLIGATIONS.—If the trade or business (without regard to the form in which such trade or business is carried out) of a servicemember has an obligation or liability for which the servicemember is personally liable, the assets of the servicemember not held in connection with the trade or business may not be available for satisfaction of the obligation or liability during the servicemember's military service.

''(b) RELIEF TO OBLIGORS.—Upon application to a court by the holder of an obligation or liability covered by this section, relief granted by this section to a servicemember may be modified as justice and equity require.''.

SEC. 2. CONFORMING AMENDMENTS.

(a) MILITARY SELECTIVE SERVICE ACT.—Section 14 of the Military Selective Service Act (50 U.S.C. App. 464) is repealed.

(b) TITLE 5, UNITED STATES CODE.—

(1) Section 5520a(k)(2)(A) of title 5, United States Code, is amended by striking ''Soldiers' and Sailors' Civil Relief Act of 1940'' and inserting ''Servicemembers Civil Relief Act''; and

(2) Section 5569(e) of title 5, United States Code, is amended—

(A) in paragraph (1), by striking ''provided by the Soldiers' and Sailors' Civil Relief Act of 1940'' and all that follows through ''of such Act'' and inserting ''provided by the Servicemembers Civil Relief Act, including the benefits provided by section 702 of such Act but excluding the benefits provided by sections 104, 105, and 106, title IV, and title V (other than sections 501 and 510) of such Act''; and

(B) in paragraph (2)(A), by striking ''person in the military service'' and inserting ''servicemember''.

(c) TITLE 10, UNITED STATES CODE.—Section 1408(b)(1)(D) of title 10, United States Code, is amended by striking ''Soldiers' and Sailors' Civil Relief Act of 1940'' and inserting ''Servicemembers Civil Relief Act''.

(d) INTERNAL REVENUE CODE.—Section 7654(d)(1) of the Internal Revenue Code of 1986 is amended by striking ''Soldiers' and Sailors' Civil Relief Act'' and inserting ''Servicemembers Civil Relief Act''.

(e) PUBLIC HEALTH SERVICE ACT.—Section 212(e) of the Public Health Service Act (42 U.S.C. 213(e)) is amended by striking ''Soldiers' and Sailors' Civil Relief Act of 1940'' and inserting ''Servicemembers Civil Relief Act''.

(f) ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965.—Section 8001 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7701) is amended by striking ''section 514 of the Soldiers' and Sailors' Civil Relief Act of 1940 (50 U.S.C. App. 574)'' in the matter preceding paragraph (1) and inserting ''section 511 of the Servicemembers Civil Relief Act''.

(g) NOAA COMMISSIONED OFFICER CORPS ACT OF 2002.—Section 262(a)(2) of National Oceanic and Atmospheric Administration Commissioned Officer Corps Act of 2002 (33 U.S.C. 3072(a)(2)) is amended to read as follows:

''(2) The Servicemembers Civil Relief Act.''.

SEC. 3. EFFECTIVE DATE.

The amendment made by section 1 shall apply to any case that is not final before the date of the enactment of this Act.

Mr. GRAHAM of Florida. Mr. President, as ranking member of the Committee on Veterans' Affairs, I ask my colleagues to join me today in passing S. 1136, the Servicemembers' Civil Relief Act. This important bill would restate and update the Soldiers' and Sailors' Civil Relief Act of 1940, a law that protects servicemembers from worrying about civil lawsuits and pre-existing debts while they are in uniform defending the United States. The bill reasserts our commitment to protect and care for those servicemen and women who often make tremendous sacrifices to serve our nation.

Civil protections have been afforded to servicemembers in the United States since the War of 1812. The first modern version of the SSCRA was enacted after the U.S. entered World War I. In 1940, Congress reenacted many of the WWI provisions, but raised the protection on rent evictions by $30 to reflect the rise in the cost of living. Congress continued to update and supplement provisions over the years to adapt the protections to the changing needs and circumstances of servicemembers. In 2002, responding to the lengthy mobilization of National Guard members to safeguard the nation's airports after the attacks of September 11, Congress extended SSCRA protections to Guard members called up by the President to respond to national emergencies who remain under the authority of the State Governors.

This legislation would restate, clarify, and revise the Soldiers' and Sailors' Civil Relief Act of 1940, SSCRA, and its subsequent amendments. The SSCRA's main purpose has been to suspend some of the legal obligations incurred by military personnel prior to entry into the service or mobilization for active service in the Reserves or the National Guard. The core protections provided by the SSCRA are: stays of civil legal proceedings during a person's period of military service; an interest rate cap of 6 percent on debts incurred before active duty; protection from eviction and termination of preservice residential leases; and legal residency protection. Also, servicemembers are able to terminate a lease on a home if given orders to move. Because of the SSCRA, servicemembers have not had to worry about being sued or being evicted from their homes while deployed. Instead, the legislation has allowed them to properly keep their focus on military duties.

The legislation before us, S. 1136, would update the SSCRA to better address the obligations servicemembers incur today. For example, due to the escalating costs of rental housing over

the past few decades, this act will provide greater protection for servicemembers and their families from being evicted during times of military service. Currently, servicemembers are protected from eviction if they have a monthly rent of $1200 or less. This legislation will raise the bar to $2,400, to be adjusted annually based on the annual increase in the Consumer Price Index, thus avoiding the future need for frequent amendments to the law.

Continuing the effort to make the SSCRA applicable to today's servicemembers' lifestyles, this legislation would allow servicemembers to be released from a lease for an automobile if they are deployed for an extended period of time or moved overseas. It was necessary to add this protection because auto leasing has become such a popular alternative to purchasing in recent times, yet many leases prohibit the removal of cars from the United States.

This bill would also look after the needs of small business owners who serve, particularly those in the Reserves and National Guard. If passed, the bill would preserve the assets of small business owners during military service if the servicemember is personally liable for trade or business debts.

I thank the leadership of my colleagues who serve on the House Committee on Veterans' Affairs, the Chairman of the Senate Committee on Veterans' Affairs, Senator SPECTER, and Senators BEN NELSON and ZELL MILLER, who have all worked together to provide a comprehensive and necessary set of benefits which will relieve many of the personal burdens some of our servicemembers face when they are called into duty. The benefits will allow them to continue focusing their efforts on their heroic duties for our Nation.

I urge my colleagues to support this critical measure and restore the fundamental justice due our veterans.

Mr. FRIST. I ask unanimous consent the committee substitute amendment be agreed to; the bill, as amended, be read a third time, and the Veterans' Affairs Committee then be discharged from further consideration of H.R. 100, and the Senate proceed to its consideration. I further ask all after the enacting clause be stricken, the text of S. 1136, as amended, be inserted in lieu thereof, the bill as amended be read a third time and passed, the motions to reconsider be laid on the table en bloc, S. 1136 then be returned to the calendar, and any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The committee amendment in the nature of a substitute was agreed to.

The bill was ordered to be engrossed for a third reading and was read the third time.

The bill (H.R. 100), as amended, was read the third time and passed.

DEPARTMENT OF HOMELAND SECURITY FINANCIAL ACCOUNTABILITY ACT

Mr. FRIST. I ask unanimous consent the Senate now proceed to consideration of Calendar No. 405, S. 1567.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 1567) to amend title 31, United States Code, to improve financial accountability requirements applicable to the Department of Homeland Security and for other purposes.

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Governmental Affairs, with an amendment to strike all after the enacting clause and insert in lieu thereof the following:

[Strike the part shown in black brackets and insert the part shown in italic.]

S. 1567

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 ''Department of Homeland Security Financial Accountability Act''.

[SEC. 2. CHIEF FINANCIAL OFFICER OF THE DEPARTMENT OF HOMELAND SECURITY.

[(a) IN GENERAL.—Section 901(b)(1) of title 31, United States Code, is amended—

[(1) by redesignating subparagraphs (G) through (P) as subparagraphs (H) through (Q), respectively; and

[(2) by inserting after subparagraph (F) the following:

[''(G) The Department of Homeland Security.''.

[(b) APPOINTMENT OR DESIGNATION OF CFO.—The President shall appoint or designate a Chief Financial Officer of the Department of Homeland Security under the amendment made by subsection (a) by not later than 180 days after the date of the enactment of this Act.

[(c) CONTINUED SERVICE OF CURRENT OFFICIAL.—The individual serving as Chief Financial Officer of the Department of Homeland Security immediately before the enactment of this Act may continue to serve in that position until the date of the confirmation or designation, as applicable (under section 901(a)(1)(B) of title 31, United States Code), of a successor under the amendment made by subsection (a).

[(d) CONFORMING AMENDMENTS.—

[(1) HOMELAND SECURITY ACT OF 2002.—The Homeland Security Act of 2002 (Public Law 107–296) is amended—

[(A) in section 103 (6 U.S.C. 113)—

[(i) in subsection (d) by striking paragraph (4), and redesignating paragraph (5) as paragraph (4);

[(ii) by redesignating subsection (e) as subsection (f); and

[(iii) by inserting after subsection (d) the following:

[''(e) CHIEF FINANCIAL OFFICER.—There shall be in the Department a Chief Financial Officer, as provided in chapter 9 of title 31, United States Code.''; and

[(B) in section 702 (6 U.S.C. 342) by striking ''shall report'' and all that follows through the period and inserting ''shall perform functions as specified in chapter 9 of title 31, United States Code.''.

[(2) FEMA.—Section 901(b)(2) of title 31, United States Code, is amended by striking subparagraph (B), and by redesignating subparagraphs (D) through (H) as subparagraphs (C) through (G), respectively.

[SEC. 3. FUNCTIONS OF CHIEF FINANCIAL OFFICER OF THE DEPARTMENT OF HOMELAND SECURITY.

[Section 3516 of title 31, United States Code, is amended by adding at the end the following:

[''(f) The Secretary of Homeland Security—

[''(1) shall submit for fiscal year 2004, and for each subsequent fiscal year, a performance and accountability report under subsection (a) that incorporates the program performance report under section 1116 of this title for the Department of Homeland Security; and

[''(2) shall include in each performance and accountability report an audit opinion of the Department's internal controls over its financial reporting.''.]

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Department of Homeland Security Financial Accountability Act''.

SEC. 2. CHIEF FINANCIAL OFFICER OF THE DEPARTMENT OF HOMELAND SECURITY.

(a) IN GENERAL.—Section 901(b)(1) of title 31, United States Code, is amended—

(1) by redesignating subparagraphs (G) through (P) as subparagraphs (H) through (Q), respectively; and

(2) by inserting after subparagraph (F) the following:

''(G) The Department of Homeland Security.''.

(b) APPOINTMENT OR DESIGNATION OF CFO.—The President shall appoint or designate a Chief Financial Officer of the Department of Homeland Security under the amendment made by subsection (a) by not later than 180 days after the date of the enactment of this Act.

(c) CONTINUED SERVICE OF CURRENT OFFICIAL.—The individual serving as Chief Financial Officer of the Department of Homeland Security immediately before the enactment of this Act may continue to serve in that position until the date of the confirmation or designation, as applicable (under section 901(a)(1)(B) of title 31, United States Code), of a successor under the amendment made by subsection (a).

(d) CONFORMING AMENDMENTS.—

(1) HOMELAND SECURITY ACT OF 2002.—The Homeland Security Act of 2002 (Public Law 107–296) is amended—

(A) in section 103 (6 U.S.C. 113)—

(i) in subsection (d) by striking paragraph (4), and redesignating paragraph (5) as paragraph (4);

(ii) by redesignating subsection (e) as subsection (f); and

(iii) by inserting after subsection (d) the following:

''(e) CHIEF FINANCIAL OFFICER.—There shall be in the Department a Chief Financial Officer, as provided in chapter 9 of title 31, United States Code.''; and

(B) in section 702 (6 U.S.C. 342) by striking ''shall report'' and all that follows through the period and inserting ''shall perform functions as specified in chapter 9 of title 31, United States Code.''.

(2) FEMA.—Section 901(b)(2) of title 31, United States Code, is amended by striking subparagraph (B), and by redesignating subparagraphs (C) through (H) as subparagraphs (B) through (G), respectively.

SEC. 3. FUNCTIONS OF CHIEF FINANCIAL OFFICER OF THE DEPARTMENT OF HOMELAND SECURITY.

(a) PERFORMANCE AND ACCOUNTABILITY REPORTS.—Section 3516 of title 31, United States Code, is amended by adding at the end the following:

''(f) The Secretary of Homeland Security—

''(1) shall for each fiscal year submit a performance and accountability report under subsection (a) that incorporates the program performance report under section 1116 of this title for the Department of Homeland Security; and

''(2) shall include in each performance and accountability report an audit opinion of the Department's internal controls over its financial reporting.''.

(b) IMPLEMENTATION OF AUDIT OPINION REQUIREMENT.—The Secretary of Homeland Security shall include audit opinions in performance and accountability reports under section 3516(f) of title 31, United States Code, as amended by subsection (a), only for fiscal years after fiscal year 2004.

(c) ASSERTION OF INTERNAL CONTROLS.—The Secretary of Homeland Security shall include in the performance and accountability report for fiscal year 2004 submitted by the Secretary under section 3516(f) of title 31, United States Code, an assertion of the internal controls that apply to financial reporting by the Department of Homeland Security.

SEC. 4. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Secretary of Homeland Security such sums as are necessary to carry out this Act.

Mr. FRIST. I ask unanimous consent the committee substitute be agreed to, the bill, as amended, be read a third time and passed, the motion to reconsider be laid on the table, and any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The committee amendment in the nature of a substitute was agreed to.

The bill (S. 1567), as amended, was read the third time and passed.

UNANIMOUS CONSENT AGREEMENT—S. 1248

Mr. FRIST. I ask unanimous consent that at a time to be determined by the majority leader in consultation with the minority leader, the Senate proceed to consideration of Calendar No. 362, S. 1248, the IDEA Act Reauthorization bill, and that it be considered under the following limitations: That the following amendments be the only first-degree amendments in order, other than the committee-reported substitute amendment, and that any second-degree amendments be relevant to the first-degree amendment to which they are offered: Gregg or his designee, IDEA attorney's fees; Gregg or his designee, IDEA funding; Gregg or his designee, IDEA paperwork reduction; Gregg or his designee, IDEA relevant; Harkin, IDEA funding; Murray, IDEA for the homeless; Clinton, coordinating data on developmental disabilities; Kennedy or his designee, IDEA relevant; Gregg-Kennedy, managers' amendment.

I further ask that upon disposition of all amendments, the committee substitute as amended be agreed to, the bill as amended be read a third time, and the HELP Committee be discharged from further consideration of H.R. 1350, the House companion bill, and the Senate then proceed to its immediate consideration; provided further that all after the enacting clause be stricken, and the text of S. 1248, as amended, be inserted in lieu thereafter, the bill, as amended, be read a third time and the Senate proceed to a vote on passage, without any intervening action or debate, and following the vote the motion to reconsider be laid upon the table. I further ask that after the vote on passage, S. 1248 be returned to the calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

CHIEF JUSTICE JOHN MARSHALL COMMEMORATIVE COIN ACT

Mr. FRIST. Mr. President, I ask unanimous consent that the Banking Committee be discharged from further consideration of S. 1531 and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 1531) to require the Secretary of the Treasury to mint coins in commemoration of Chief Justice John Marshall.

There being no objection, the Senate proceeded to consider the bill.

Mr. HATCH. Mr. President, I rise today in strong support of S. 1531, the Chief Justice John Marshall Commemorative Coin Act. I am the sponsor of this significant legislation and I believe its passage is indeed a tribute to the most important Chief Justice to serve on the Supreme Court of the United States since our nation's founding.

John Marshall served as the fourth Chief Justice of the Supreme Court for over 34 years. He is the longest serving Chief Justice in our Nation's history. Throughout his years on the Supreme Court, he authored over 500 opinions, many of which significantly impacted the operations and interpretations of the Constitution. He was a distinguished leader who made a lasting impression on the Supreme Court.

For example, probably Marshall's most famous opinion, Marbury v. Madison, instilled in the Supreme Court the authority to review the constitutionality of congressional acts and instituted the doctrine of judicial review. Without judicial review, the Supreme Court and the lower courts of our great nation would not have the ability to uphold and sustain the Constitution and stop any unauthorized intrusion into the sacred freedoms that great document protects.

The Marshall Court decided numerous landmark and historically significant cases that have forever fashioned the Nation's constitutional law and history—including McCullough v. Maryland, Cohens v. Virginia, Stuart v. Laird, Dartmouth College v. Woodward, and Gibbons v. Ogden, just to name a few. These cases are still cited today by our Federal courts and State courts as impressive precedents important to recognize that establish significant legal doctrines and relevant constitutional interpretations.

Chief Justice Marshall is not only the longest serving Chief Justice in the history of the United States, but he has authored more opinions for the Court than any other Chief Justice in the Supreme Court's history. That impressive record remains in place today.

It is noteworthy to recognize that Chief Justice Marshall also introduced and implemented the practice of allowing one justice to speak for the Court while having the remaining justices either sign on to that opinion or issue their own concurring or dissenting opinion. Prior to Chief Justice Marshall's tenure, Justices usually wrote their own opinions and a party in a case had to thoroughly study the particular nuances in each individual Justice's opinion in order to discover which side prevailed.

Chief Justice Marshall was also a Revolutionary War veteran, Envoy Extraordinary and Minister Plenipotentiary to France, Member of the United States House of Representatives, and Secretary of State under President John Adams.

I believe minting a coin is a fitting honor for the Great Chief Justice. This coin will commemorate the 250th anniversary of the birth of Chief Justice Marshall, which will take place in the year 2005.

This legislation will allow the Supreme Court Historical Society to receive the necessary revenue it needs for worthwhile endeavors. The Supreme Court Historical Society is an established national organization whose programs and endeavors benefit Americans in every State in the Union. The Supreme Court Historical Society operates a Summer Institute for Teachers, with brings teachers from across the nation to Washington to study the Supreme Court and the Constitution first hand. This particular program helps to improve public school education about the role and importance of the Court in our Government.

The Supreme Court Historical Society collects antiques and historical artifacts for the use of the Court Curator's educational displays at the Supreme Court Building. There are still many artifacts and antiques that would preserve the precious history of the Court that the Society lacks the funds to acquire.

The Supreme Court Historical Society also holds public lectures at the Supreme Court Building and around the country which usually feature current Justices on the Supreme Court and other important leaders in constitutional and legal scholarship.

The Chief Justice John Marshall Commemorative Coin Act will allow for 400,000 coins bearing the likeness of the Great Chief Justice, John Marshall, in 2005, with a surcharge of $10 per coin. The sale of these coins has the capability to produce nearly $4,000,000 in direct support of the Supreme Court Historical Society's programs and functions.

Furthermore, I put a provision in this bill to ensure that there is no net

cost to the Federal Government in minting this coin. This provision is important, especially in a time when many are concerned about controlling deficit spending and making sure Congress does not unduly burden the American people with unnecessary debt.

Never in the history of this country has a coin been minted focusing on the history of the Supreme Court or on its profound influence on our constitutional form of government. Unless citizens have some form of legal training or a scholarly interest, the Supreme Court and our Federal courts are usually the least understood of the three branches of the government. Yet what it does has an impact, both direct and indirect, on the rights of every citizen.

The Chief Justice John Marshall Commemorative Coin Act has the support of every sitting Justice on the Supreme Court of the United States. It is likewise supported by the Citizens Commemorative Coin Advisory Committee and the former Solicitors General across party lines.

I encourage my colleagues to support this bill, as many have. I am confident this bill will benefit the entire country and as it will help preserve and protect the history of the Supreme Court of the United States.

Mr. LEAHY. Mr. President, I am pleased that the Senate has passed the John Marshall Commemorative Coin Act, S. 1531.

As an original cosponsor of the John Marshall Commemorative Coin Act, I have worked closely with Senator HATCH to do all that we possibly can to speedily pass it into law.

This bill authorizes the Treasury Department to mint and issue coins in honor of Chief Justice John Marshall in the year 2005. Funds raised by sale of the coin will support the Supreme Court Historical Society. Sales of the coin also cover all of the costs of minting and issuing these coins, so that the American taxpayer is not bearing any cost whatsoever of this commemoration.

That sales of a coin that bears the likeness of Chief Justice Marshall will be used to the support of the Supreme Court Historical Society is fitting. The society is a nonprofit organization whose purpose is to preserve and disseminate the history of the Supreme Court of the United States. Founded by Chief Justice Warren Burger, the society's mission is to provide information and historical research on our Nation's highest court. The society accomplishes this mission by conducting programs, publishing books, supporting historical research and collecting antiques and artifacts related to the Court's history. John Marshall is known as ''the great Chief Justice'' of the Supreme Court. Marshall served on the bench for 34 years and established many of the constitutional doctrines we revere today. He is best known and respected for the fundamental principles of checks and balance of our democratic government.

In our successful efforts to gender support for the bill, we gained over 75 cosponsors in the U.S. Senate. Given the noble cause, it was not a hard sell. Yet, the sheer numbers of bipartisan supporters are a fitting tribute to the Great Chief Justice John Marshall. We are happy to assist a worthwhile organization like the Supreme Court Historical Society.

I thank all the Senators who supported this bill—too numerous to name. I also thank the Supreme Court Historical Society for its dedication to this important cause.

Mr. FRIST. Mr. President, I ask unanimous consent that the bill be read a third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (S. 1531) was read the third time and passed, as follows:

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 ''Chief Justice John Marshall Commemorative Coin Act''.

SEC. 2. FINDINGS.

Congress finds that—

(1) John Marshall served as the Chief Justice of the Supreme Court of the United States from 1801 to 1835, the longest tenure of any Chief Justice in the Nation's history;

(2) Under Marshall's leadership, the Supreme Court expounded the fundamental principles of constitutional interpretation, including judicial review, and affirmed national supremacy, both of which served to secure the newly founded United States against dissolution; and

(3) John Marshall's service to the nascent United States, not only as Chief Justice, but also as a soldier in the Revolutionary War, as a member of the Virginia Congress and the United States Congress, and as Secretary of State, makes him one of the most important figures in our Nation's history.

SEC. 3. COIN SPECIFICATIONS.

(a) DENOMINATION.—In commemoration of the 250th anniversary of the birth of Chief Justice John Marshall, the Secretary of the Treasury (in this Act referred to as the ''Secretary'') shall mint and issue not more than 400,000 $1 coins, each of which shall—

(1) weigh 26.73 grams;

(2) have a diameter of 1.500 inches; and

(3) contain 90 percent silver and 10 percent copper.

(b) LEGAL TENDER.—The coins minted under this Act shall be legal tender, as provided in section 5103 of title 31, United States Code.

(c) NUMISMATIC ITEMS.—For purposes of sections 5134 and 5136 of title 31, United States Code, all coins minted under this Act shall be considered to be numismatic items.

SEC. 4. DESIGN OF COINS.

(a) DESIGN REQUIREMENTS.—

(1) IN GENERAL.—The design of the coins minted under this Act shall be emblematic of Chief Justice John Marshall and his contributions to the United States.

(2) DESIGNATION AND INSCRIPTIONS.—On each coin minted under this Act, there shall be—

(A) a designation of the value of the coin;

(B) an inscription of the year ''2005''; and

(C) inscriptions of the words ''Liberty'', ''In God We Trust'', ''United States of America'', and ''E Pluribus Unum''.

(b) SELECTION.—The design for the coins minted under this Act shall be—

(1) selected by the Secretary, after consultation with the Commission of Fine Arts, and the Supreme Court Historical Society; and

(2) reviewed by the Citizens Coinage Advisory Committee.

SEC. 5. ISSUANCE OF COINS.

(a) QUALITY OF COINS.—Coins minted under this Act shall be issued in uncirculated and proof qualities.

(b) MINT FACILITY.—Only one facility of the United States Mint may be used to strike any particular quality of the coins minted under this Act.

(c) COMMENCEMENT OF ISSUANCE.—The Secretary may issue coins minted under this Act beginning on January 1, 2005.

(d) TERMINATION OF MINTING AUTHORITY.—No coins may be minted under this Act after December 31, 2005.

SEC. 6. SALE OF COINS.

(a) SALE PRICE.—The coins minted under this Act shall be sold by the Secretary at a price equal to the sum of—

(1) the face value of the coins;

(2) the surcharge provided in section 7 with respect to such coins; and

(3) the cost of designing and issuing the coins (including labor, materials, dies, use of machinery, overhead expenses, marketing, and shipping).

(b) BULK SALES.—The Secretary shall make bulk sales of the coins minted under this Act at a reasonable discount.

(c) PREPAID ORDERS.—

(1) IN GENERAL.—The Secretary shall accept prepaid orders for the coins minted under this Act before the issuance of such coins.

(2) DISCOUNT.—Sale prices with respect to pre-paid orders under paragraph (1) shall be at a reasonable discount.

SEC. 7. SURCHARGES.

(a) IN GENERAL.—All sales of coins minted under this Act shall include a surcharge of $10 per coin.

(b) DISTRIBUTION.—Subject to section 5134(f) of title 31, United States Code, all surcharges received by the Secretary from the sale of coins issued under this Act shall be promptly paid by the Secretary to the Supreme Court Historical Society for the purposes of—

(1) historical research about the Supreme Court and the Constitution of the United States and related topics;

(2) supporting fellowship programs, internships, and docents at the Supreme Court; and

(3) collecting and preserving antiques, artifacts, and other historical items related to the Supreme Court and the Constitution of the United States and related topics.

(c) AUDITS.—The Supreme Court Historical Society shall be subject to the audit requirements of section 5134(f)(2) of title 31, United States Code, with regard to the amounts received by the Society under subsection (b).

SEC. 8. FINANCIAL ASSURANCES.

(a) NO NET COST TO THE GOVERNMENT.—The Secretary shall take such actions as may be necessary to ensure that the minting and issuance of the coins referred to in section 3(a) shall result in no net cost to the Federal Government.

(b) PAYMENT FOR THE COINS.—The Secretary may not sell a coin referred to in section 3(a) unless the Secretary has received—

(1) full payment for the coin;

(2) security satisfactory to the Secretary to indemnify the Federal Government for full payment; or

(3) a guarantee of full payment satisfactory to the Secretary from a depository institution, the deposits of which are insured

by the Federal Deposit Insurance Corporation, the Federal Savings and Loan Insurance Corporation, or the National Credit Union Administration Board.

AWARDING A CONGRESSIONAL GOLD MEDAL TO DR. DOROTHY HEIGHT

Mr. FRIST. Mr. President, I ask unanimous consent that the Banking Committee be discharged from further consideration of H.R. 1821, and the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 1821) to award a Congressional Gold Medal to Dr. Dorothy Height in recognition of her many contributions to the Nation.

There being no objection, the Senate proceeded to consider the bill.

Mr. FRIST. Mr. President, I ask unanimous consent that the bill be read a third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 1821) was read the third time and passed.

ENVIRONMENTAL POLICY AND CONFLICT RESOLUTION ADVANCEMENT ACT OF 2003

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 421, which is at the desk.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 421) to reauthorize the United States Institute for Environmental Conflict Resolution, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mr. FRIST. Mr. President, I ask unanimous consent that the bill be read the third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 421) was read the third time and passed.

SOUTHERN UTE AND COLORADO INTERGOVERNMENTAL AGREEMENT IMPLEMENTATION ACT OF 2003

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 401, S. 551.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 551) to provide for the implementation of air quality programs developed in accordance with an Intergovernmental Agreement between the Southern Ute Indian Tribe and the State of Colorado concerning Air Quality Control on the Southern Ute Indian Reservation, and for other purposes.

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Environment and Public Works with an amendment.

[Strike the part shown in black brackets and insert the part shown in italic.]

S. 551

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 ''Southern Ute and Colorado Intergovernmental Agreement Implementation Act of 2003''.

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress, after review and in recognition of the purposes and uniqueness of the Intergovernmental Agreement between the Southern Ute Indian Tribe and the State of Colorado, finds that—

(1) the Intergovernmental Agreement is consistent with the special legal relationship between Federal Government and the Tribe; and

(2) air quality programs developed in accordance with the Intergovernmental Agreement and submitted by the Tribe for approval by the Administrator may be implemented in a manner that is consistent with the Clean Air Act (42 U.S.C. 7401 et seq.).

(b) PURPOSE.—The purpose of this Act is to provide for the implementation and enforcement of air quality control programs under the Clean Air Act (42 U.S.C. 7401 et seq.) and other air quality programs developed in accordance with the Intergovernmental Agreement that provide for—

(1) the regulation of air quality within the exterior boundaries of the Reservation; and

(2) the establishment of a Southern Ute Indian Tribe/State of Colorado Environmental Commission.

SEC. 3. DEFINITIONS.

In this Act:

(1) ADMINISTRATOR.—The term ''Administrator'' means the Administrator of the Environmental Protection Agency.

(2) COMMISSION.—The term ''Commission'' means the Southern Ute Indian Tribe/State of Colorado Environmental Commission established by the State and the Tribe in accordance with the Intergovernmental Agreement.

(3) INTERGOVERNMENTAL AGREEMENT.—The term ''Intergovernmental Agreement'' means the agreement entered into by the Tribe and the State on December 13, 1999.

(4) RESERVATION.—The term ''Reservation'' means the Southern Ute Indian Reservation.

(5) STATE.—The term ''State'' means the State of Colorado.

(6) TRIBE.—The term ''Tribe'' means the Southern Ute Indian Tribe.

SEC. 4. TRIBAL AUTHORITY.

(a) AIR PROGRAM APPLICATIONS.—

(1) IN GENERAL.—The Administrator is authorized to treat the Tribe as a State for the purpose of any air program applications submitted to the Administrator by the Tribe under section 301(d) of the Clean Air Act (42 U.S.C. 7601(d)) to carry out, in a manner consistent with the Clean Air Act (42 U.S.C. 7401 et seq.), the Intergovernmental Agreement.

(2) APPLICABILITY.—If the Administrator approves an air program application of the Tribe, the approved program shall be applicable to all air resources within the exterior boundaries of the Reservation.

(b) TERMINATION.—If the Tribe or the State terminates the Intergovernmental Agreement, the Administrator shall promptly take appropriate administrative action to withdraw treatment of the Tribe as a State for the purpose described in subsection (a)(1).

[SEC. 5. CIVIL ENFORCEMENT.

[If any person fails to comply with a final civil order of the Tribe or the Commission made in accordance with a program under the Clean Air Act (42 U.S.C. 7401 et seq.) or any other air quality program established under the Intergovernmental Agreement, the Tribe or the Commission, as appropriate, may bring a civil action for declaratory or injunctive relief, or for other orders in aid of enforcement, in the United States District Court for the District of Colorado.]

SEC. 5. CIVIL ENFORCEMENT.

(a) IN GENERAL.—If any person fails to comply with a final civil order of the Tribe or the Commission made in accordance with the Clean Air Act (42 U.S.C. 7401 et seq.) or any other air quality program established under the Intergovernmental Agreement, the Tribe or the Commission, as appropriate, may bring a civil action for declaratory or injunctive relief, or for other orders in aid of enforcement, in the United States District Court for the District of Colorado.

(b) NO EFFECT ON RIGHTS OR AUTHORITY.—Nothing in this Act alters, amends, or modifies any right or authority of any person (as defined in section 302(e) of the Clean Air Act (42 U.S.C. 7601(e)) to bring a civil action under section 304 of the Clean Air Act (42 U.S.C. 7603).

SEC. 6. JUDICIAL REVIEW.

Any decision by the Commission that would be subject to appellate review if it were made by the Administrator—

(1) shall be subject to appellate review by the United States Court of Appeals for the Tenth Circuit; and

(2) may be reviewed by the Court of Appeals applying the same standard that would be applicable to a decision of the Administrator.

SEC. 7. DISCLAIMER.

Nothing in this Act—

(1) modifies any provision of—

(A) the Clean Air Act (42 U.S.C. 7401 et seq.);

(B) Public Law 98–290 (25 U.S.C. 668 note); or

(C) any lawful administrative rule promulgated in accordance with those statutes; or

(2) affects or influences in any manner any past or prospective judicial interpretation or application of those statutes by the United States, the Tribe, the State, or any Federal, tribal, or State court.

Mr. FRIST. Mr. President, I ask unanimous consent that the committee amendment be agreed to, the bill, as amended, be read a third time and passed, the motions to reconsider be laid upon the table en bloc, and that any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The committee amendment was agreed to.

The bill (S. 551), as amended, was read the third time and passed, as follows:

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 ''Southern Ute and Colorado Intergovernmental Agreement Implementation Act of 2003''.

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress, after review and in recognition of the purposes and uniqueness of the Intergovernmental Agreement between the Southern Ute Indian Tribe and the State of Colorado, finds that—

(1) the Intergovernmental Agreement is consistent with the special legal relationship between Federal Government and the Tribe; and

(2) air quality programs developed in accordance with the Intergovernmental Agreement and submitted by the Tribe for approval by the Administrator may be implemented in a manner that is consistent with the Clean Air Act (42 U.S.C. 7401 et seq.).

(b) PURPOSE.—The purpose of this Act is to provide for the implementation and enforcement of air quality control programs under the Clean Air Act (42 U.S.C. 7401 et seq.) and other air quality programs developed in accordance with the Intergovernmental Agreement that provide for—

(1) the regulation of air quality within the exterior boundaries of the Reservation; and

(2) the establishment of a Southern Ute Indian Tribe/State of Colorado Environmental Commission.

SEC. 3. DEFINITIONS.

In this Act:

(1) ADMINISTRATOR.—The term ''Administrator'' means the Administrator of the Environmental Protection Agency.

(2) COMMISSION.—The term ''Commission'' means the Southern Ute Indian Tribe/State of Colorado Environmental Commission established by the State and the Tribe in accordance with the Intergovernmental Agreement.

(3) INTERGOVERNMENTAL AGREEMENT.—The term ''Intergovernmental Agreement'' means the agreement entered into by the Tribe and the State on December 13, 1999.

(4) RESERVATION.—The term ''Reservation'' means the Southern Ute Indian Reservation.

(5) STATE.—The term ''State'' means the State of Colorado.

(6) TRIBE.—The term ''Tribe'' means the Southern Ute Indian Tribe.

SEC. 4. TRIBAL AUTHORITY.

(a) AIR PROGRAM APPLICATIONS.—

(1) IN GENERAL.—The Administrator is authorized to treat the Tribe as a State for the purpose of any air program applications submitted to the Administrator by the Tribe under section 301(d) of the Clean Air Act (42 U.S.C. 7601(d)) to carry out, in a manner consistent with the Clean Air Act (42 U.S.C. 7401 et seq.), the Intergovernmental Agreement.

(2) APPLICABILITY.—If the Administrator approves an air program application of the Tribe, the approved program shall be applicable to all air resources within the exterior boundaries of the Reservation.

(b) TERMINATION.—If the Tribe or the State terminates the Intergovernmental Agreement, the Administrator shall promptly take appropriate administrative action to withdraw treatment of the Tribe as a State for the purpose described in subsection (a)(1).

SEC. 5. CIVIL ENFORCEMENT.

(a) IN GENERAL.—If any person fails to comply with a final civil order of the Tribe or the Commission made in accordance with the Clean Air Act (42 U.S.C. 7401 et seq.) or any other air quality program established under the Intergovernmental Agreement, the Tribe or the Commission, as appropriate, may bring a civil action for declaratory or injunctive relief, or for other orders in aid of enforcement, in the United States District Court for the District of Colorado.

(b) NO EFFECT ON RIGHTS OR AUTHORITY.—Nothing in this Act alters, amends, or modifies any right or authority of any person (as defined in section 302(e) of the Clean Air Act (42 U.S.C. 7601(e)) to bring a civil action under section 304 of the Clean Air Act (42 U.S.C. 7603).

SEC. 6. JUDICIAL REVIEW.

Any decision by the Commission that would be subject to appellate review if it were made by the Administrator—

(1) shall be subject to appellate review by the United States Court of Appeals for the Tenth Circuit; and

(2) may be reviewed by the Court of Appeals applying the same standard that would be applicable to a decision of the Administrator.

SEC. 7. DISCLAIMER.

Nothing in this Act—

(1) modifies any provision of—

(A) the Clean Air Act (42 U.S.C. 7401 et seq.);

(B) Public Law 98–290 (25 U.S.C. 668 note); or

(C) any lawful administrative rule promulgated in accordance with those statutes; or

(2) affects or influences in any manner any past or prospective judicial interpretation or application of those statutes by the United States, the Tribe, the State, or any Federal, tribal, or State court.

DISASTER AREA HEALTH AND ENVIRONMENTAL MONITORING ACT OF 2003

Mr. FRIST. I ask unanimous consent that the Senate now proceed to consideration of Calendar 360, S. 1279.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 1279) to amend the Robert T. Stafford Disaster Relief and Emergency Assistance Act to authorize the President to carry out a program for the protection of the health and safety of residents, workers, volunteers, and others in a disaster area.

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Environment and Public Works, with an amendment to strike all after the enacting clause and insert in lieu thereof the following:

[Strike the part shown in black brackets and insert the part shown in italic.]

S. 1279

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 ''Disaster Area Health and Environmental Monitoring Act of 2003''.

[SEC. 2. PROTECTION OF HEALTH AND SAFETY OF INDIVIDUALS IN A DISASTER AREA.

[Title IV of the Robert T. Stafford Disaster Relief and Emergency Assistance Act is amended by inserting after section 408 (42 U.S.C. 5174) the following:

[''SEC. 409. PROTECTION OF HEALTH AND SAFETY OF INDIVIDUALS IN A DISASTER AREA.

[''(a) DEFINITIONS.—In this section:

[''(1) INDIVIDUAL.—The term 'individual' includes—

[''(A) a worker or volunteer who responds to a disaster, including—

[''(i) a police officer;

[''(ii) a firefighter;

[''(iii) an emergency medical technician;

[''(iv) any participating member of an urban search and rescue team; and

[''(v) any other relief or rescue worker or volunteer that the President determines to be appropriate;

[''(B) a worker who responds to a disaster by assisting in the cleanup or restoration of critical infrastructure in and around a disaster area;

[''(C) a person whose place of residence is in a disaster area;

[''(D) a person who is employed in or attends school, child care, or adult day care in a building located in a disaster area; and

[''(E) any other person that the President determines to be appropriate.

[''(2) PROGRAM.—The term 'program' means a program described in subsection (b) that is carried out for a disaster area.

[''(3) SUBSTANCE OF CONCERN.—The term 'substance of concern' means any chemical or substance associated with potential acute or chronic human health effects, the risk of exposure to which could potentially be increased as the result of a disaster.

[''(b) PROGRAM.—

[''(1) IN GENERAL.—If the President determines that 1 or more substances of concern are being, or have been, released in an area declared to be a disaster area under this Act, the President may carry out a program for the protection, assessment, monitoring, and study of the health and safety of individuals to ensure that—

[''(A) the individuals are adequately informed about and protected against potential health impacts of the substance of concern and potential mental health impacts in a timely manner;

[''(B) the individuals are monitored and studied over time, including through baseline and follow-up clinical health examinations, for—

[''(i) any short- and long-term health impacts of any substance of concern; and

[''(ii) any mental health impacts;

[''(C) the individuals receive health care referrals as needed and appropriate; and

[''(D) information from any such monitoring and studies is used to prevent or protect against similar health impacts from future disasters.

[''(2) ACTIVITIES.—A program under paragraph (1) may include such activities as—

[''(A) collecting and analyzing environmental exposure data;

[''(B) developing and disseminating information and educational materials;

[''(C) performing baseline and follow-up clinical health and mental health examinations and taking biological samples;

[''(D) establishing and maintaining an exposure registry;

[''(E) studying the long-term human health impacts of any exposures through epidemiological and other health studies; and

[''(F) providing assistance to individuals in determining eligibility for health coverage and identifying appropriate health services.

[''(3) TIMING.—To the maximum extent practicable, a program under paragraph (1) shall be established, and activities under the program shall be commenced (including baseline health examinations), in a timely manner that will ensure the highest level of public health protection and effective monitoring.

[''(4) PARTICIPATION IN REGISTRIES AND STUDIES.—

[''(A) IN GENERAL.—Participation in any registry or study that is part of a program under paragraph (1) shall be voluntary.

[''(B) PROTECTION OF PRIVACY.—The President shall take appropriate measures to protect the privacy of any participant in a registry or study described in subparagraph (A).

[''(5) COOPERATIVE AGREEMENTS.—The President may carry out a program under paragraph (1) through a cooperative agreement with a medical institution, or a consortium of medical institutions, that is—

[''(A) located near the disaster area, and near groups of individuals that worked or volunteered in response to the disaster in the disaster area, with respect to which the program is carried out; and

[''(B) experienced in the area of environmental or occupational health, toxicology, and safety, including experience in—

[''(i) developing clinical protocols and conducting clinical health examinations, including mental health assessments;

[''(ii) conducting long-term health monitoring and epidemiological studies;

[''(iii) conducting long-term mental health studies; and

[''(iv) establishing and maintaining medical surveillance programs and environmental exposure or disease registries.

[''(6) INVOLVEMENT.—

[''(A) IN GENERAL.—In establishing and maintaining a program under paragraph (1), the President shall ensure the involvement of interested and affected parties, as appropriate, including representatives of—

[''(i) Federal, State, and local government agencies;

[''(ii) labor organizations;

[''(iii) local residents, businesses, and schools (including parents and teachers);

[''(iv) health care providers; and

[''(v) other organizations and persons.

[''(B) COMMITTEES.—Involvement under subparagraph (A) may be provided through the establishment of an advisory or oversight committee or board.

[''(c) REPORTS.—Not later than 1 year after the establishment of a program under subsection (b)(1), and every 5 years thereafter, the President, or the medical institution or consortium of such institutions having entered into a cooperative agreement under subsection (b)(5), shall submit to the Secretary of Homeland Security, the Secretary of Health and Human Services, the Secretary of Labor, the Administrator of the Environmental Protection Agency, and appropriate committees of Congress a report on programs and studies carried out under the program.''.

[SEC. 3. BLUE RIBBON PANEL ON DISASTER AREA HEALTH PROTECTION AND MONITORING.

[(a) ESTABLISHMENT.—Not later than 60 days after the date of enactment of this section, the Secretary of Homeland Security, the Secretary of Health and Human Services, and the Administrator of the Environmental Protection Agency shall jointly establish a Blue Ribbon Panel on Disaster Area Health Protection and Monitoring (referred to in this section as the ''Panel'').

[(b) MEMBERSHIP.—

[(1) IN GENERAL.—The Panel shall be composed of—

[(A) 15 voting members, to be appointed by the Secretary of Homeland Security, the Secretary of Health and Human Services, and the Administrator of the Environmental Protection Agency in accordance with paragraph (2); and

[(B) officers or employees of the Department of Health and Human Services, the Department of Homeland Security, the Environmental Protection Agency, and other Federal agencies, as appropriate, to be appointed by the Secretary of Health and Human Services, the Secretary of Homeland Security, and the Administrator of the Environmental Protection Agency as nonvoting, ex officio members of the Panel.

[(2) BACKGROUND AND EXPERTISE.—The voting members of the Panel shall be individuals who—

[(A) are not officers or employees of the Federal Government; and

[(B) have expertise in—

[(i) environmental health, safety, and medicine;

[(ii) occupational health, safety, and medicine;

[(iii) clinical medicine, including pediatrics;

[(iv) toxicology;

[(v) epidemiology;

[(vi) mental health;

[(vii) medical monitoring and surveillance;

[(viii) environmental monitoring and surveillance;

[(ix) environmental and industrial hygiene;

[(x) emergency planning and preparedness;

[(xi) public outreach and education;

[(xii) State and local health departments;

[(xiii) State and local environmental protection departments;

[(xiv) functions of workers that respond to disasters, including first responders; and

[(xv) public health and family services.

[(c) DUTIES.—

[(1) IN GENERAL.—The Panel shall provide advice and recommendations regarding protecting and monitoring the health and safety of individuals potentially exposed to any chemical or substance associated with potential acute or chronic human health effects as the result of a disaster, including advice and recommendations regarding—

[(A) the implementation of programs under section 409 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (as added by section 2); and

[(B) the establishment of protocols for the monitoring of and response to releases of substances of concern (as defined in section 409(a) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (as added by section 2)) in a disaster area for the purpose of protecting public health and safety, including—

[(i) those substances of concern for which samples should be collected in the event of a disaster, including a terrorist attack;

[(ii) chemical-specific methods of sample collection, including sampling methodologies and locations;

[(iii) chemical-specific methods of sample analysis;

[(iv) health-based threshold levels to be used and response actions to be taken in the event that thresholds are exceeded for individual chemicals or substances;

[(v) procedures for providing monitoring results to—

[(I) appropriate Federal, State, and local government agencies;

[(II) appropriate response personnel; and

[(III) the public;

[(vi) responsibilities of Federal, State and local agencies for—

[(I) collecting and analyzing samples;

[(II) reporting results; and

[(III) taking appropriate response actions; and

[(vii) capabilities and capacity within the Federal Government to conduct appropriate environmental monitoring and response in the event of a disaster, including a terrorist attack; and

[(C) other issues as specified by the Secretary of Homeland Security, the Secretary of Health and Human Services, and the Administrator of the Environmental Protection Agency.

[(2) REPORT.—Not later than 1 year after the date of establishment of the Panel, the Panel shall submit to the Secretary of Homeland Security, the Secretary of Health and Human Services, and the Administrator of the Environmental Protection Agency a report of the findings and recommendations of the Panel under this section, including recommendations for such legislative and administrative actions as the Panel considers to be appropriate.

[(d) POWERS.—

[(1) HEARINGS.—The Panel may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Panel considers necessary to carry out this section.

[(2) INFORMATION FROM FEDERAL AGENCIES.—

[(A) IN GENERAL.—The Panel may secure directly from any Federal department or agency such information as the Panel considers necessary to carry out this section.

[(B) FURNISHING OF INFORMATION.—On request of the Panel, the head of the department or agency shall furnish the information to the Panel.

[(3) POSTAL SERVICES.—The Panel may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

[(e) PERSONNEL.—

[(1) TRAVEL EXPENSES.—The members of the Panel shall not receive compensation for the performance of services for the Panel, but 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 Panel.

[(2) VOLUNTARY AND UNCOMPENSATED SERVICES.—Notwithstanding section 1342 of title 31, United States Code, the Secretary may accept the voluntary and uncompensated services of members of the Panel.

[(3) DETAIL OF GOVERNMENT EMPLOYEES.—Any Federal Government employee may be detailed to the Panel without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.

[(4) STAFF, INFORMATION, AND OTHER ASSISTANCE.—The Secretary of Homeland Security, the Secretary of Health and Human Services, and the Administrator of the Environmental Protection Agency shall provide to the Panel such staff, information, and other assistance as may be necessary to carry out the duties of the Panel.

[(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.

[(g) TERMINATION OF AUTHORITY.—This section, the authority provided under this section, and the Panel shall terminate on the date that is 18 months after the date of enactment of this Act.]

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Disaster Area Health and Environmental Monitoring Act of 2003''.

SEC. 2. PROTECTION OF HEALTH AND SAFETY OF INDIVIDUALS IN A DISASTER AREA.

Title IV of the Robert T. Stafford Disaster Relief and Emergency Assistance Act is amended by inserting after section 408 (42 U.S.C. 5174) the following:

''SEC. 409. PROTECTION OF HEALTH AND SAFETY OF INDIVIDUALS IN A DISASTER AREA.

''(a) DEFINITIONS.—In this section:

''(1) INDIVIDUAL.—The term 'individual' includes—

''(A) a worker or volunteer who responds to a disaster, including—

''(i) a police officer;

''(ii) a firefighter;

''(iii) an emergency medical technician;

''(iv) any participating member of an urban search and rescue team; and

''(v) any other relief or rescue worker or volunteer that the President determines to be appropriate;

''(B) a worker who responds to a disaster by assisting in the cleanup or restoration of critical infrastructure in and around a disaster area;

''(C) a person whose place of residence is in a disaster area;

''(D) a person who is employed in or attends school, child care, or adult day care in a building located in a disaster area; and

''(E) any other person that the President determines to be appropriate.

''(2) PROGRAM.—The term 'program' means a program described in subsection (b) that is carried out for a disaster area.

''(3) SUBSTANCE OF CONCERN.—The term 'substance of concern' means a chemical or other substance that is associated with potential acute or chronic human health effects, the risk of exposure to which could potentially be increased as the result of a disaster, as determined by the President.

''(b) PROGRAM.—

''(1) IN GENERAL.—If the President determines that 1 or more substances of concern are being, or have been, released in an area declared to be a disaster area under this Act, the President may carry out a program for the protection, assessment, monitoring, and study of the health and safety of individuals to ensure that—

''(A) the individuals are adequately informed about and protected against potential health impacts of any substance of concern and potential mental health impacts in a timely manner;

''(B) the individuals are monitored and studied over time, including through baseline and followup clinical health examinations, for—

''(i) any short- and long-term health impacts of any substance of concern; and

''(ii) any mental health impacts;

''(C) the individuals receive health care referrals as needed and appropriate; and

''(D) information from any such monitoring and studies is used to prevent or protect against similar health impacts from future disasters.

''(2) ACTIVITIES.—A program under paragraph (1) may include such activities as—

''(A) collecting and analyzing environmental exposure data;

''(B) developing and disseminating information and educational materials;

''(C) performing baseline and followup clinical health and mental health examinations and taking biological samples;

''(D) establishing and maintaining an exposure registry;

''(E) studying the short- and long-term human health impacts of any exposures through epidemiological and other health studies; and

''(F) providing assistance to individuals in determining eligibility for health coverage and identifying appropriate health services.

''(3) TIMING.—To the maximum extent practicable, activities under any program established under paragraph (1) (including baseline health examinations) shall be commenced in a timely manner that will ensure the highest level of public health protection and effective monitoring.

''(4) PARTICIPATION IN REGISTRIES AND STUDIES.—

''(A) IN GENERAL.—Participation in any registry or study that is part of a program under paragraph (1) shall be voluntary.

''(B) PROTECTION OF PRIVACY.—The President shall take appropriate measures to protect the privacy of any participant in a registry or study described in subparagraph (A).

''(5) COOPERATIVE AGREEMENTS.—

''(A) IN GENERAL.—The President may carry out a program under paragraph (1) through a cooperative agreement with a medical institution or a consortium of medical institutions.

''(B) SELECTION CRITERIA.—To the maximum extent practicable, the President shall select to carry out a program under paragraph (1) a medical institution or a consortium of medical institutions that—

''(i) is located near—

''(I) the disaster area with respect to which the program is carried out; and

''(II) any other area in which there reside groups of individuals that worked or volunteered in response to the disaster; and

''(ii) has appropriate experience in the areas of environmental or occupational health, toxicology, and safety, including experience in—

''(I) developing clinical protocols and conducting clinical health examinations, including mental health assessments;

''(II) conducting long-term health monitoring and epidemiological studies;

''(III) conducting long-term mental health studies; and

''(IV) establishing and maintaining medical surveillance programs and environmental exposure or disease registries.

''(6) INVOLVEMENT.—

''(A) IN GENERAL.—In establishing and maintaining a program under paragraph (1), the President shall involve interested and affected parties, as appropriate, including representatives of—

''(i) Federal, State, and local government agencies;

''(ii) groups of individuals that worked or volunteered in response to the disaster in the disaster area;

''(iii) local residents, businesses, and schools (including parents and teachers);

''(iv) health care providers; and

''(v) other organizations and persons.

''(B) COMMITTEES.—Involvement under subparagraph (A) may be provided through the establishment of an advisory or oversight committee or board.

''(c) REPORTS.—Not later than 1 year after the establishment of a program under subsection (b)(1), and every 5 years thereafter, the President, or the medical institution or consortium of such institutions having entered into a cooperative agreement under subsection (b)(5), shall submit to the Secretary of Homeland Security, the Secretary of Health and Human Services, the Secretary of Labor, the Administrator of the Environmental Protection Agency, and appropriate committees of Congress a report on programs and studies carried out under the program.''.

SEC. 3. NATIONAL ACADEMY OF SCIENCES REPORT ON DISASTER AREA HEALTH AND ENVIRONMENTAL PROTECTION AND MONITORING.

(a) IN GENERAL.—The Secretary of Homeland Security, the Secretary of Health and Human Services, and the Administrator of the Environmental Protection Agency shall jointly enter into a contract with the National Academy of Sciences to conduct a study and prepare a report on disaster area health and environmental protection and monitoring.

(b) EXPERTISE.—The report under subsection (a) shall be prepared with the participation of individuals who have expertise in—

(1) environmental health, safety, and medicine;

(2) occupational health, safety, and medicine;

(3) clinical medicine, including pediatrics;

(4) toxicology;

(5) epidemiology;

(6) mental health;

(7) medical monitoring and surveillance;

(8) environmental monitoring and surveillance;

(9) environmental and industrial hygiene;

(10) emergency planning and preparedness;

(11) public outreach and education;

(12) State and local health departments;

(13) State and local environmental protection departments;

(14) functions of workers that respond to disasters, including first responders; and

(15) public health and family services.

(c) CONTENTS.—The report under subsection (a) shall provide advice and recommendations regarding protecting and monitoring the health and safety of individuals potentially exposed to any chemical or other substance associated with potential acute or chronic human health effects as the result of a disaster, including advice and recommendations regarding—

(1) the establishment of protocols for the monitoring of and response to chemical or substance releases in a disaster area for the purpose of protecting public health and safety, including—

(A) chemicals or other substances for which samples should be collected in the event of a disaster, including a terrorist attack;

(B) chemical- or substance-specific methods of sample collection, including sampling methodologies and locations;

(C) chemical- or substance-specific methods of sample analysis;

(D) health-based threshold levels to be used and response actions to be taken in the event that thresholds are exceeded for individual chemicals or other substances;

(E) procedures for providing monitoring results to—

(i) appropriate Federal, State, and local government agencies;

(ii) appropriate response personnel; and

(iii) the public;

(F) responsibilities of Federal, State and local agencies for—

(i) collecting and analyzing samples;

(ii) reporting results; and

(iii) taking appropriate response actions; and

(G) capabilities and capacity within the Federal Government to conduct appropriate environmental monitoring and response in the event of a disaster, including a terrorist attack; and

(2) other issues as specified by the Secretary of Homeland Security, the Secretary of Health and Human Services, and the Administrator of the Environmental Protection Agency.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.

Mr. FRIST. I ask unanimous consent that the Inhofe amendment at the desk be agreed to; the committee substitute amendment, as amended, be agreed to; the bill, as amended, be read the third time and passed, the motion to reconsider be laid upon the table, and any statements be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 2210) was agreed to, as follows:

(Purpose: To require that health and safety programs be carried out in accordance with certain privacy regulations)

On page 19, line 16, insert '', including a local health department,'' after ''institution''.

On page 21, between lines 18 and 19, insert the following:

''(7) PRIVACY.—The President shall carry out each program under paragraph (1) in accordance with regulations relating to privacy promulgated under section 264(c) of the Health Insurance Portability and Accountability Act of 1996 (42 U.S.C. 1320d–2 note; Public Law 104–191).

At the end, add the following:

SEC. 4. PREDISASTER HAZARD MITIGATION.

Section 203(m) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5133(m)) is amended by striking ''December 31, 2003'' and inserting ''September 30, 2006''.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The bill (S. 1279), as amended, was read the third time and passed, as follows:

S. 1279

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 ''Disaster Area Health and Environmental Monitoring Act of 2003''.

SEC. 2. PROTECTION OF HEALTH AND SAFETY OF INDIVIDUALS IN A DISASTER AREA.

Title IV of the Robert T. Stafford Disaster Relief and Emergency Assistance Act is

amended by inserting after section 408 (42 U.S.C. 5174) the following:

"SEC. 409. PROTECTION OF HEALTH AND SAFETY OF INDIVIDUALS IN A DISASTER AREA.

''(a) DEFINITIONS.—In this section:

''(1) INDIVIDUAL.—The term 'individual' includes—

''(A) a worker or volunteer who responds to a disaster, including—

''(i) a police officer;

''(ii) a firefighter;

''(iii) an emergency medical technician;

''(iv) any participating member of an urban search and rescue team; and

''(v) any other relief or rescue worker or volunteer that the President determines to be appropriate;

''(B) a worker who responds to a disaster by assisting in the cleanup or restoration of critical infrastructure in and around a disaster area;

''(C) a person whose place of residence is in a disaster area;

''(D) a person who is employed in or attends school, child care, or adult day care in a building located in a disaster area; and

''(E) any other person that the President determines to be appropriate.

''(2) PROGRAM.—The term 'program' means a program described in subsection (b) that is carried out for a disaster area.

''(3) SUBSTANCE OF CONCERN.—The term 'substance of concern' means a chemical or other substance that is associated with potential acute or chronic human health effects, the risk of exposure to which could potentially be increased as the result of a disaster, as determined by the President.

''(b) PROGRAM.—

''(1) IN GENERAL.—If the President determines that 1 or more substances of concern are being, or have been, released in an area declared to be a disaster area under this Act, the President may carry out a program for the protection, assessment, monitoring, and study of the health and safety of individuals to ensure that—

''(A) the individuals are adequately informed about and protected against potential health impacts of any substance of concern and potential mental health impacts in a timely manner;

''(B) the individuals are monitored and studied over time, including through baseline and followup clinical health examinations, for—

''(i) any short- and long-term health impacts of any substance of concern; and

''(ii) any mental health impacts;

''(C) the individuals receive health care referrals as needed and appropriate; and

''(D) information from any such monitoring and studies is used to prevent or protect against similar health impacts from future disasters.

''(2) ACTIVITIES.—A program under paragraph (1) may include such activities as—

''(A) collecting and analyzing environmental exposure data;

''(B) developing and disseminating information and educational materials;

''(C) performing baseline and followup clinical health and mental health examinations and taking biological samples;

''(D) establishing and maintaining an exposure registry;

''(E) studying the short- and long-term human health impacts of any exposures through epidemiological and other health studies; and

''(F) providing assistance to individuals in determining eligibility for health coverage and identifying appropriate health services.

''(3) TIMING.—To the maximum extent practicable, activities under any program established under paragraph (1) (including baseline health examinations) shall be commenced in a timely manner that will ensure the highest level of public health protection and effective monitoring.

''(4) PARTICIPATION IN REGISTRIES AND STUDIES.—

''(A) IN GENERAL.—Participation in any registry or study that is part of a program under paragraph (1) shall be voluntary.

''(B) PROTECTION OF PRIVACY.—The President shall take appropriate measures to protect the privacy of any participant in a registry or study described in subparagraph (A).

''(5) COOPERATIVE AGREEMENTS.—

''(A) IN GENERAL.—The President may carry out a program under paragraph (1) through a cooperative agreement with a medical institution, including a local health department, or a consortium of medical institutions.

''(B) SELECTION CRITERIA.—To the maximum extent practicable, the President shall select to carry out a program under paragraph (1) a medical institution or a consortium of medical institutions that—

''(i) is located near—

''(I) the disaster area with respect to which the program is carried out; and

''(II) any other area in which there reside groups of individuals that worked or volunteered in response to the disaster; and

''(ii) has appropriate experience in the areas of environmental or occupational health, toxicology, and safety, including experience in—

''(I) developing clinical protocols and conducting clinical health examinations, including mental health assessments;

''(II) conducting long-term health monitoring and epidemiological studies;

''(III) conducting long-term mental health studies; and

''(IV) establishing and maintaining medical surveillance programs and environmental exposure or disease registries.

''(6) INVOLVEMENT.—

''(A) IN GENERAL.—In establishing and maintaining a program under paragraph (1), the President shall involve interested and affected parties, as appropriate, including representatives of—

''(i) Federal, State, and local government agencies;

''(ii) groups of individuals that worked or volunteered in response to the disaster in the disaster area;

''(iii) local residents, businesses, and schools (including parents and teachers);

''(iv) health care providers; and

''(v) other organizations and persons.

''(B) COMMITTEES.—Involvement under subparagraph (A) may be provided through the establishment of an advisory or oversight committee or board.

''(7) PRIVACY.—The President shall carry out each program under paragraph (1) in accordance with regulations relating to privacy promulgated under section 264(c) of the Health Insurance Portability and Accountability Act of 1996 (42 U.S.C. 1320d–2 note; Public Law 104–191).

''(c) REPORTS.—Not later than 1 year after the establishment of a program under subsection (b)(1), and every 5 years thereafter, the President, or the medical institution or consortium of such institutions having entered into a cooperative agreement under subsection (b)(5), shall submit to the Secretary of Homeland Security, the Secretary of Health and Human Services, the Secretary of Labor, the Administrator of the Environmental Protection Agency, and appropriate committees of Congress a report on programs and studies carried out under the program.''.

SEC. 3. NATIONAL ACADEMY OF SCIENCES REPORT ON DISASTER AREA HEALTH AND ENVIRONMENTAL PROTECTION AND MONITORING.

(a) IN GENERAL.—The Secretary of Homeland Security, the Secretary of Health and Human Services, and the Administrator of the Environmental Protection Agency shall jointly enter into a contract with the National Academy of Sciences to conduct a study and prepare a report on disaster area health and environmental protection and monitoring.

(b) EXPERTISE.—The report under subsection (a) shall be prepared with the participation of individuals who have expertise in—

(1) environmental health, safety, and medicine;

(2) occupational health, safety, and medicine;

(3) clinical medicine, including pediatrics;

(4) toxicology;

(5) epidemiology;

(6) mental health;

(7) medical monitoring and surveillance;

(8) environmental monitoring and surveillance;

(9) environmental and industrial hygiene;

(10) emergency planning and preparedness;

(11) public outreach and education;

(12) State and local health departments;

(13) State and local environmental protection departments;

(14) functions of workers that respond to disasters, including first responders; and

(15) public health and family services.

(c) CONTENTS.—The report under subsection (a) shall provide advice and recommendations regarding protecting and monitoring the health and safety of individuals potentially exposed to any chemical or other substance associated with potential acute or chronic human health effects as the result of a disaster, including advice and recommendations regarding—

(1) the establishment of protocols for the monitoring of and response to chemical or substance releases in a disaster area for the purpose of protecting public health and safety, including—

(A) chemicals or other substances for which samples should be collected in the event of a disaster, including a terrorist attack;

(B) chemical- or substance-specific methods of sample collection, including sampling methodologies and locations;

(C) chemical- or substance-specific methods of sample analysis;

(D) health-based threshold levels to be used and response actions to be taken in the event that thresholds are exceeded for individual chemicals or other substances;

(E) procedures for providing monitoring results to—

(i) appropriate Federal, State, and local government agencies;

(ii) appropriate response personnel; and

(iii) the public;

(F) responsibilities of Federal, State and local agencies for—

(i) collecting and analyzing samples;

(ii) reporting results; and

(iii) taking appropriate response actions; and

(G) capabilities and capacity within the Federal Government to conduct appropriate environmental monitoring and response in the event of a disaster, including a terrorist attack; and

(2) other issues as specified by the Secretary of Homeland Security, the Secretary of Health and Human Services, and the Administrator of the Environmental Protection Agency.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.

SEC. 4. PREDISASTER HAZARD MITIGATION.

Section 203(m) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5133(m)) is amended by striking ''December 31, 2003'' and inserting ''September 30, 2006''.

NATIONAL TRANSPORTATION SAFETY BOARD REAUTHORIZATION ACT OF 2003

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate now proceed to the immediate consideration of Calendar No. 112, S. 579.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 579) to reauthorize the National Transportation Safety Board, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mr. MCCAIN. Mr. President, I am pleased that the Senate is now considering S. 579, the National Transportation Safety Board Reauthorization Act of 2003. This bill was introduced by Senators HOLLINGS, LOTT, HUTCHISON, ROCKEFELLER and myself, and it was unanimously approved by the Senate Committee on Commerce, Science, and Transportation on March 22, 2003.

Each year, the National Transportation Safety Board, NTSB, investigates more than 2,000 transportation accidents and events, including all fatal aviation accidents, and hundreds of railroad, highway, maritime, and pipeline transportation accidents. The NTSB also conducts safety studies, and evaluates the effectiveness of other government agencies' programs for preventing transportation accidents. Most importantly, the NTSB makes safety recommendations, based on its investigations, to federal, state and local government agencies and to the transportation industry regarding actions that should be taken to prevent accidents.

This legislation would authorize appropriations for the NTSB for fiscal years 2003 through 2006. It also would allow the NTSB to relinquish responsibility for providing assistance to families of victims of accidents to the FBI if it takes over the investigation, and give the NTSB expedited procurement procedures to aid in accident investigations.

The bill is being proposed along with an amendment that incorporates provisions from the House-passed version of its NTSB reauthorization bill, H.R. 1527. The amendment was developed in cooperation with the House Transportation and Infrastructure Committee. Among other things, it includes a provision that would require the Secretary of Transportation to submit annual status reports on the Department's progress in meeting the safety recommendations stemming from the NTSB's ''most wanted list.''

The NTSB's safety investigations and the resulting recommendations play a vital role in ensuring the safe and efficient operation of our nation's transportation system. It is my understanding that the NTSB supports this legislation.

I urge the Senate to pass this important legislation so the House of Representatives can consider it before they adjourn for the year.

Mr. FRIST. I ask unanimous consent that the McCain-Hollings amendment at the desk be agreed to; the bill, as amended, be read the third time and passed; the motion to reconsider be laid upon the table en bloc, and any statements be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 2211) was agreed to, as follows:

(Purpose: To add provisions relating to accident and safety data classification and publication from H.R. 1527, as passed by the House of Representatives, and for other purposes)

On page 2, line 15, strike ''$3,000,000.'' and insert ''$4,000,000.''.

On page 3, line 6, strike ''paragraph'' and insert ''subsection''.

On page 3, line 16, strike the closing quotation marks and the second period.

On page 3, line 17, strike ''(c)'' and insert '' '(d)''.

On page 3, line 21, insert closing quotation marks and a period after the period.

On page 5, strike lines 7 through 21, and insert the following:

SEC. 4. RELIEF FROM CONTRACTING REQUIREMENTS FOR INVESTIGATIONS SERVICES.

(a) IN GENERAL.—From the date of enactment of this Act through September 30, 2006, the National Transportation Safety Board may enter into agreements or con tracts under the authority of section 1113(b)(1)(B) of title 49, United States Code for investigations conducted under section 1131 of that title without regard to any other provision of law requiring competition if necessary to expedite the investigation.

(b) REPORT ON USAGE.—On February 1, 2006, the National Transportation Safety Board shall transmit a report to the House of Representatives Committee on Transportation and Infrastructure, the House of Representatives Committee on Government Reform, the Senate Committee on Commerce, Science, and Transportation, and the Senate Committee on Government Affairs that—

(1) describes each contract for $25,000 or more executed by the Board to which the authority provided by subsection (a) was applied; and

(2) sets forth the rationale for dispensing with competition requirements with respect to such contract.

On page 5, after line 21, add the following:

SEC. 5. ACCIDENT AND SAFETY DATA CLASSIFICATION AND PUBLICATION.

Section 1119 of title 49, United States Code, is amended by adding at the end the following:

''(c) APPEALS.—

''(1) NOTIFICATION OF RIGHTS.—In any case in which an employee of the Board determines that an occurrence associated with the operation of an aircraft constitutes an accident, the employee shall notify the owner or operator of that aircraft of the right to appeal that determination to the Board.

''(2) PROCEDURE.—The Board shall establish and publish the procedures for appeals under this subsection.

''(3) LIMITATION ON APPLICABILITY.—This subsection shall not apply in the case of an accident that results in a loss of life.''.

SEC. 6. SECRETARY OF TRANSPORTATION'S RESPONSES TO SAFETY RECOMMENDATIONS.

Section 1135(d) of title 49, United States Code, is vended to read as follows:

''(d) REPORTING REQUIREMENTS.—

''(1) ANNUAL SECRETARIAL REGULATORY STATUS REPORTS.—On February 1 of each year, the Secretary shall submit a report to Congress and the Board containing the regulatory status of each recommendation made by the Board to the Secretary (or to an Administration within the Department of Transportation) that is on the Board's 'most wanted list'. The Secretary shall continue to report on the regulatory status of each such recommendation in the report due on February 1 of subsequent years until final regulatory action is taken on that recommendation or the Secretary (or an Administration within the Department) determines and states in such a report that no action should be taken.

''(2) FAILURE TO REPORT.—If on March 1 of each year the Board has not received the Secretary's report required by this subsection, the Board shall notify the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate of the Secretary's failure to submit the required report.

''(3) TERMINATION.—This subsection shall cease to be in effect after the report required to be filed on February 1, 2008, is filed.''.

SEC. 7. TECHNICAL AMENDMENTS.

Section 1131(a)(2) of title 49, United States Code, is amended by moving subparagraphs (B) and (C) 4 ems to the left.

SEC. 8. DOT INSPECTOR GENERAL INVESTIGATIVE AUTHORITY.

(a) IN GENERAL.—Section 228 of the Motor Carrier Safety Improvement Act of 1999 (113 Stat. 1773) is transferred to, and added at the end of, subchapter III of chapter 3 of title 49, United States Code, as section 354 of that title.

(b) CONFORMING AMENDMENTS.—

(1) The caption of the section is amended to read as follows:

''§ 354. Investigative authority of Inspector General''.

(2) The chapter analysis for chapter 3 of title 49, United States Code, is amended by adding at the end the following:

''354. Investigative authority of Inspector General''.

SEC. 9. REPORTS ON CERTAIN OPEN SAFETY RECOMMENDATIONS.

(a) INITIAL REPORT.—Within 1 year after the date of enactment of this Act, the Secretary of Transportation shall submit a report to Congress and the National Transportation Safety Board containing the regulatory status of each open safety recommendation made by the Board to the Secretary concerning—

(1) 15-passenger van safety;

(2) railroad grade crossing safety; and

(3) medical certifications for a commercial driver's license.

(b) BIENNIAL UPDATES.—The Secretary shall continue to report on the regulatory status of each such recommendation (and any subsequent recommendation made by the Board to the Secretary concerning a matter described in paragraph (1), (2), or (3) of subsection (a)) at 2-year intervals until—

(1) final regulatory action has been taken on the recommendation;

(2) the Secretary determines, and states in the report, that no action should be taken on that recommendation; or

(3) the report, if any, required to be submitted in 2008 is submitted.

(c) FAILURE TO REPORT.—If the Board has not received a report required to be submitted under subsection (a) or (b) within 30

days after the date on which that report is required to be submitted, the Board shall notify the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.

The bill (S. 579), as amended, was read the third time and passed, as follows:

S. 579

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 Transportation Safety Board Reauthorization Act of 2003''.

SEC. 2. AUTHORIZATION OF APPROPRIATIONS.

(a) FISCAL YEARS 2003–2006.—Section 1118(a) of title 49, United States Code, is amended—

(1) by striking ''and''; and

(2) by striking ''such sums to'' and inserting the following: ''$73,325,000 for fiscal year 2003, $78,757,000 for fiscal year 2004, $83,011,000 for fiscal year 2005, and $87,539,000 for fiscal year 2006. Such sums shall''.

(b) EMERGENCY FUND.—Section 1118(b) of such title is amended by striking the second sentence and inserting the following: ''In addition, there are authorized to be appropriated such sums as may be necessary to increase the fund to, and maintain the fund at, a level not to exceed $4,000,000.''.

(c) NTSB ACADEMY.—Section 1118 of such title is amended by adding at the end the following:

''(c) ACADEMY.—

''(1) AUTHORIZATION.—There are authorized to be appropriated to the Board for necessary expenses of the National Transportation Safety Board Academy, not otherwise provided for, $3,347,000 for fiscal year 2003, $4,896,000 for fiscal year 2004, $4,995,000 for fiscal year 2005, and $5,200,000 for fiscal year 2006. Such sums shall remain available until expended.

''(2) FEES.—The Board may impose and collect such fees as it determines to be appropriate for services provided by or through the Academy.

''(3) RECEIPTS CREDITED AS OFFSETTING COLLECTIONS.—Notwithstanding section 3302 of title 31, any fee collected under this subsection—

''(A) shall be credited as offsetting collections to the account that finances the activities and services for which the fee is imposed;

''(B) shall be available for expenditure only to pay the costs of activities and services for which the fee is imposed; and

''(C) shall remain available until expended.

''(4) REFUNDS.—The Board may refund any fee paid by mistake or any amount paid in excess of that required.

''(d) REPORT ON ACADEMY OPERATIONS.—The National Transportation Safety Board shall transmit an annual report to the Congress on the activities and operations of the National Transportation Safety Board Academy.''.

SEC. 3. ASSISTANCE TO FAMILIES OF PASSENGERS INVOLVED IN AIRCRAFT ACCIDENTS.

(a) RELINQUISHMENT OF INVESTIGATIVE PRIORITY.—Section 1136 of title 49, United States Code, is amended by adding at the end the following:

''(j) RELINQUISHMENT OF INVESTIGATIVE PRIORITY.—

''(1) GENERAL RULE.—This section (other than subsection (g)) shall not apply to an aircraft accident if the Board has relinquished investigative priority under section 1131(a)(2)(B) and the Federal agency to which the Board relinquished investigative priority is willing and able to provide assistance to the victims and families of the passengers involved in the accident.

''(2) BOARD ASSISTANCE.—If this section does not apply to an aircraft accident because the Board has relinquished investigative priority with respect to the accident, the Board shall assist, to the maximum extent possible, the agency to which the Board has relinquished investigative priority in assisting families with respect to the accident.''.

(b) REVISION OF MOU.—Not later than 1 year after the date of enactment of this Act, the National Transportation Safety Board and the Federal Bureau of Investigation shall revise their 1977 agreement on the investigation of accidents to take into account the amendments made by this section and shall submit a copy of the revised agreement to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.

SEC. 4. RELIEF FROM CONTRACTING REQUIREMENTS FOR INVESTIGATIONS SERVICES.

(a) IN GENERAL.—From the date of enactment of this Act through September 30, 2006, the National Transportation Safety Board may enter into agreements or contracts under the authority of section 1113(b)(1)(B) of title 49, United States Code for investigations conducted under section 1131 of that title without regard to any other provision of law requiring competition if necessary to expedite the investigation.

(b) REPORT ON USAGE.—On February 1, 2006, the National Transportation Safety Board shall transmit a report to the House of Representatives Committee on Transportation and Infrastructure, the House of Representatives Committee on Government Reform, the Senate Committee on Commerce, Science, and Transportation, and the Senate Committee on Government Affairs that—

(1) describes each contract for $25,000 or more executed by the Board to which the authority provided by subsection (a) was applied; and

(2) sets forth the rationale for dispensing with competition requirements with respect to such contract.

SEC. 5. ACCIDENT AND SAFETY DATA CLASSIFICATION AND PUBLICATION.

Section 1119 of title 49, United States Code, is amended by adding at the end the following:

''(c) APPEALS.—

''(1) NOTIFICATION OF RIGHTS.—In any case in which an employee of the Board determines that an occurrence associated with the operation of an aircraft constitutes an accident, the employee shall notify the owner or operator of that aircraft of the right to appeal that determination to the Board.

''(2) PROCEDURE.—The Board shall establish and publish the procedures for appeals under this subsection.

''(3) LIMITATION ON APPLICABILITY.—This subsection shall not apply in the case of an accident that results in a loss of life.''.

SEC. 6. SECRETARY OF TRANSPORTATION'S RESPONSES TO SAFETY RECOMMENDATIONS.

Section 1135(d) of title 49, United States Code, is amended to read as follows:

''(d) REPORTING REQUIREMENTS.—

''(1) ANNUAL SECRETARIAL REGULATORY STATUS REPORTS.—On February 1 of each year, the Secretary shall submit a report to Congress and the Board containing the regulatory status of each recommendation made by the Board to the Secretary (or to an Administration within the Department of Transportation) that is on the Board's 'most wanted list'. The Secretary shall continue to report on the regulatory status of each such recommendation in the report due on February 1 of subsequent years until final regulatory action is taken on that recommendation or the Secretary (or an Administration within the Department) determines and states in such a report that no action should be taken.

''(2) FAILURE TO REPORT.—If on March 1 of each year the Board has not received the Secretary's report required by this subsection, the Board shall notify the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate of the Secretary's failure to submit the required report.

''(3) TERMINATION.—This subsection shall cease to be in effect after the report required to be filed on February 1, 2008, is filed.''.

SEC. 7. TECHNICAL AMENDMENTS.

Section 1131(a)(2) of title 49, United States Code, is amended by moving subparagraphs (B) and (C) 4 ems to the left.

SEC. 8. DOT INSPECTOR GENERAL INVESTIGATIVE AUTHORITY.

(a) IN GENERAL.—Section 228 of the Motor Carrier Safety Improvement Act of 1999 (113 Stat. 1773) is transferred to, and added at the end of, subchapter III of chapter 3 of title 49, United States Code, as section 354 of that title.

(b) CONFORMING AMENDMENTS.—(1) The caption of the section is amended to read as follows:

''§ 354. Investigative authority of Inspector General''.

(2) The chapter analysis for chapter 3 of title 49, United States Code, is amended by adding at the end the following:

''354. Investigative authority of Inspector General''.

SEC. 9. REPORTS ON CERTAIN OPEN SAFETY RECOMMENDATIONS.

(a) INITIAL REPORT.—Within 1 year after the date of enactment of this Act, the Secretary of Transportation shall submit a report to Congress and the National Transportation Safety Board containing the regulatory status of each open safety recommendation made by the Board to the Secretary concerning—

(1) 15-passenger van safety;

(2) railroad grade crossing safety; and

(3) medical certifications for a commercial driver's license.

(b) BIENNIAL UPDATES.—The Secretary shall continue to report on the regulatory status of each such recommendation (and any subsequent recommendation made by the Board to the Secretary concerning a matter described in paragraph (1), (2), or (3) of subsection (a)) at 2-year intervals until—

(1) final regulatory action has been taken on the recommendation;

(2) the Secretary determines, and states in the report, that no action should be taken on that recommendation; or

(3) the report, if any, required to be submitted in 2008 is submitted.

(c) FAILURE TO REPORT.—If the Board has not received a report required to be submitted under subsection (a) or (b) within 30 days after the date on which that report is required to be submitted, the Board shall notify the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.

AMERICAN JEWISH HISTORY MONTH

Mr. FRIST. I ask unanimous consent that the Judiciary Committee be discharged and the Senate proceed to the

immediate consideration of H. Con. Res. 106, American Jewish History Month.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (H. Con. Res. 106) recognizing and honoring America's Jewish community on the occasion of its 350th anniversary, supporting the designation of an ''American Jewish History Month,'' and for other purposes.

There being no objection, the Senate proceeded to consider the resolution.

Mr. FRIST. I ask unanimous consent that the concurrent resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, and any statements be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The concurrent resolution (H. Con. Res. 106) was agreed to.

The preamble was agreed to.

DESIGNATING AMERICAN EDUCATION WEEK

Mr. FRIST. I ask unanimous consent that the Senate now proceed to consideration of S. Res. 272, submitted by Senator SNOWE earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 272) designating the week beginning November 16, 2003, as American Education Week.

There being no objection, the Senate proceeded to consider the resolution.

Mr. FRIST. 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 be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 272) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 272

Whereas schools are the backbone of democracy in the United States, providing young people with the tools necessary to maintain the precious values of freedom, civility, and equality;

Whereas, by equipping students with both practical skills and broader intellectual abilities, schools give young people in the United States hope for, and access to, a bright and productive future;

Whereas education employees, whether they provide educational, administrative, technical, or custodial services, work tirelessly to serve the children and communities of the United States with care and professionalism;

Whereas schools are the keystones of communities in the United States, bringing together adults and children, educators and volunteers, business leaders, and elected officials in a common enterprise; and

Whereas public school educators first observed American Education Week in 1921 and are now celebrating the 82nd annual observance of American Education Week: Now, therefore, be it

Resolved, That the Senate—

(1) designates the week beginning November 16, 2003, as American Education Week; and

(2) recognizes the importance of public education and the accomplishments of the many education professionals who contribute to the achievement of students across the United States.

AUTHORIZING SALARY ADJUSTMENTS FOR JUSTICES AND JUDGES OF THE UNITED STATES

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of Calendar No. 371, H.R. 3349.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 3349) to authorize salary adjustments for Justices and judges of the United States for fiscal year 2004.

There being no objection, the Senate proceeded to consider the bill.

Mr. LEAHY. Mr. President, I am pleased that the Senate is taking up and passing legislation to authorize salary adjustments for Justices and judges of the United States for fiscal year 2004.

As a member of both the Senate Judiciary Committee and the Appropriations Subcommittee on Commerce, Justice, State and the Judiciary, I have worked hard to help preserve a fair and independent judiciary. I have repeatedly introduced and cosponsored legislation to give our Federal judges meaningful and significant pay raises. I have been disappointed that the Continuing Resolutions approved by Congress fail to give the Federal judiciary even a cost-of-living adjustment, COLA.

In 1975, Congress enacted the Executive Salary Cost-of-Living Adjustment Act, intended to give judges, Members of Congress, and other high ranking executive branch officials automatic COLAs as accorded other Federal employees unless rejected by Congress. In 1981, Congress enacted section 140 of Public Law 97–92, mandating specific congressional action to give COLAs to judges. During the 21 years of section 140's existence, Congress has always accorded to the Federal judiciary coequal respect by suspending section 140 whenever Congress has granted to itself and other Federal employees a COLA. With the end of the last Congress, however, the continuing resolutions providing funding failed to suspend section 140, thus ensuring that no COLA would be provided for Federal judges during the current fiscal year, unless other action is taken.

In April of this year, I introduced legislation to respond to the shortfall in real judicial compensation, to repeal the link of judicial pay to congressional pay, to improve survivorship benefits, and to instill greater public confidence in our courts. This legislation would have obviated the annual need to pass judicial cost of living adjustments. Unfortunately, the Fair and Independent Judiciary Act of 2003 was never put on the agenda in committee for consideration.

I hope we can all agree that the Judiciary deserves a cost of living adjustment. I look forward to Senate passage of this bill to give our federal judges a cost of living adjustment. I hope the President will promptly sign our legislation into law.

Mr. FRIST. Mr. President, I ask unanimous consent that the bill be read a third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 3349) was read the third time and passed.

MEASURE PLACED ON THE CALENDAR—H.R. 1274

Mr. FRIST. Mr. President, I understand that there is a bill at the desk that is due for a second reading.

The PRESIDING OFFICER. The clerk will read the bill for the second time.

The legislative clerk read as follows:

A bill (H.R. 1274) to direct the Administrator of General Services to convey to Fresno County, California, the existing Federal courthouse in that county.

Mr. FRIST. Mr. President, I would object to further proceedings on the measure at this time.

The PRESIDING OFFICER. The bill will be placed on the calendar.

NOMINATIONS DISCHARGED

Mr. FRIST. Mr. President, as in executive session, I ask unanimous consent that the HELP Committee be discharged from further consideration of a list of nominations that I send to the desk; further, that the nominations be placed on the calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

The list is as follows:

NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE

Jose Aponte
Sandra Ashworth
Edward Bertorelli
Carol Diehl
Allison Druin
Beth Fitzsimmons
Patricia Hines
Colleen Huebner
Stephen Kennedy
Bridget Lamont
Mary Perdue
Herman Totten

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

David Eisner
Carol Kinsley

DEPARTMENT OF EDUCATION

Raymond Simon

NATIONAL MEDIATION BOARD

Read Van de Water

JAMES MADISON FOUNDATION

Drew McCoy

NATIONAL COUNCIL ON THE ARTS

James McBride

DEPARTMENT OF LABOR

Steven J. Law

PUBLIC HEALTH SERVICE

174 nominees

U.S. INSTITUTE OF PEACE

Laurie S. Fulton
John West

DEPARTMENT OF EDUCATION

Susan Sclafani

Mr. FRIST. 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. FRIST. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS SUBJECT TO THE CALL OF THE CHAIR

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate stand in recess subject to the call of the Chair.

There being no objection, the Senate, at 9:39 p.m., recessed subject to the call of the Chair and reassembled at 10:26 p.m. when called to order by the Presiding Officer (Mr. ENSIGN).

MAKING FURTHER CONTINUING APPROPRIATIONS FOR FISCAL YEAR 2004

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate now proceed to the immediate consideration of H.J. Res. 79; that the resolution be read three times and passed; and that the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The joint resolution (H.J. Res. 79) was read the third time and passed.

UNANIMOUS CONSENT AGREEMENT—H.R. 1

Mr. FRIST. Mr. President, I ask unanimous consent that the contingent upon its availability, the Senate proceed to the consideration of the conference report to accompany H.R. 1, the Medicare Prescription Drug Modernization Act, at 10 a.m. tomorrow; provided that for duration of tomorrow's session, consideration of the conference report be for debate only, and the speakers be recognized in an alternating fashion.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDERS FOR SATURDAY, NOVEMBER 22, 2003

Mr. FRIST. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 10 a.m., Saturday, November 22. I further ask unanimous consent that following the prayer and pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved for their use later in the day, and the Senate then begin consideration of the conference report to accompany H.R. 1, the Medicare Prescription Drug Modernization Act, as provided under the previous order.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. FRIST. Mr. President, tomorrow morning, the Senate will begin debate on the Medicare conference report. Senators who wish to make statements on this historic bill are encouraged to come to the floor during tomorrow's session. In addition, I inform my colleagues that there will be no rollcall votes during tomorrow's session. It is my hope that we will be able to schedule a vote on the conference report for Monday. I will continue to work with the Democratic leadership to reach an agreement for a final vote.

In addition, we will in all likelihood be in session on Sunday as well to continue the debate on Medicare. I will tomorrow make further announcements about Sunday.

ADJOURNMENT UNTIL 10 A.M. TOMORROW

Mr. FRIST. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 10:28 p.m., adjourned until Saturday, November 22, 2003, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate November 21, 2003:

DEPARTMENT OF DEFENSE

LAWRENCE T. DI RITA, OF MICHIGAN, TO BE AN ASSISTANT SECRETARY OF DEFENSE, VICE VICTORIA CLARKE.

JAYMIE ALAN DURNAN, OF NEW HAMPSHIRE, TO BE AN ASSISTANT SECRETARY OF THE ARMY, VICE MARIO P. FIORI.

EXPORT-IMPORT BANK OF THE UNITED STATES

JOSEPH MAX CLELAND, OF GEORGIA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE EXPORT-IMPORT BANK OF THE UNITED STATES FOR A TERM EXPIRING JANUARY 20, 2007, VICE DORIAN VANESSA WEAVER, TERM EXPIRED.

APRIL H. FOLEY, OF NEW YORK, TO BE FIRST VICE PRESIDENT OF THE EXPORT-IMPORT BANK OF THE UNITED STATES FOR THE REMAINDER OF THE TERM EXPIRING JANUARY 20, 2005, VICE EDUARDO AGUIRRE, JR., RESIGNED.

DEPARTMENT OF STATE

ANN M. CORKERY, OF VIRGINIA, TO BE AN ALTERNATE REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE FIFTY-EIGHTH SESSION OF THE GENERAL ASSEMBLY OF THE UNITED NATIONS.

BENJAMIN A. GILMAN, OF NEW YORK, TO BE A REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE FIFTY-EIGHTH SESSION OF THE GENERAL ASSEMBLY OF THE UNITED NATIONS.

WALID MAALOUF, OF VIRGINIA, TO BE AN ALTERNATE REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE FIFTY-EIGHTH SESSION OF THE GENERAL ASSEMBLY OF THE UNITED NATIONS.

OVERSEAS PRIVATE INVESTMENT CORPORATION

SANFORD GOTTESMAN, OF TEXAS, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE OVERSEAS PRIVATE INVESTMENT CORPORATION FOR A TERM EXPIRING DECEMBER 17, 2005, VICE GARY A. BARRON, TERM EXPIRED.

DEANE M. RUEBLING, OF CALIFORNIA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE OVERSEAS PRIVATE INVESTMENT CORPORATION FOR A TERM EXPIRING DECEMBER 17, 2005. (REAPPOINTMENT)

C. WILLIAM SWANK, OF OHIO, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE OVERSEAS PRIVATE INVESTMENT CORPORATION FOR A TERM EXPIRING DECEMBER 17, 2005. (REAPPOINTMENT)

UNITED STATES ADVISORY COMMISSION ON PUBLIC DIPLOMACY

JAMES M. STROCK, OF CALIFORNIA, TO BE A MEMBER OF THE UNITED STATES ADVISORY COMMISSION ON PUBLIC DIPLOMACY FOR A TERM EXPIRING JULY 1, 2006, VICE PENNY PERCY KORTH, TERM EXPIRED.

EXECUTIVE OFFICE OF THE PRESIDENT

ROBERT HURLEY MCKINNEY, OF INDIANA, TO BE A MEMBER OF THE ADVISORY BOARD FOR CUBA BROADCASTING FOR A TERM EXPIRING OCTOBER 27, 2004, VICE WILLIAM A. GEOGHEGAN, TERM EXPIRED.

THE JUDICIARY

FRANKLIN S. VAN ANTWERPEN, OF PENNSYLVANIA, TO BE UNITED STATES CIRCUIT JUDGE FOR THE THIRD CIRCUIT, VICE EDWARD R. BECKER, RETIRED.

IN THE ARMY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY MEDICAL CORPS UNDER TITLE 10, U.S.C., SECTIONS 624 AND 3064:

To be major

MICHAEL K. VAUGHAN, 8463

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE ARMY UNDER TITLE 10, U.S.C., SECTION 12203:

To be colonel

DALE A ADAMS, 0000
DENNIS J ADAMS, 0000
PAUL AHERN, 0000
RONALD L ALBRECHT, 0000
RICHARD K ALFORD, 0000
STEPHEN M ALLEN, 0000
DAVID W ALTIERI, 0000
STEVEN W ALTMAN, 0000
MARCIA C ANDERSON, 0000
THOMAS D ARNHOLD, 0000
ERNEST C AUDINO, 0000
DAVID S BALDWIN, 0000
JULIO R BANEZ, 0000
BRENT C BANKUS, 0000
CRAIG A BARGFREDE, 0000
VANESSA D BARRON, 0000
DAVID R BATES, 0000
JAMES B BAXTER, 0000
MICHAEL E BEASLEY, 0000
PAUL D BELCZAK, 0000
DOUGLAS L BELK, 0000
RICKY L BELTRAN, 0000
THOMAS E BENDERNAGEL, 0000
GIDEON J BENHORIN, 0000
LENOID T BEST, 0000
CYNTHIA J BINGHAM, 0000
MICHAEL D BISH, 0000
DOUGLAS H BIXLER, 0000
DAVID G BODDINGTON, 0000
LINDA C BODE, 0000
BRUCE J BOIVIN, 0000
RALPH J BORKOWSKI, 0000
MICHAEL J BORREL, 0000
DENISE L BOUDREAU, 0000
DAVID L BOWMAN, 0000
LARRY C BOYD, 0000
GLENN A BRAMHALL, 0000
LEON M BRIDGES, 0000
MARCUS A BRINKS, 0000
BEVERLY R BROCKMAN, 0000
DAVID W BROWN, 0000
GERALD E BRUNN, 0000
MARK S BUECHLER, 0000
PAUL A BURKE, 0000
CURTIS R BURNS, 0000
JEROME K BUTLER, 0000
JODY P BUTLER, 0000
ALAN J BUTSON, 0000
STEPHEN E BUYER, 0000
PHILIP D CALAHAN, 0000
KENNETH W CALHOUN, 0000
WILLIAM J CALLAHAN, 0000
DANIEL E CAMERON, 0000
MICHAEL E CAPLES, 0000
COURTNEY P CARR, 0000
CARL J CARTER, 0000
FRANK S CARUSO JR., 0000
ROBERT CATALANOTTI, 0000
SCOTT E CHAMBERS, 0000
STEVEN W CHANDLER, 0000
WILLIAM V CLEMENT, 0000
PAUL D COLEMAN, 0000
DAVID L G COLLINS, 0000
WILFREDO A COLONMARTINEZ, 0000
DONALD R CONOVER, 0000
FREDDIE W COOK, 0000
JAMES T CORRIGAN III, 0000
MARK E CORZINE, 0000
RONNIE R COX, 0000
RICHARD V CRIVELLO, 0000
SYLVIA R CROCKETT, 0000
KENT M CROSSLEY, 0000

GREGG A CUNNINGHAM, 0000
TIMOTHY W CURRAN, 0000
FLOYD T CURRY, 0000
RONALD J CZMOWSKI, 0000
KATHLEEN F DAGGETT, 0000
PATRICK M DARDIS, 0000
JAMES A DAVIS, 0000
WALTER F DAVIS, 0000
REBECCA A DAVISON, 0000
WILLIE DAY JR., 0000
TIMOTHY K DEADY, 0000
ROBERT F DELCAMPO, 0000
EUGENE A DEVER JR., 0000
PAUL DEVINCENZO, 0000
KERRY L DIMINYATZ, 0000
DOUGLAS J DINON, 0000
ALAN S DOHRMANN, 0000
MONTGOMERY P DOLIESLAGER, 0000
STEPHEN M DOYLE, 0000
ALBERT A DREWKE JR., 0000
FRANK L DUCAR, 0000
STEVEN W DUFF, 0000
ROBERT J DUFFY, 0000
THOMAS C DUFFY JR., 0000
WILLIAM F DUFFY, 0000
ROBERT T DURBIN JR., 0000
ANDREW A EDMUNDS, 0000
DALE R ERICKSON, 0000
CATHERINE J ERVITI, 0000
MARK A EXLEY, 0000
ALAN EZZELL, 0000
EDWARD L FAISON, 0000
LYNN D FISHER, 0000
PHILIP R FISHER, 0000
MARK R FOLLETT, 0000
ROBERT S FORBES, 0000
GEORGE M FRIES III, 0000
JOE C GEREN JR., 0000
JOHN A GESSNER, 0000
SHERYL E GORDON, 0000
VINCENT R GRACE, 0000
JEFFREY D GREB, 0000
JAMES S GREEN, 0000
JUAN L GRIEGO, 0000
JAMES C GRIESE, 0000
MANY B GRINDER, 0000
FRANK GUEVARA, 0000
JACK C GUY JR., 0000
TOBY A HALE, 0000
LAWRENCE E HANNAN, 0000
JON D HANSON, 0000
STEVEN G HARDING, 0000
EARNEST L HARRINGTON JR., 0000
RANDY A HART, 0000
LUCRETIA G HEARDTHOMPSON, 0000
BJARNE R HENDERSON, 0000
MARK S HENDRIX, 0000
STEPHEN B HENSEL, 0000
MICHAEL F J HERCHMER, 0000
MICHAEL F HERMAN, 0000
PETER C HINZ, 0000
LOTHAR C HOLBERT, 0000
RICHARD L ILER, 0000
BRUCE H IRWIN, 0000
DAVID F IRWIN, 0000
RUTH A IRWIN, 0000
NATALIE R JACARUSO, 0000
SCOTT J JACOBSON, 0000
GRANT C JAQUITH, 0000
THOMAS R JENKINS, 0000
LEODIS T JENNINGS, 0000
MICHAEL J JENSEN, 0000
CRAIG D JOHNSON, 0000
DARREL L JOHNSON, 0000
STEPHEN J JURINKO, 0000
WILLIAM K KEITH, 0000
BERNARD M KELLY, 0000
TIMOTHY C KELLY, 0000
CHRISTOPHER R KEMP, 0000
SHAWN P KEMPENICH, 0000
JON R KER, 0000
MARK E KERRY, 0000
JAMES C KESTERSON JR., 0000
MARK H KING, 0000
JEFFERY P KOHLITZ, 0000
ALEX R KORZENEWSKI, 0000
FRED W KUBUS, 0000
TERRY A LAMBERT, 0000
DAVID W LARSEN, 0000
FRANCIS S LAUDANO III, 0000
PETER M LAWSON, 0000
PAUL W LAYMON JR., 0000
WING D LEE, 0000
JAMES R LEECH, 0000
F NICHOLAS R LETSON, 0000
MARLIN F LEVENDOSKI, 0000
BETSY A LEWIS, 0000
ELTON LEWIS, 0000
JOHN E LEY, 0000
ERIC D LINDNER, 0000
RUSTY L LINGENFELTER, 0000
ERIC B LINTZ, 0000
PHILIP C LOOTENS, 0000
WALTER T LORD, 0000
KERRY J LOUDENSLAGER, 0000
JOHN C LOWRY, 0000
KENNETH J LULL, 0000
BENSON W LUM, 0000
JOHN O LUTHRINGER, 0000
JUDD H LYONS, 0000
MARK J MACCARLEY, 0000
RANDALL R MARCHI, 0000
JEFFREY P MARLETTE, 0000
BRUCE R MARTIN, 0000
EUGENE L MASCOLO, 0000
JAMES E MASON, 0000
SAMUEL W MASSEY, 0000
WILLIAM R MAY, 0000
GREGORY N MCCALLON, 0000
MARK A MCCARTER, 0000
PATRICK J MCCARVILLE, 0000
ROGER L MCCLELLAN, 0000
THOMAS D MCCLUNG, 0000
DANA L MCDANIEL, 0000
PATRICIA J MCDANIEL, 0000
DANIEL MCELHINNEY, 0000
LARRY G MCLENDON, 0000
CRUZ M MEDINA, 0000
TIMOTHY M MEYER, 0000
HARVEY A MICHLITSCH, 0000
CHARLES W MITCHELL, 0000
STEVEN H MOGAN, 0000
RICHARD W MOLLICA, 0000
JEFFREY W MONTGOMERY, 0000
KENNETH R MORRIS, 0000
MICHAEL J MOS, 0000
JAMES E MOSE, 0000
WILLIAM S MOSER, 0000
WESLEY R MOY, 0000
REID K MR.SNY, 0000
NANETTE B MUELLER, 0000
WILLIAM J MULLER, 0000
JOHN B MUNOZATKINSON, 0000
EDWARD A MUTH, 0000
TODD M NEHLS, 0000
MICHAEL J NEILSON, 0000
DARELL L NEPIL, 0000
RONALD A NEUMEISTER, 0000
DANIEL P NIEVINSKI, 0000
BRETT E NILA, 0000
CALVIN H NOMIYAMA, 0000
ROBERT C OCONNOR, 0000
KENT R OELRICH, 0000
CHRISTOPHER OGARA, 0000
JOHN V OHNSTAD, 0000
ROBERT C OLEARY, 0000
BRUCE E OLIVEIRA, 0000
DAEYVID S OLOCHLAYNE, 0000
WESLEY N OSBURN, 0000
CHRISTOPHER T OSCAR, 0000
JEANNE F PALUMBO, 0000
CHARLES L PARINS, 0000
KEVIN M PETER, 0000
MICHAEL A PETRASH, 0000
GEORGE S PETTIGREW, 0000
WILLIAM D PHELPS, 0000
JOHN G PHILLIPPE, 0000
CHARLES W PHILLIPS, 0000
TIMOTHY S PHILLIPS, 0000
WILLIAM J PHILLIPS, 0000
JANET E PHIPPS, 0000
ANDRES H PLOOMPUU, 0000
DANIEL H PRINE, 0000
MATTHEW T QUINN, 0000
WALTER F RANT II, 0000
ELIZABETH M REHWALT, 0000
JOHN D RENAUD, 0000
MARTHA REYES, 0000
ROBERT B RICE, 0000
LINDA I RIEGEL, 0000
JAMES O RIMEL SR, 0000
ANTHONY M RISCICA, 0000
JULIAN R RIVERA, 0000
ROBERT F ROACH, 0000
KENNETH C ROBERTS, 0000
WILLIAM S ROBERTSON, 0000
DANIEL L ROBEY, 0000
DAVID A ROBINSON, 0000
JESSIE R ROBINSON, 0000
RUBEN J RODRIGUEZ, 0000
HARVE T ROMINE, 0000
ISADORE F ROMMES JR., 0000
ROBERT H RONGE, 0000
MARK H ROUSSEAU, 0000
ALICIA C RUCKER, 0000
JUAN A RUIZ, 0000
PAUL S RUSINKO, 0000
MARK A RUSSO, 0000
PETER J SAMMARCO, 0000
MANUEL F SANTIAGO, 0000
MICHAEL J SAWYER, 0000
RONALD L SCARBRO, 0000
MARK SCATOLINI, 0000
WILLIAM C SCHNECK JR., 0000
BARRY A SEARLE, 0000
ROBERT E SEMBOWER JR., 0000
DANIEL S SHEAHAN, 0000
RAYMOND F SHIELDS JR., 0000
BRUCE M SHREWSBERY II, 0000
LAURA L SIEVERT, 0000
MICHAEL J SINNOTT, 0000
JAMES A SMITH JR., 0000
MARK A SMITH, 0000
STEPHEN W SMITH, 0000
WILLIAM A SODERBERG, 0000
ROBERT A SPARING, 0000
ROBERT L SPARKS, 0000
DEBRA A SPEAR, 0000
STEVEN C SPITZE, 0000
DAVID E SPURLING, 0000
ANDREW O STEWART, 0000
WILLIAM H STEWART, 0000
EUGENE H SULLIVAN, 0000
TERENCE P SULLIVAN, 0000
I MARLENE SUMMERS, 0000
MICHAEL A SUTTON, 0000
ALICIA A TATENADEAU, 0000
DONALD M TAYLOR, 0000
HOWARD S THEVENET, 0000
MICHAEL N THOME, 0000
CHARLIE M THORNTON III, 0000
JAMES R TORGLER, 0000
VICTOR J TORRESRODRIGUEZ, 0000
BARBARA E TRENT, 0000
GORDON D TROUNSON, 0000
MICHAEL S TUOMEY, 0000
JOHN H H TURNER III, 0000
WALLACE N TURNER, 0000
WILLIAM J TYNDALL, 0000
FRANCIS J VAHLE JR., 0000
JOHN E VALENTINE, 0000
PETER A VONJESS, 0000
BRADLEY V WAKEFIELD, 0000
LAWRENCE P WALDHART, 0000
M STEVENSON WALLACE, 0000
WILLIAM C WAMPLER JR., 0000
CHRISTOPHER R WARD, 0000
WILLIAM J WARD, 0000
STEPHEN J WARRILOW, 0000
DAVID L WEEKS, 0000
BILLY J WEST, 0000
JEFFREY B WHEELER, 0000
DAVID S WHITE, 0000
TED C WHITE, 0000
ANTHONY A WICKHAM, 0000
DOUGLAS R WILKEN, 0000
RICHARD S WILLIAMS, 0000
TIMOTHY P WILLIAMS, 0000
HENRY W WILSON, 0000
ALLEN R WOLFF, 0000
MARTHA N WONG, 0000
DEHAVEN C WOODCOCK II, 0000
PAUL T WRIGHT, 0000
JAMES G YOUNG JR., 0000
TRACEY L ZANDER, 0000
NICHOLAS E ZOELLER, 0000

IN THE NAVY

THE FOLLOWING NAMED OFFICERS FOR TEMPORARY APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 5721:

To be lieutenant commander

ALBERT A. ALARCON, 0000
BARRY W. BARROWS, 0000
CHRISTOPHER G. BOHNER, 0000
MATTHEW R. BOLAND, 0000
BRENT J. BROWN, 0000
DARRELL S. CANADY, 0000
ADAN G. CRUZ, 0000
CHRISTOPHER D. DELINSKI, 0000
THOMAS J. DIXON, 0000
STEVEN G. DUTTER, 0000
DAVID A. DYWER, 0000
MICHAEL D. EBERLEIN, 0000
JOSEPH J. FAUTH, 0000
DAVID E. FOWLER, 0000
JOHN H. GRIMES, 0000
CRAIG A. HACKSTAFF, 0000
DENNIS N. JOHNSON, 0000
JEREMY P. JURKOIC, 0000
DONALD P. LIBBY, 0000
RONALD B. LOTT JR., 0000
EARL F. MCNEIL JR., 0000
STEPHEN E. MONGOLD, 0000
JERRY E. MORTUS, 0000
CHRISTOPHER T. NICHOLS, 0000
ROBERT W. PATERSON, 0000
GEOFFRY W. PATTERSON, 0000
JULIAN E. SALLAS, 0000
THOMAS H. SHUGART III, 0000
JEFFREY W. WINTERS, 0000

WITHDRAWALS

Executive message transmitted by the President to the Senate on November 21, 2003, withdrawing from further Senate consideration the following nominations:

APRIL H. FOLEY, OF NEW YORK, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE EXPORT-IMPORT BANK OF THE UNITED STATES FOR A TERM EXPIRING JANUARY 20, 2007, WHICH WAS SENT TO THE SENATE ON APRIL 10, 2003.

APRIL H. FOLEY, OF NEW YORK, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE EXPORT-IMPORT BANK OF THE UNITED STATES FOR A TERM EXPIRING JANUARY 20, 2007, WHICH WAS SENT TO THE SENATE ON MAY 14, 2003.

EXTENSIONS OF REMARKS

SENATOR ROBERT C. BYRD'S 86TH BIRTHDAY

HON. NICK J. RAHALL, II

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 20, 2003

Mr. RAHALL. Mr. Speaker, recently U.S. Senator ROBERT C. BYRD, D–W.Va., received the prestigious ''Freedom from Fear'' Medal from the Franklin and Eleanor Roosevelt Institute in Hyde Park, N.Y.

Shakespeare warned us, ''men close their doors against a setting sun.'' But, in the extraordinary moments of human endeavor, when light of liberty dares to fade, often only a single soul stands to embrace its care—a soul who has stood vigil through the night armed with reason, buoyed by history and strengthened by vision. This award and Senator BYRD's honor reflect his place in human history.

Today marks the 86th Birthday of West Virginia's finest. Senator ROBERT C. BYRD's personal life and his public service have consistently embraced the same principles: diligent work, constant improvement, unwavering commitment, unswerving honesty, and an overarching sense of history.

In his 86 years Senator BYRD has been a legislative craftsman, parliamentarian extraordinaire, skillful architect, master builder, visionary, dreamer, and doer. From teacher, scholar, mentor, leader, author, historian, and diplomat, Senator BYRD has borne many mantles throughout the years. But the one of which he is most proud, and perhaps cherishes the most, is that of being a West Virginian.

He has been a mentor to me, a pillar of strength for West Virginia, and a voice of reason for the Nation. After 86 years and five decades of service in Congress, his work is not yet done. The West Virginian of the Past Century is quickly forging a sterling legacy in the new one. And, as before, he is leading the way.

TRIBUTE TO BOB BOWERS

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 20, 2003

Mr. MCINNIS. Mr. Speaker, it is with a solemn heart that I take this opportunity to pay tribute to the life of Bob Bowers who passed away recently at the age of 74. Bob was a pillar of the Alamosa, Colorado community, and as his family mourns their loss, I think it is appropriate that we remember his life and celebrate his contributions to our nation today.

Bob was born in Springfield, Massachusetts in 1929. As a young man, Bob answered our nation's call to duty and joined the United States Air Force, where he served honorably before moving to Colorado. Bob served the state of Colorado for 25 years as a Health Inspector for the Colorado Department of Health. He married his wife Jo in 1948; they were married for 55 years.

Bob was very active in the Alamosa community. He was a volunteer for 4-H, the Boys and Girls Club, Share Colorado, the American Legion and the Alamosa Senior Citizens Center. Bob also served as a Boy Scout leader, where he passed along his outdoors skills, knowledge and morals to young people. Each year, Bob spent his winter holidays volunteering as Santa Clause for charitable organizations throughout the San Luis Valley. Bob was truly dedicated to bettering the lives of the citizens of Alamosa and many people there are better off as the result of his contributions.

Mr. Speaker, the dedication and selflessness that Bob Bowers has shown is certainly worthy of recognition before this body of Congress. It is my privilege to pay tribute to him for his contributions to the State of Colorado and our nation. I would like to extend my thoughts and deepest sympathies to Bob's family and friends during this difficult time.

TRIBUTE TO IRV KUPCINET—KNOWN TO MANY AS MR. CHICAGO

HON. DANNY K. DAVIS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 20, 2003

Mr. DAVIS of Illinois. Mr. Speaker, it was virtually impossible to live in Chicago and not be affected by Irv Kupcinet or Kup as he was fondly called. Kup knew everybody who had any public presence in Chicago and of course, knew powerful people and celebrities from around the world.

Kup was best known as a columnist for the Chicago Sun Times but was much more than a columnist, he was a communicator and used many mediums for that purpose. He had a television show, was a great emcee, was actively involved in civic, community, charitable and philanthropic activity. He was a fundraiser, a promoter, an icon, a legend.

Kup had the ability to make use of not only himself; but he was also able to rely upon others in very serious and strategic ways as he did with his assistant for 34 years, Ms. Stella Foster.

Kup was a creative genius who could take a mere occurrence and turn it into a great and glorious event. He was very open, comfortable and at ease with practically any and everybody. Kup grew up on the westside of Chicago, which is the heart of my Congressional District. He learned to walk with kings and queens; but never lost the common touch, yes, all men and women did matter with him but none too much. Over the years, Kup's column was distributed to more than 100 newspapers around the world. In 1982, he was elected to Chicago's journalism Hall of Fame. He broadcast Chicago Bears Football games with Jack Brickhouse for 24 years, he appeared in two movies and had a syndicated television program ''The Tonight Show,'' which ran from 1959 to 1986 and at one point was on 70 stations.

Kup never forgot the community of his birth, north Lawndale in Chicago which had some transitions and fell upon hard times. Kup was a star athlete, played football on a team with former president Gerald Ford and was drafted by the Philadelphia Eagles. Kup was many things to many people, but most of all he was husband and companion to his beloved wife Essee, father to his children, grandfather, son to his parents, brother to his siblings and friend to many.

There was nothing quite like being mentioned in Kup's column, and if you were on the scope, you'd eventually get there.

Yes, Kup walked with Kings, Queens, Presidents, Stars and Captains of business and industry, but never lost the common touch.

TRIBUTE TO MRS. HELEN EVERSON

HON. TAMMY BALDWIN

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 20, 2003

Ms. BALDWIN. Mr. Speaker, I rise today to extend my congratulations to Mrs. Helen Everson, who has been selected as Edgerton Rotary's Honored Citizen of the Year. Helen and her husband, Harland Everson, purchased the Edgerton Reporter, in 1951 and made the risky yet insightful decision to change from hot type to offset printing, the first paper in Wisconsin to do so. I rise today to pay tribute to a constituent whose life-long commitment to serving her community as an entrepreneur, philanthropist, and mother serves as a shining example to us all.

Helen was raised on a 5,000-acre sheep ranch in northwestern South Dakota and attended a two-room country school until her graduation. Helen's professional experience began at Keating Buick where she quickly gained greater responsibility and expertise and eventually became the Secretary-Treasurer of the car dealership.

Helen's life would change dramatically after she met and married Harland. The couple tackled the challenges of operating a growing and award-winning newspaper, in addition to raising a family. Harland and Helen's daughters, Carol and Diane, are both accomplished women in their own right. Carol is an associate professor at the Medical College of Wisconsin and Diane is the publisher of the Edgerton Reporter and past president of the National Newspaper Association.

Diane describes her mother as a ''heat seeking missile with boundless energy.'' She is still a tireless advocate for civic development and the Edgerton community. Under her leadership of Edgerton's annual Tobacco Heritage Days, the celebration grew in popularity and became profitable for the first time. For an

● 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.

impressive 52 years, the Everson family has been the steward of one of the state's only independent newspapers.

Mr. Speaker, I join the Edgerton Rotary and the Edgerton community in recognizing Helen Everson's achievements and congratulate her as she accepts the Honored Citizen of the Year award.

IN RECOGNITION OF LEROY CARLSON

HON. MARK UDALL

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 20, 2003

Mr. UDALL of Colorado. Mr. Speaker, I rise today to honor LeRoy Carlson for his three decades of exemplary work with the United States Fish and Wildlife Service. Leroy Carlson is one of Colorado's outstanding field biologists, preserving and protecting the Rocky Mountain region's wildlife.

Lee received his bachelor's degree from Colorado State University in Wildlife Biology and his master's degree in 1974 with an emphasis on the wildlife impacts from oil shale development. He began his career in Galveston, Texas as a field staff biologist for the U.S. Fish and Wildlife Service where he did permitting work for the Army Corps of Engineers on housing developments, levies and wetlands.

After 2 years in Texas, Lee moved to the Lakewood, Colorado offices of the U.S. Fish and Wildlife Service where he worked for the next 27 years until his retirement in 2003. His innovative approaches to a wide range of issues enabled him to provide oversight and protection to the region's threatened and endangered species and to guide many of the region's largest projects to successful completion.

Lee's ability to coordinate the protection of wildlife was most evident on large Federal projects, such as the Animas-LaPlata water project in Southwest Colorado. He earned the respect of all involved during his 3-year oversight of negotiations between the Bureau of Reclamation, the regional Native American tribes, local water users and regional environmental groups. From these contentious discussions, the San Juan Recovery Program was created, which provided significant mitigation for fish and wildlife resources and included an additional 7 years of research on listed fish.

His experience and problem solving attitude in managing complex water projects led to the successful re-issuance of agency water permits on projects throughout the Roosevelt and Arapahoe National Forests. Lee also provided skilled leadership on the Platte River Program for endangered species conservation, involving multiple States and Federal agencies. The Platte River Program included a unique approach to conserving listed wildlife species through the conversion of water use to financial contributions paid by project developers.

When the Colorado Department of Transportation (CDOT) needed a new way to address U.S. Fish and Wildlife endangered species requirements, Lee developed an innovative solution that included staffing within CDOT to help that agency evaluate the impacts on wildlife so that the needs of CDOT could be met in a timely manner. His plan became a model for future projects and allowed CDOT to determine project impacts for the next 20 years and develop mitigation plans. The Short Grass Prairie Project received two national awards for the creative approaches Lee used with State and Federal agencies. This became the Colorado model for the Prebles Project in the East Plum Creek area, protecting the Prebles Meadow Jumping Mouse, a rare species that was placed on the Endangered Species list in 1998.

Lee's service and achievements show how a skilled public servant can make important contributions to the quality of our natural environment, as well as our communities. I ask my colleagues to join me in thanking LeRoy Carlson for his far-reaching accomplishments and his commitment to the protection of our wildlife resources. I wish him good health and happiness in the future.

TRIBUTE TO TOMMY THOMPSON

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 20, 2003

Mr. McINNIS. Mr. Speaker, it is my honor to rise and pay tribute to a man who has done a great deal for the betterment of the State of Colorado. Tommy Thompson is a Sergeant At Arms in the Colorado State legislature. At the age of 80, Tommy is the oldest person working in Colorado's State Capitol. However, he is also one of the most energetic and one of the most beloved. I am proud to call Tommy's contributions to the attention of my colleagues and our nation here today.

Tommy was serving as Vice-Chairman of the Arapahoe County Republican party when he was appointed as Sergeant At Arms in 1997. Tommy loves his job and comes to work each day with a smile. That smile, and Tommy's friendly demeanor, remain with him throughout the day. Tommy has many friends throughout the Capitol and he gets along fantastically with members from both sides of the aisle. Nearly everyone who has worked in the Capitol has fond memories of times spent with Tommy.

Tommy's contributions to our nation reach far beyond the steps of Colorado's state Capitol. In World War II, Tommy answered our country's call to duty and served honorably aboard the USS *Mount Vernon* for over three years. Following the war, Tommy went to work for Ford Motor Company, and then opened a bicycle repair shop. He is still active in the Republican Forum, in addition to his work at the state Capitol. At the age of 80, Tommy Thompson has never slowed his pace, and he has no plans to do so now.

Mr. Speaker, it is my honor to rise and pay tribute to Tommy Thompson before this body of Congress and our nation. Tommy has dedicated many years to assuring that Colorado's government runs efficiently. Tommy has touched the lives of many Coloradans, and it is my honor to pay tribute to his contributions here today. Thanks for your service, Tommy.

TRIBUTE TO MR. JOHN DONOVAN, EXECUTIVE DIRECTOR CHICAGO COALITION FOR THE HOMELESS

HON. DANNY K. DAVIS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 20, 2003

Mr. DAVIS of Illinois. Mr. Speaker, the poet Robert Frost is quoted as writing, ''Some people see things that are and ask why, I dream of things that have never been and ask, why not.'' Such was the life, such was the philosophy and such was the work of John Donovan, known to his friends as Juancho.

John was a former Catholic priest who found his niche in organizing, working with and working for people in our world known as being poor. He worked in Panama, in the Rogers Park and Uptown communities of Chicago before becoming executive director of the coalition to end homelessness. He also worked as a priest, administrator and teacher at Chicago's Visitation High School. He was educated with a bachelor and masters degrees from Saint Mary of the Lake University in Mundelein.

John was the recipient of many awards and honors and was featured in Studs ''Terkel's Hope Dies Last.'' In an interview with Studs, John said: ''Some people who are better off have the luxury of losing hope. But poor people never lose hope. They can't afford to. That's the only thing they can hold on to, and that's where hope springs eternal.'' Some people say, ''How can you continue to work with the homeless and the poor?'' That's where I get my energy because they never lose hope.'' ''I'm not practicing as a priest, but my ministry, remember is organizing. My job is organizing hope. There are people in the community who still have hope. That's the last thing they lose. I'm organizing hope for change.''

John Donovan, a man of hope, a force for change. May he rest in peace. I extend condolence to John's wife, their children, and other members of John's family.

CHAPTER 12 BANKRUPTCY EXTENSION BILL

HON. TAMMY BALDWIN

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 20, 2003

Ms. BALDWIN. Mr. Speaker, today I am once again introducing legislation to extend authorization of Chapter 12 of the bankruptcy code. This legislation should not be necessary, but a permanent Chapter 12 authorization remains a hostage to more comprehensive bankruptcy law changes.

Chapter 12 provides an important backstop for our Nation's struggling family farmers by allowing them to reorganize their debts and keep their farms. It provides an important bankruptcy option to farm families to keep their livelihood and maintain their way of life.

This bill provides a textbook example that what we do here in Washington directly affects the lives of real people facing real financial challenges.

In Wisconsin recently, a Columbus farmer filed for Chapter 12 bankruptcy. He works

night and day to make his farm a success. Unfortunately, like many farmers, the weather and the market conspired to disrupt his cash flow. Filing Chapter 12 gave his family time to negotiate with his creditors, while he switched production from corn and soybeans to vegetable production and local market sales. He sells his produce at farmers markets in Madison and Princeton. And he is paying his debts. Under Chapter 12, it was not only the Columbus farmer that benefited. His creditors are receiving their money, the people in my district can purchase his bounty, and he can continue to support his family.

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

Chapter 12 bankruptcy protection expires at the end of 2003. Before we leave town for the year, Congress should renew this bankruptcy law. That is why I am introducing this bipartisan bill today. I am pleased to be joined by my colleagues NICK SMITH of Michigan and TIM HOLDEN of Pennsylvania.

Once again, we are forced to approve a temporary extension of this vital protection. Since I was first elected to Congress 5 years ago, we have passed 8 temporary extensions. Making this noncontroversial program permanent is beyond overdue. In both this Congress and last Congress, I introduced legislation to modify Chapter 12 to include more family farmers and make it a permanent part of our bankruptcy law.

There is great consensus that Chapter 12 bankruptcy protection works well. It is for that reason that we have included a permanent authorization in the comprehensive bankruptcy reform bill for the past three Congresses. In fact, it is considered so popular that it has been held hostage to the bigger bill. Every time we come to the floor to extend Chapter 12, we are told that a permanent extension cannot be passed separately from the big bill because taking out popular items will slow the bill's momentum. We were told we had to strip the permanent extension from last year's farm bill because it would slow down the bankruptcy bill. We were told in June when we extended Chapter 12 again that we had to wait. Our farmers have been waiting for more than 5 years. It is time to just get this done. Let's end the uncertainty these extensions cause by passing a permanent authorization.

In reluctant acknowledgment that passage of the permanent Chapter 12 legislation is unlikely this year, I am introducing this 6-month extension. In the absence of a permanent authorization, I would prefer even longer than 6 months. This legislation is a realistic time period that can ensure passage in the few days we have left in this session.

Since the current authorization will expire at the end of the year, farmers will need the relief provided by this extension. As our family farmers begin to decide whether they can afford to plant next year, we need to make sure they have the ability to stay in farming by using Chapter 12 to reorganize their debts. This bill will provide the security family farmers to make that difficult decision.

Mr. Speaker, I hope that you and the chairman of the Judiciary Committee move this bill before we adjourn for the year. Chapter 12 has expired before, leaving many farmers in great uncertainty. Let's not let that happen again.

BASIC PILOT PROGRAM EXTENSION AND EXPANSION ACT OF 2003

SPEECH OF

HON. MARK UDALL

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 19, 2003

Mr. UDALL of Colorado. Mr. Speaker, I rise today in support of S. 1685, the Basic Pilot Extension Act of 2003.

The Basic Pilot Verification program was created in 1997 to assist employers in verifying the eligibility of prospective employees to work in the United States Currently the program is only available to employers in six States. Recently I voted against a bill to expand and extend the program, H.R. 2359, because I thought an expansion of this program deserved more debate and allowance for amendments to fix some of the more problematic parts of the bill.

The Senate-passed measure that we are considering today, S. 1685, is an improvement on the House bill.

Unlike the House bill, this bill does not open up access to the databases of the Homeland Security Department and the Social Security Administration to other Federal agencies or to State and local government agencies. I had grave concerns about the infringement of civil liberties in the House bill, which would have permitted widespread sharing of employee information. I am also pleased that concerns already identified by the Department of Homeland Security about the Basic Pilot program are being addressed. I still have apprehensions that the data used in this program is not always up-to-date or accurate, specifically in regard to the visa status of employees. However, I am hopeful that the Homeland Security Department report required under this legislation will address these concerns so that they can be resolved by the time the program is expanded to all fifty states.

The Basic Pilot Verifications program provides an efficient and effective method for ensuring that employers are hiring eligible employees. I hope that through the extension and expansion provided for in this bill, this program will provide accurate information about prospective employees and continue to address the needs of American employers.

PAYING TRIBUTE TO BUD ROMBERG

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 20, 2003

Mr. MCINNIS. Mr. Speaker, it is my honor to rise and pay tribute to a remarkable man from my district. Bud Romberg has dedicated many years of his life to the betterment of the community of Steamboat, Colorado and it is my honor to pay tribute to him before this body of Congress and our nation.

Bud is a retired schoolteacher who has held a seat on the Steamboat Springs School Board for 18 years. He also serves on the City Planning Commission and just completed a four-year term of service on the Steamboat City Council. As a Councilman, Bud's tenure was defined by his honesty and integrity. Bud had no use for political double-speak or bureaucracy and approached his position in a straightforward and direct manner.

During Bud's tenure, he played a direct role in assuring that Steamboat maintained its small town charm, and family atmosphere. He was also instrumental in helping to form strong working relationships between the City of Steamboat and government agencies throughout Colorado.

Mr. Speaker it is my privilege to pay tribute to Bud Romberg before this body of Congress and our nation. Bud is a man of great honor and integrity and the community of Steamboat Springs is a better place as the result of his dedicated service. Thank you for your service, Bud.

TRIBUTE TO SILAS PURNELL

HON. DANNY K. DAVIS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 20, 2003

Mr. DAVIS of Illinois. Mr. Speaker, I rise to pay tribute to one of the most remarkable and most successful men that this country has produced, Mr. Silas Purnell, who is credited with assisting more than 50,000 students to gain acceptance to colleges and universities. Silas Purnell was born on March 10, 1923, graduated from Wendell Phillips High School, received a degree from the Sheil Institute, attended Roosevelt and Northwestern Universities. Silas went to World War II, was a member of the famed Tuskegee Airmen, got married to his wife Marilyn in 1946, and they had five children, Rosalind, Silas, Rosalinda, Ronald, and Donna.

Mr. Purnell took a job and worked 13 years for the Coca Cola Bottling Company. It was during this period that he began helping students get into college. He eventually went to the Ada S. McKinley Community Services Agency and established their education division. As director of this program Mr. Purnell hit stride and became one of the most knowledgeable persons in the country relative to the availability of grants, scholarships, special programs and opportunities for individuals who wanted to attend college.

Si Purnell developed such a reputation that people from all over the country would consult with him about getting into school.

By the time Mr. Purnell became ill and retired in the year 2000, it was partially documented and estimated on good authority that Silas Purnell had helped more than 50,000 individuals gain acceptance and receive some form of financial aid for college.

Mr. Speaker, there has never to my knowledge been a person to do more singlehandedly to get individuals help with their educational pursuits.

If I can help somebody as I pass along, If I can cheer somebody with a word or song, If I can steer somebody right who may be traveling wrong, then my living will not have been in vain.

I commend Mr. Silas Purnell for his passionate and effective work, extend condolences to his family, and urge passage of this resolution.

STOP PEER-TO-PEER USE BY PAEDOPHILES

HON. JOSEPH R. PITTS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 20, 2003

Mr. PITTS. Mr. Speaker, I submit the following for the RECORD:

[From the Guardian, Nov. 4, 2003]

SPECIAL INVESTIGATION—RACE TO SAVE NEW VICTIMS OF CHILD PORN

(By Audrey Gillan)

Paedophiles are swapping thousands of hardcore images of child sex abuse in a new form of computer child pornography that police believe is feeding a demand for more real-time victims of abuse.

The Guardian has established that the demand for child porn through the use of file-sharing technology—normally associated with swapping music and movies—has grown so rapidly that law enforcement agencies are now employed in a global race to track down the children who are being abused. Some of the children, police believe, are being abused on a daily basis to provide a constant supply of new computerised material.

Senior officers have revealed that the scale of peer-to-peer traffic in illegal images of children now dwarfs almost any other paedophile network they have encountered. The images are generally more extreme and at least 20% of the users are what police class as Category One, meaning that the suspect is ''of significant risk to children''.

But resources available to police to tackle peer-to-peer child porn are limited and though they are catching some offenders, it may take months or even years to track down the location of some victims. In such cases, officers monitoring the images can only watch as the children grow older and continue to be abused.

Many of those addicted to child porn have flocked to peer-to-peer file sharing software such as KaZaA, Morpheus and Grokster because they are free so, crucially, users do not have to leave any credit card details, leading them to believe that they cannot be traced. The explosion in file sharing, driven by the demand for music files, has also made the technology readily accessible, quick and easy to use.

It also has the attraction of not requiring the users to be part of a traditional organised paedophile ring using password-protected, covert means to distribute images; rather peer-to-peer technology allows them direct access into the hard drives of other paedophiles' computers with no third party authority monitoring content as is the case with chat rooms and news groups.

Scotland Yard officers have told the Guardian that they stumbled across this phenomenon by accident during another inquiry and say they have been stunned by its exponential growth. They believe the phenomenon is more alarming than previous internet-related cases, such as the high-profile Operation Ore.

The Met's child protection hi-tech crime unit has already built a list of 800 suspects involved in file swapping illegal images in the UK alone. While most are involved only in sharing or downloading the images, a significant proportion are active abusers producing the material themselves, often using their own children, their neighbour's children or—in rarer cases—by luring strangers. At least 30 peer-to-peer cases in the UK so far involved hands-on abuse in which the children in the images were real-time victims.

Police found one man who had wired webcams into his daughter's bedroom so that he could share video images of his abuse with other peer-to-peer file sharers.

Detective Superintendent Peter Spindler, who heads Scotland Yard's paedophile unit, said: ''We are finding real-time live abusers. These people are able to get brand new images straight up on the net.'' His officers have found that when new images appear, the children involved are often related to or live nearby the person distributing the material.

But the sheer volume of new material, combined with the fact that it could have been produced anywhere in the world, has meant that police have often been unable to pinpoint the child's location.

Detectives rely on two methods of tracing location: electronic footprints left by the user while online and forensic analysis of the images to find clues pointing to the country of origin, such as telephone books in the background or the style of furnishings. In some cases, often where the child is being held prisoner and abused in a completely blank room, there are not enough leads for police to chase.

One case being investigated involves a prepubescent girl who is being held prisoner in a room and repeatedly abused. International law enforcement agencies know only that she is in the United States and the FBI is trying to pinpoint her exact location. New images of the child are shared through KaZaA and other services but police have been unable to find her.

Gemma Holland, victim identification project manager at the University of Cork's Combating Paedophile Information Networks in Europe (Copine) which has a database of more than 600,000 child porn images, said: ''This is a global problem. The abuse could be in the next village or somewhere near you but the problem is the images are being shown globally. Identifying the kids in these images should be our prime concern and of the greatest importance.''

The decentralised nature of the internet and peer-to-peer specifically make it difficult to define numbers of images in circulation or children involved but experts says it is growing daily. Washington's national centre for missing and exploited children, which acts as a clearing house for child porn tip-offs, said that reports of such images in shared files had increased by 400% this year.

David Wilson, professor of criminology at the University of Central England in Birmingham, said: ''Peer-to-peer facilitates the most extreme, aggressive and reprehensible types of behaviour that the internet will allow.''

The Guardian understands that the National Crime Squad is considering coordinating all of this work, rather than leaving it to small groups working within the country's various forces; so far the leading forces have been the Met, West Midlands and Greater Manchester.

Peer-to-peer has become more attractive for paedophiles in the wake of Operation Ore, the high-profile British police operation which was launched after US authorities handed over the names of 7,200 people suspected of subscribing to websites offering paedophilic images. While Ore has grabbed headlines, many senior officers and child abuse experts believe that targeting people at the lower end of the paedophile spectrum has been a distraction in terms of child protection.

Prof Wilson believes Ore showed how the criminal justice system concentrated on the wrong type of offender, the people who downloaded the material rather than produced them. It needed to refocus on activities such as peer-to-peer file sharing and the producers of child pornography.

He said: ''Police operations have not been getting to the type of paedophile that we need to get to. It's in their interests to keep the debate moving towards the kind of people they should be spending time and resources on.

''The achilles heel of peer-to-peer is that it makes something that is secret and furtive into something that is public and when it is public that offers the police a window of opportunity to police it.''

In a room on the fifth floor at Scotland Yard, officers in the hi-tech crime unit are trying to do exactly that, sitting at computers, monitoring activity on the peer-to-peer boards. They are part of a team working on Operation Pilsey which started as a smalltime inquiry in March 2001 by the Met's clubs and vice unit and burgeoned with the number of people posting images via file sharing. The detectives working here are now inundated.

They explain that they can use technology to detect the location of those who download the images and sometimes that of the abusers. If there is a child immediately in danger, officers will conduct a raid as soon as they have a location.

Paedophiles believe it is harder for them to be detected through peer-to-peer software but investigators are able to access their shared folders and quickly discover if they contain illegal images of child abuse. They are then able to establish the location of the owner of the shared folder.

VETERANS' DAY SPEECH BY MG ROBERT SHIRKEY

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 20, 2003

Mr. SKELTON. Mr. Speaker, Major General Robert Shirkey, USA, Retired, delivered the following address at a Veterans' Day Memorial Service at the Liberty Memorial in Kansas City, MO. This is an excellent address by a highly decorated veteran of World War II and the Korean War. His speech is set forth as follows:

MAJOR GENERAL SHIRKEY, USA, RET., VETERANS' DAY OBSERVANCE, LIBERTY MEMORIAL KANSAS CITY, MO—NOVEMBER 11, 2003

I am an American—Let me tell you why:

Years ago persons from Ireland, Norway, Poland, Germany, and other locations, hugged their families for the last time and left their ancestral homes. These people boarded old, crowded ships to sail to America, leaving behind everything and everyone they knew in search of only one thing: Freedom.

These people crossed the ocean with the determination to stand firm in their new home and fight for the freedom which had been denied them for centuries. America was born from a union of courage and passion for freedom. This is my heritage.

My ancestors, under a new flag, represented a country that came to be known as the United States of America.

One Irishman, O'Sharkey, went through the Revolutionary War. As indentured servants from Norway, my grandmother's family worked out the $36.00 passage to become Americans. A Polish girl in Poznan, Poland, saved the life of a Prussian soldier being chased by Germans by hiding him in a haystack during the Prussian Revolution of 1848. He returned after peace was declared, married her and together with his parents migrated to the United States. He also then

served with the 27th Wisconsin Cavalry during the Civil War. Another part of my heritage who served with the South during that long war was General Wade Hampton. These men were the Privates, Captains, Majors, Colonels and Generals. When the Revolutionary and Civil Wars were over, they were once again free.

They had paid the price with their lives, bloodshed, hardship and poverty. One of my ancestors, a second cousin, still lies in France, having paid the supreme sacrifice on September 27, 1918, for such freedom.

I am an American—Let me tell you why:

My patriotism can neither be contained nor displayed within the span of four (4) designated days every year. When I look at my country's flag, I see not only the Revolutionary War and Civil War, but ancestors who fought against injustice. I also see my ancestors who were on opposite sides of the Battle of the Wilderness, Chickamauga, and others. They smelled the gunpowder and heard the roar of musketry. Some of these men would never see another beautiful sunset, yet in each of their eyes were these same dreams of freedom and independence and a willingness to fight to the death for what they believed in.

Lest we forget: For those who have fought for it, freedom has a taste the protected will never know. As General Pershing said at this Memorial dedication:

''. . . there are many forces trying to destroy this freedom, so band together and dedicate yourselves to protecting that freedom you have so valiantly won on the battlefield.''

Never forget that the Ancient Romans sought freedom from responsibility and, as a consequence, lost all freedom.

My flag has flown over ancestors and fellow soldiers in distant parts of the world who were slain giving all their tomorrows for our todays. My flag flew over my best friend's hastily dug grave at Legaspi, Luzon, following his untimely death April 15, 1945. He gave his life to save five wounded comrades by crawling up under machine gun fire. An attempt to save a sixth man was rewarded with death. For my symbolic flag he knew he was expected to die. Like many others, my life was spared by the controversial atomic bomb. I came home carrying my flag. My best friend came wrapped in my country's flag. My flag went to Viet Nam and returned with some of my dear friends wrapped in it. My flag is the same flag that belongs to victims of the Bataan Death March as well as survivors. The attitude of those men is epitomized in the gallows humor of war correspondent Frank Hewlett which still echos amongst the jungle foliage:

''We're the battling bastards of Bataan.
No mamma, no papa, no Uncle Sam.
No uncles, no aunts, no nephews.
No nieces, no pills, no planes, no artillery pieces.
And nobody gives a damn.''

These are the men who have carried my flag. Later, in fighting on Luzon, I walked that hallowed ground on Bataan. I saw the refuse of war and the fox holes-many of which had been dug with bayonets. In the words of William Lindsay White, author of They Were Expendable, ''Where do we get such men?''

Tribute on this day is paid to those fellow Americans who served in the Korean War, which ended fifty years ago. Over one hundred thousand men were wounded; fifty-six thousand two hundred forty six killed; nine thousand were captured; three thousand five hundred eight were repatriated; six thousand died as a result of criminal acts of the enemy. By the peace agreement in 1953, not one of the enemy was prosecuted. The odds of death of those of us in the front lines in Korea were one in nine. By contrast the odds were one in eighteen in World War II and in Viet Nam the odds were one in twenty-three, a striking example of the dangers in Korea.

I fought through the Pacific War with one of the more noted Infantry Units the 158th RCT ''Bushmasters.'' We were comprised of twenty-two Indian tribes, Hispanics, Chinese, Japanese and men from thirty-eight different states. General MacArthur opined that ''no greater combat team has ever deployed for battle.'' Little known is the fact that Indians were finally given the right to vote in 1946. Strangely enough, not one black soldier was in our Infantry units!

I am an American—Let me tell you why:

To those Korean Veterans present and those of you who may read or hear what I have to say today, I want you to know as one soldier to another, we fought not for glory, for there was none, not for loot, for there was none. No crusading zeal drove us on. Our homeland was not threatened. Our countrymen at home made no comparable sacrifice. We fought and endured, while not understanding the geopolitics of that distant war and at a time when thousands of our fellow countrymen said we were engaged in a senseless war. We kept on much as we did in World War II. The real answer as to why we—the living and the dead—did this lies deep in the tissue of the substance which keeps America from becoming unstuck. It has to do with our parents, teachers, 4–H Clubs, Scouts, neighborhood centers, and belonging to a team; an implicit, unreasoned belief in our country and a natural belief in ourselves. To those present, to those now living, I bow to your patriotism. Many like myself were asked to again serve our country. I left behind two sons, one six months old and one three years old. Forty-eight hours after leaving Kansas City, I was again in the Korean front-lines.

Let me say now, for all to hear and know, as a rifle company commander of one hundred fifty to two hundred men, I personally led one of the first integrated companies in Korea. The twenty to twenty-five black soldiers I led served with honor, distinction and bravery. We cry the same salty tears and bleed the same red blood. Equally important, in our hour of need on the battle field, we do not care who rescues us or carries our stretcher. I shall never forget Lovell Page who gave his life at the Inje River. His beautiful smile is etched in my memory and will be throughout eternity.

These are the men who have carried my flag.

That same flag gave comfort and hope to those who endured horrors including war camp. It is the same flag the men and women carry who came home crippled and maimed so that the social class into which I was born would not determine the limits of my potential.

It is the flag that is seared into my memory as it lay draped over my dearest friends coffins while the echos of Taps were carried Heavenward on a windy day. It is the same flag that will someday drape over my coffin. I trust that you are as proud of that flag as I am. Protect it well. Protect it as I have.

Forty-Five million of us have served our Nation since 1776. We have never, ever, let our nation down. We took the Hill!!

I quote the last stanza of the poem by Billy Rose, which reflects the dedication of every American in their commitment to serve their country.

''I am the unknown soldier and maybe I died in vain, but if I were alive and my country called, I'd do it all over again. While I fought with and along side of the elite American Army troops, lest we forget, I should like to pay tribute to the troops of the twenty-one nations that comprised the United Nations forces in Korea. The undaunted courage and bravery of the Turks, British and Ethiopians, to mention a few that I witnessed, shall forever be with me. Likewise, the bravery of Republic of Korea soldiers like Chung Mun Joe, who served in my company, will never be forgotten as they fought for the freedom we Americans almost take for granted. To those who have not served and to those who never will, I quote Prophet Micah, as is etched in stone on the North side of this Monument, that all God requires of us is that ''we should do justly, love mercy and walk humbly with thy God.''

You now see that:

I am an American—I have told you why.

In closing, I quote the Unknown Confederate Soldier's words:

''I asked God for strength that I might achieve; I was made weak that I might learn humbly to obey.
I asked for health that I might do great things; I was given infirmity that I might do better things.
I asked for riches that I might be happy; I was given poverty that I might be wise.
I asked for power that I might have the praise of men; I was given weakness that I might feel the need of God.
I asked for all things that I might enjoy life; I was given life that I might enjoy all things.
I got nothing I asked for, but everything that I had hoped for, almost despite myself.
My unspoken prayers were answered. I am, among all men, richly blessed.''

I am indeed an American.

PAYING TRIBUTE TO SOUTHEAST MENTAL HEALTH SERVICES

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 20, 2003

Mr. McINNIS. Mr. Speaker, it is my honor to rise and pay tribute to a remarkable non-profit organization located in my district. Southeast Mental Health Services was recently awarded the Silver Achievement Award from the American Psychiatric Association for being among the top mental health programs in the nation. I am proud to call the attention of my colleagues and this nation to all that Southeast Mental Health Services has done for those suffering from mental illness.

Southeast Mental Health Services has developed a revolutionary approach to treating the mentally ill. Their program focuses on helping each individual patient to live the happiest and most fulfilling life possible. Southeast Mental Health Services has found great success with this program. The dedication and selflessness of the program's administrators and staff set a fine example to all mental health care professionals.

Mr. Speaker, it is my honor to call the attention of this body of Congress and our nation to the many contributions of Southeast Mental Health Services. The organization's programs have made a significant contribution to the quality of life of numerous Coloradans suffering from mental illness. It is with great pride that I rise before you to recognize Southeast Mental Health Services and the notable contributions they have made to the community.

RECOGNIZING THE LIFE AND ACCOMPLISHMENTS OF YEVGENY YEVTUSHENKO

HON. GINNY BROWN-WAITE

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 20, 2003

Ms. GINNY BROWN-WAITE of Florida. Mr. Speaker, ''A poet in Russia is more than a poet.'' Yevgeny Yevtushenko was speaking of poetry's unique role in Russia, but the words apply equally to Yevtushenko himself—the world's most famous living poet, and also prose writer, photographer, filmmaker, congressman, professor, world traveler. In the civic tradition of Russian poetry, the poet is the voice of the people, the ombudsman, the champion of truth and justice, and the catalyst for social change. Because poets express the strivings and needs of the people, they are revered in Russia as nowhere else. In the Soviet Union, the message had to be elliptic, and poetry was read closely, between the lines.

Yevgeny Yevtushenko, born in Zima Junction, Siberia in 1933, burst onto the scene when very young, his first poems published in 1949, when he was just sixteen. He and his peers, Akhmadulina, Voznesensky, Rozhdestvensky, drew enormous, agitated crowds to their readings, and their popularity could be compared only to that of rock stars. They shaped an entire generation, the generation of Gorbachev and Yeltsin, who began the changes that ultimately brought an end to the Soviet Union.

His famous poem ''Babi Yar,'' against anti-Semitism, was written in 1961 and set to music by Shostakovich. In 1952, Yevtushenko wrote ''the Heirs of Stalin,'' with a call to throw off the oppressive shadow of the tyrant. He began his nonpoetic political protest activity with a telegram to Brezhnev condemning the Soviet invasion of Czechoslovakia in August 1968. Thirty years later, his political activity was channeled into a formal democratic role—he was elected a congressman with an overwhelming 74.9 percent of the vote (in a field of nine candidates). There was a national write-in-vote to select the cochairmen to join Andrei Sakharov in leading the Memorial Society, dedicated to the memory of the victims of Stalinism. Yevtushenko was one of the three co-chairmen selected, further evidence of the faith in his integrity and appreciation of his outspokenness among his countrymen.

Yevgeny Yevtushenko traveled extensively, and he brought the world to the Soviet Union through his writing, but he also brought Russia to the world. In 1960, he was the first Russian poet to break through the Iron Curtain and to recite his poetry in the West, where he was befriended by Pablo Picasso, Max Ernst, Henry Moore, Federico Fellini, John Steinbeck, Graham Greene, Heinrich Böll, T.S. Eliot and Gabriel García Marquez. Over the years, Yevtushenko has toured 94 countries, all of the republics of the USSR, and all of the states of the U.S.A. He has recited his poetry in sports arenas from Russia to Santiago, Chile (where he appeared with Pablo Neruda), in the Opera di Roma, in London's Albert Hall, in the Library of Congress, Smithsonian Institution, and National Cathedral in Washington, D.C, and in Madison Square Garden, Carnegie Hall, the Cathedral of St. John the Divine, and Lincoln Center in New York. His works have been translated into 72 languages. Eighteen of his books have been translated into English. Most of his readers in France, Cambodia, Africa, Greenland, Australia, Germany, and China—among other places—have never been to Russia but they know and love Russian poetry.

Yevtushenko has been in the center of the action for fifty years. Yet his insatiable curiosity about the human experience and his monumental energy remain at their highest levels. He celebrated his seventieth birthday in Moscow this July, reading to enormous, adoring crowds, and then continued the extravaganza across the country, reaching out to his readers. His life is heartening proof that one man's voice, raised high and often, can alter the course of events.

Welcome all over the world, Yevgeny Yevtushenko and his wife, Masha, have chosen to divide their time between Russia and the United States, where they are bringing up their family. He is Distinguished Visiting Professor at The University of Tulsa, Oklahoma, and tenured at Queens College, in New York City. He has received numerous international prizes in literature and the arts. In addition to receiving four honorary degrees, he was elected an honorary member of the American Academy of Arts and Letters and a member of the European Academy of Arts and Sciences, was awarded The American Liberties Medallion of the American Jewish Committee, and in 1999 was appointed Poet-in-Residence of the Walt Whitman House Museum in Long Island, New York. Naturally, he is writing poetry and a new novel and is in the finishing stages of a major anthology of Russian poetry. We are fortunate to have Yevgeny and Masha Yevtushenko in our country and even more fortunate to have them here at the Russian Fireworks gala.

THE IMPACT OF LEFT-WING SPECIAL INTEREST GROUPS ON THE JUDICIAL NOMINATION PROCESS

HON. MARK E. SOUDER

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 20, 2003

Mr. SOUDER. Mr. Speaker, today I rise to introduce into the RECORD two more memos—written by Democratic congressional staff—that illustrate the extent to which liberal special interest groups are controlling the judicial nomination process. These groups have been allowed a virtual veto power over any nominee they dislike. For example, groups like the so-called People for the American Way have apparently been able to delay or block the approval of judges who do not share their antilaw enforcement views, while groups like the National Abortion Rights Action League (NARAL) have been given a similar veto power over anyone who doesn't agree that parents shouldn't even be notified that their child is considering an abortion. One nominee, according to the memos, had to be cleared with ''the gay rights groups'' before he would even be considered. These memos show just how far the process has deteriorated—and are a wake-up call to anyone who wants to see fairness and objectivity restored to our Federal judiciary.

MEMORANDUM

To: Senator Kennedy.

Subject: Judges—Schedule for the Year & Chairing A Hearing.

I. SCHEDULE FOR THE YEAR AND THE SHEDD AND COOK PROBLEMS

As you know, during your meeting with the groups, you and Schumer discussed approaching Leahy regarding the Shedd hearing. You proposed telling him that because of the number of unpublished opinions and the divisiveness of the nomination (angering the African American community prior to the election), you think we should refrain from having a hearing on Shedd in June. Based on the groups recommendation, you were also going to propose an end-of-June hearing on another nominee. The following has happened in the interim:

Lott approached Daschle with an unreasonable request for nominations hearings before the July 4th recess. Daschle told him ''no'' but approached Leahy to discuss a more aggressive hearing schedule. The proposed schedule is as follows:

June 13th Rogers—(6th Circuit)
June 27th Shedd—(4th Circuit)
July 18th Owen—(5th Circuit)
August 1st Cook—(6th Circuit)
September 5th Raggi—(2nd Circuit)
September 19th Estrada—(DC Circuit)
October 3rd McConnell—(10th Circuit)

The August 1st Cook hearing is a surprise to us, and it will be a huge problem for the judges coalition. For many, many months they have told us that Cook is highly problematic—particularly for labor. Cook is consistently bad on labor/workplace injury cases, right to jury trial issues, civil rights and rights of criminal defendants cases. Her frequent dissents (from the moderate majority) show a pattern at least as egregious as Pickering. We must press Leahy not to schedule Cook (Cook is strongly supported by DeWine, but how many times did Hatch disregard your request to move DC Circuit nominee Alan Snyder?).

Regarding Shedd, Wade Henderson spoke with Mark Childress, Daschle's Chief Counsel and Childress is going to speak with Hollings' staff director. But, because we feel Leahy will not cancel the Shedd hearing unless Hollings backs off (and because several of the outside groups believe the same), we don't think you should expend a great deal of effort trying to change Leahy's mind about the Shedd hearing.

Instead, you should speak with Schumer, and the two of you should bring Durbin up to speed (since he couldn't attend the meeting in your hideaway). The three of you should approach Leahy as soon as possible and tell Leahy that:

You are very concerned about Shedd because he has numerous unpublished opinions and because his nomination will infuriate the African-American community before the SC election, but you understand the Hollings problem. If Hollings can be moved, you propose postponing the Shedd hearing.

You understand he is contemplating a more aggressive hearing schedule that includes a hearing for Debbie Cook for the 6th Circuit; and you believe she should not get a hearing this year. For months, labor and other groups have told us that she is highly problematic, and we should send her nomination back to the White House. We won't suffer publically if we don't have a nomination hearing for her.

Ultimately, if Leahy insists on having an August hearing, it appears that the groups are willing to let Tymkovich go through (the core of the coalition made that decision last night, but they are checking with the gay rights groups).

Given this information, do you want to talk to Schumer—and Durbin—about having this conversation with Leahy and then speak with Leahy? We strongly recommend that you have these conversations, and we believe Leahy must be approached quickly.

Decision:

Yes, I will talk to Schumer and Durbin; the three of us will go to Leahy _____.

No, I will not speak with Schumer and Durbin or Leahy _____.

II. CHAIRING A HEARING

As you know, Senator Leahy asked that you chair the last nominations hearing, but given your schedule, you could not. His staff is now asking us to choose the hearing you would like to chair (see the schedule above).

I propose that you chair the Owen hearing on July 18th. As you know, Owen will probably be our next big fight. The grassroots organizations are organized in Texas, and the national groups are prepared, as well. In addition, Judiciary Democrats expect to fight her, hearing attendance should be good, and the issues are clear—Enron/pro-business and choice.

You should know, the Leahy staff (and the Schumer staff) propose that you chair the Estrada hearing and I disagree. Although other staffers see Estrada as a civil rights problem, because he has no record, there isn't civil rights ammunition. We don't believe Estrada is ''your kind of fight.'' We think Durbin or Schumer might be better for the Estrada hearing (and, at least on the staff level, there's interest from the Schumer office).

Decision: I will chair a hearing on:

Shedd (6/27) _____.

Owen (7/18) _____.

Cook (8/1) _____ (we want this to go away).

Raggi (9/5) _____.

Estrada (9/19) _____.

McConnelI (10/3) _____.

MEMORANDUM

To: Senator Durbin.

Date: October 15, 2001.

Re: Meeting with Civil Rights Leaders, Tuesday, October 16, 2001 at 5:30 p.m.

You are scheduled to meet with leaders of several civil rights organizations to discuss their serious concerns with the judicial nomination process. The leaders will include: Ralph Neas (People For the American Way), Kate Michelman (NARAL), Nan Aron (Alliance for Justice), Wade Henderson (Leadership Conference on Civil Rights), Leslie Proll (NAACP Legal Defense & Education Fund), Nancy Zirkin (American Association of University Women), Marcia Greenberger (National Women's Law Center), Judy Lichtman (National Partnership), and a representative from the AFL–CIO. The meeting will take place in 317 Russell, with Senators Kennedy and (possibly) Schumer also present.

The immediate catalyst for Tuesday's meeting was the announcement last Thursday that the Judiciary Committee would hold a hearing in one week on district court judge Charles W. Pickering, Sr., a highly controversial nominee for the Fifth Circuit. The interest groups have two objections; (1) in light of the terrorist attacks, it was their understanding that no controversial. judicial nominees would be moved this fall; and (2) they were given assurances that they would receive plenty of notice to prepare for any controversial nominee.

Judge Pickering, you will recall, has a checkered past: he wrote a law review student note recommending that the Mississippi legislature restore its miscegenation law; as a state legislator, he opposed the Equal Rights Amendment and voted to seal the records of the infamous sovereignty commission; and as a Republican activist; he promoted an anti-abortion plank to the national party platform. He has written some controversial opinions while serving on the district court, criticizing prisoner access to the courts and the ''one person-one vote'' principle. The interest groups believe that a high percentage of Pickering's opinions are unpublished, one reason why they object to the lack of time to prepare for his hearing.

Recognizing that Thursday's hearing is likely to go forward, the groups are asking that the Committee hold a second hearing on Pickering in a few weeks, when they will have had adequate time to research him fully. The decision to schedule Pickering's hearing was made by Senator Leahy himself, not his staff, so the groups are likely to ask you to intercede personally. They will also seek assurances that they will receive adequate warning of future controversial nominees.

TRIBUTE TO GRAHAM NIELSON

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 20, 2003

Mr. McINNIS. Mr. Speaker, it is my honor to rise and pay tribute to a remarkable man from my district. Recently, Graham Nielson was awarded the ''McGuffey Award'' by the Colorado Association of School Boards for his twelve years of dedicated service on the Dolores School Board. Graham recently announced his retirement from the Board, and I would like to take this opportunity to join my colleagues in thanking him for his service.

Graham moved to Dolores while he was in grade school. After high school, Graham married Dianne Carver. Later, Graham and Dianne moved to Santa Fe, where Graham became an EMT and Fireman. In 1985, Graham and his family returned to Dolores, where he eventually took his current position as a computer systems analyst for Nielson Skansa, Inc. Until recently, Graham also served the community as a member of the Dolores Fire Department, and still holds a position on the board of the Colorado Firefighter's Academy.

Graham and Dianne have had five wonderful children. When the children entered the Dolores school system, Graham decided to run for a position on the School Board. He has served as the director of the RE–4 School Board for 12 years. Graham has dedicated a great deal to assuring that the children of Dolores have a positive educational experience. The children of Dolores have certainly benefited as the result of Graham's tireless dedication to their interests.

Mr. Speaker, I am proud to call the contributions of Graham Nielson to the attention of this body of Congress and our nation. Graham has dedicated his life to the betterment of others and I am proud to pay tribute to him here today. Thank you Graham, and congratulations on a well-deserved award.

IN MEMORY OF LANCE CPL. DAVID OWENS, JR., USMC

HON. FRANK R. WOLF

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 20, 2003

Mr. WOLF. Mr. Speaker, I was honored recently to be asked to participate in a memorial service for my constituent, Lance Cpl. David Owens, Jr., USMC, who was killed in action in Baghdad on April 12 of this year. The presentation of a memorial plaque was held in Winchester, Virginia, on October 24 during halftime ceremonies on the football field at James Wood High School, Corporal Owens' alma mater.

I would like to share with my colleagues the remarks given that evening in memory of this brave young man who served his nation proudly and who died defending our freedoms.

REMARKS BY FREDERICK COUNTY SUPERINTENDENT OF SCHOOLS, DR. WILLIAM C. DEAN

Good evening, The war in Iraq claimed the life of a James Wood High School graduate of the class of 2000. On Saturday, April 12, 2003, 20-year-old Marine Lance Corporal David Owens was killed in action in Baghdad.

It is with great pleasure that I introduce you to the parents of Corporal Owens, Mr. and Mrs. David Owens.

In creating this memorial, it is our hope this service tonight will remind Mr. and Mrs. Owens of one of the many places where David made an impact at James Wood High School. And, I also extend an invitation to them to return here often.

James Wood High School is a place David enjoyed, and we enjoyed and valued David's presence here. He is missed by his classmates, his teachers and those who knew him.

Ladies and gentlemen, I am honored to present David and Debbie Owens.

Thank you for allowing us to honor your son this evening.

REMARKS BY JAMES WOOD HIGH SCHOOL PRINCIPAL, JOSEPH SALYER

David E. Owens, Jr. a graduate of JWHS, entered as a freshman in 1997. During the span of this high school career many would describe David as an individual with strong character, high integrity and a sincere love for his school.

David was not merely a student who focused his attention on attending classes. He also took an active part in the life and traditions of JWHS.

He was a dedicated athlete who participated in the school's football and wrestling programs. During his senior year, he excelled by placing 4th in the Commonwealth District wrestling tournament. This earned him a spot representing the school in the regional wrestling competition. He also was the recipient of the 2000 Winchester Wrestling Officials Association Sportsmanship Award.

In addition, David was committed to serving in his local Future Farmers of America (FFA) chapter. He participated in a wide range of forestry-related events, sponsored by the FFA, because of his love for natural resources.

It is because of David's sincere devotion, that we the staff, faculty and student body of the James Wood community will forever be indebted to his legacy as a James Wood student and to the life he gave for his country.

REMARKS BY CONGRESSMAN FRANK R. WOLF, 10TH DISTRICT, VIRGINIA

It is important to remember those who have made the ultimate sacrifice for their country.

Marine Lance Cpl. David Owens Jr., age 20, served his country with pride and honor. His loss has touched many in this community. It is fitting that this plaque have a permanent place at James Wood High School as a remembrance of David's sacrifice for his country.

I know this has been a difficult time for his parents. As the father of five children, my heart goes out to them. They, too, have made the ultimate sacrifice.

I ask that everyone here tonight remember all the service men and women who have lost their lives defending our freedom. We owe them and their families a huge debt of gratitude.

I also ask that everyone pray for the men and women in uniform who are in harm's way in Iraq, in Afghanistan and other parts of the world where we have a military presence. They need and deserve our support.

I want to read the words of the hymn ''Eternal Father,'' also known as the ''Navy Hymn,'' which is often sung at the funeral of service men and women, particularly sailors and Marines.

It was the favorite hymn of President Franklin Delano Roosevelt, a former secretary of the Navy, and was sung at his funeral in Hyde Park, New York, in 1945.

It also was played by the Navy band in 1963 as President John F. Kennedy's body was carried up the steps of the U.S. Capitol to lie in state.

Eternal Father, strong to save
Whose arm hath bound the restless wave,
Who bidd'st the mighty ocean deep
Its own appointed limits keep;
Oh, hear us when we cry to Thee.
For those in peril on the sea!

Eternal Father, grant, we pray,
To all Marines, both night and day,
The courage, honor, strength and skill
Their land to serve, they law fulfill;
Be thou the sheild forevermore
From every peril to the Corps.

May we all remember Lance Cpl. David Owens, Jr. and keep his family in our thoughts and prayers.

REMARKS BY FREDERICK COUNTY BOARD OF SUPERVISORS CHAIRMAN, RICHARD SHICKLE

Tonight we are here to honor Marine Lance Cpl. David Owens, Jr. He made the ultimate sacrifice. He gave all that he had for his Country. He gave his life for each and every one of us. But he is not the only one that gave something to this great country and to each and every one of us. David Edward Owens, Sr. and Deborah Owens, mother and father, gave us their son Marine Lance Cpl. David Owens, Jr.

As a father of four I cannot imagine the pride and the pain that these two people must feel each and every day. The questions ''Why him?'' and ''Why us?'' must haunt them every minute of every day.

Mr. and Mrs. Owens, all that we can say is ''Thank you'' from the bottom of our hearts. Please allow the citizens of Frederick County to become part of your family.

REMARKS BY FREDERICK COUNTY SCHOOL BOARD CHAIRMAN, STUART WOLK

Tonight I stand before you humbled. Humbled by a life short lived but more accomplished in those few years than I can imagine accomplishing in my lifetime.

A few short years ago, David Owens engaged in battle on the ground we are now standing on. He fought valiantly for his team then and upon leaving James Wood, continued to fight valiantly. Only this time, the stakes were bigger and his new team for which he was fighting was our country. He made the ultimate sacrifice for his team and we mourn his loss tonight, as we have since receiving the tragic news. There is no greater love for country, for humanity than to give one's life for the freedom we all cherish. Let us never take those freedoms for granted and let us always remember the supreme sacrifice made by our hero: Lance Cpl. David Owens, Jr.

I cannot begin to fathom the loss that Mr. and Mrs. Owens have experienced but I wish to thank them for their son and the manner in which he always conducted himself. As a member of the Frederick County School Board, as a citizen of Frederick County and of this great country, I feel fortunate to stand here in his memory and in his honor.

Thank you.

BASIC PILOT PROGRAM EXTENSION AND EXPANSION ACT OF 2003

SPEECH OF

HON. DOUG BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 19, 2003

Mr. BEREUTER. Mr. Speaker, this Member rises in strong support of S. 1685, the Basic Pilot Extension Act of 2003. This Member, who is a cosponsor of the House measure, would like to thank the distinguished gentleman from Iowa (Mr. GRASSLEY) for introducing the measure.

Under S. 1685, the Basic Pilot Program, which is an employment verification program, would be extended through 2008 and, indeed, would expand access to the program for the entire U.S.

Mr. Speaker, the Immigration Reform and Control Act (IRCA) of 1986 correctly prohibited employers from knowingly hiring illegal aliens or people with non-immigrant visas. Unfortunately, at that time, Congress did not give employers the corresponding tools with which to comply with this Act.

For example, due to concerns regarding discrimination, employers are limited in the questions they may ask of potential employees to verify if those individuals are authorized to work in the U.S. If the employment verification documents that potential employees produce appear to be legitimate, then employers must accept the documents as legitimate without further inquiry of the potential employee.

During Immigration and Naturalization Service (INS) enforcement raids, certain employers were found to have hired large numbers of illegal aliens, either knowingly or unintentionally, and subsequently they were subject to penalties. As technology has progressed to allow for the cheap and quick production of legitimate-looking fraudulent documents, the inability of employers to distinguish between valid documents and fraudulent documents has significantly increased. It became clear that businesses dedicated to complying with the IRCA needed new tools to assist with the endeavor.

When the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) of 1996 was enacted, it authorized the creation of three employment verification tools, including the Basic Pilot Program. Initially, employers in California, Florida, Texas, Illinois, Florida, New York, and Iowa could voluntarily use the Basic Pilot Program to compare the information received from potential employees with Immigration and Naturalization Service (INS) databases to determine if potential employees could be employed legally in the U.S.

Mr. Speaker, throughout the 1990's, many legal immigrants and illegal aliens moved to Nebraska seeking jobs in the meatpacking industry. Subsequently, this Member began to receive contacts from businesses in his district concerned about their capacity to comply with the IRCA. Therefore, on November 30, 1999, this Member joined his House and Senate colleagues in the Nebraska Congressional Delegation in a letter to then-INS Commissioner Doris Meissner requesting the extension of the Basic Pilot Program to Nebraska. This Member continues to firmly believe that providing Nebraska businesses with the tools to hire a legal workforce is an important component in maintaining a stable economy in the state and in meeting needs to effectively enforce immigration laws in this country's interior. On March 19, 1999, the U.S. Department of Justice granted Nebraska businesses access to the Basic Pilot Program. Currently, about eight Nebraska businesses actively utilize the program.

Mr. Speaker, for Congress to allow the Basic Pilot Program to lapse following the horrific and unspeakable terrorist attacks of September 11, 2001, would demonstrate true negligence. More than ever, the U.S. must fully enforce its immigration laws to protect its citizens from future attacks. In its capacity to identify document fraud and illegal aliens, the Basic Pilot Program can indeed play a role in the fight against terrorism.

In conclusion, this Member encourages his colleagues to vote for S. 1685.

TRIBUTE TO PAT ELSBERRY

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 20, 2003

Mr. McINNIS. Mr. Speaker, it is with great pride that I rise today to pay tribute to a devoted patriot from Denver, Colorado. Pat Elsberry is a great citizen who works to inspire America's youth to become involved with the American legion. Her enthusiasm permeates through the community as she passes her knowledge of the military and veteran's issues to her fellow Coloradans. I would like to join my colleagues here today in recognizing her tremendous contributions to the Denver community.

Each day, Pat proudly flies an American flag above her home. In Pat's garage, she displays scores of pictures, flags, articles and other memorabilia from the Korean War. Each keepsake is illustrative of Pat's patriotism and deep love for our country. During the Korean conflict, Pat answered our country's call to duty and honorably served in the Army for four years.

Pat has held the position of Commander of American Legion Post 37 for the past three years. In that time, membership numbers have soared from 40 to more than 160. Under Pat's guidance, the American Legion visits various schools in the area to talk about previous wars and what it means to be a veteran and serve our nation in the armed forces.

Mr. Speaker, Pat Elsberry is a dedicated individual who enriches the lives of her fellow Americans by educating them on the history of our country. Pat has encouraged the support

of our American servicemen and women through her compassionate speeches and leadership. Pat's enthusiasm and selfless service to those in the Denver community, and this nation, certainly deserve the recognition of this body of Congress.

INTRODUCTION OF H.R. 3550 ''THE TRANSPORTATION EQUITY ACT: A LEGACY FOR USERS''

HON. DON YOUNG

OF ALASKA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 20, 2003

Mr. YOUNG of Alaska. Mr. Speaker, today, along with nearly every member of the Committee on Transportation and Infrastructure, I and Congressman JIM OBERSTAR are introducing a truly historic highway and transit funding bill that will benefit every State in the Nation.

The introduction of this bipartisan legislation would not have been possible without the support and cooperation of Congressman OBERSTAR. In addition, the Chairman PETRI of the Subcommittee on Highways, Transit and Pipelines, along with the subcommittee ranking Democrat, Congressman LIPINSKI were instrumental in getting this legislation written for introduction.

The legislation provides $375 billion over the next six years. This proposed level of funding is based upon the needs of our country as outlined in the U.S. Department of Transportation Condition and Performance report.

With this bill, we will have the resources to maintian our existing transportation infrastructure and begin to improve it as well. We can address our national congestion crisis and safety problems.

Our transportation infrastructure is old and getting worse. Thirty two percent of our major roads are in poor or mediocre condition and 28% of our bridges are structurally deficient or functionally obsolete.

Congestion is affecting our quality of life and costing our nation $67 billion a year—more than $1,100 for the average commuter each year.

Commuters are sitting longer and longer in traffic jams and billions of gallons of fuel is wasted each year due to congestion.

Most importantly, this country is facing a transportation safety crisis. More than 42,000 people die each year on our roads and highways. Nearly one-third of all these fatal crashes are caused by substandard road conditions and roadside hazards. This is totally unacceptable for the most advanced nation in the world.

Over the next six years, we provide $298 billion for highway, road and bridge improvements . . . and $69 billion for transit programs.

This legislation proposes to increase the minimum guaranteed percentage for every State from 90.5 percent to 95 percent by 2009. We understand that more equity is needed for all 50 States.

The bill significantly increases funding for highway safety programs.

In addition, the bill authorizes $17.6 billion for ''Projects of National and Regional Significance''—a major boost for these important projects.

It also authorizes $7.5 billion to address the problem of railroad-highway crossings and the elimination of road hazards.

Our legislation will also have another positive benefit by giving a major boost to our nation's economy. Nationally, this proposal creates more than 1.3 million new highway jobs over the next six years.

It is time to face the facts—our highways, bridges and transit systems are aging and not up to the standards which our citizens expect. We need to stimulate the economy and this important legislation will do just that. America's congestion and safety crisis will not go away—it must be addressed immediately.

Enactment of this landmark legislation is a legacy for all users of our transportation infrastructure, both today and for future generations and moves our aging transportation system into the 21st century.

IN SUPPORT OF THE LIFESPAN RESPITE CARE ACT OF 2003

HON. EDWARD J. MARKEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 20, 2003

Mr. MARKEY. Mr. Speaker, I rise in support of the Lifespan Respite Care Act of 2003 and in celebration of the Nation's family caregivers during National Family Caregivers Month and Alzheimer's Awareness month. This week before Thanksgiving, as we anticipate gathering with family, friends and loved ones, I am privileged to recognize and honor the millions of family caregivers who care for family members with disabling or chronic conditions such as those afflicted by Alzheimer's disease. There is no doubt in my mind that caregivers—those who devote themselves selflessly to caring for loved ones with disease such as Alzheimer's—are the true heroes. I know because my dear mother was a victim of Alzheimer's and my father was a hero caring for her to the day she died.

Today over 4.5 million Americans suffer from Alzheimer's disease. Almost half of all Americans over age 85 suffer from this devastating debilitation. With the graying of the baby boomer population a sharp increase in Alzheimer's disease is expected. Over 70 percent of people afflicted with Alzheimer's disease live at home, with 75 percent of home bound care provided by family and friends. There are over 25 million family caregivers in America and by 2020, the number of adults requiring assistance with daily living will increase to almost 40 million, placing a tremendous load on the family caregivers.

We cannot afford to lose any family caregivers to stress or illness. We as a nation cannot afford it because family caregivers provide $250 billion per year in unpaid care. Yet, the lack of support is taking its toll on caregivers. While a large proportion of caregivers report finding an inner strength, significant numbers report serious physical or mental health problems, including headaches, stomach disorders, back pain, sleepless nights and depression. Mortality risks for caregivers are 63 percent higher than for noncaregivers.

In addition to serious health consequences, many families suffer emotionally and economically. Families of children with disabilities face a significantly higher divorce rate than families of children without disabilities. Lack of respite care has even been found to interfere with the ability of parents of children with disabilities to accept job opportunities.

Without adequate family support, children with disabilities face a nearly 4 times higher risk of abuse and neglect than children without disabilities and the abuse rate of the elderly is unacceptably high.

Respite works. It allows families to remain together and avoid more costly out-of-home placements. Hospitalizations, institutionalization, nursing home and foster care placements have been shown to actually decline when respite or crisis care is the intervention.

This bill will help create a family caregiving respite policy in our country, not just a band-aid solution. Families are under greater stress today than ever before and the numbers who will assume caregiving roles is rising at an alarming rate. Respite works, respite saves money, respite save families. We cannot afford to ignore the family caregivers any longer. We must give them respite.

PAYING TRIBUTE TO MATT MCCHESNEY

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 20, 2003

Mr. MCINNIS. Mr. Speaker, it is with great pride that I rise today to pay tribute to a dedicated law enforcement officer from my district. Deputy Matt McChesney is a caring and capable law enforcement professional who is committed to improving the lives of families impacted by domestic violence. I am proud to join my colleagues here today in recognizing Matt's tremendous service to the Colorado community before this body of Congress and our nation.

Matt often sacrifices sleep, and the few days he has off, to come into the District Attorney's office the morning after a domestic abuse arrest. There, he works tirelessly to ensure that each victim is treated with dignity and respect. In addition, Matt works with the Victim's Assistance Program and the Operations Division to educate and train volunteers on how to assist victims. For Matt's dedication and commitment to others, he was recently named Law Enforcement Officer of the Year. The people in Matt's district are safer as the result of his service and protection.

Mr. Speaker, Matt McChesney is a dedicated individual who sacrifices his time to helping those who are victim to the terrors of domestic violence. His compassion and selfless service to our state definitely deserve the recognition of this body of Congress and this nation. Thanks for your service Matt, and congratulations on a well-deserved award.

PERSONAL EXPLANATION

HON. JOSEPH M. HOEFFEL

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 20, 2003

Mr. HOEFFEL. Mr. Speaker, I was absent for four votes on Wednesday, November 19, 2003. Had I been present, I would have cast my votes as follows:

Rollcall No. 641 (H. Con. Res. 288): ''aye.''
Rollcall No. 642 (H. Res. 393): ''aye.''
Rollcall No. 643 (H. Res. 423): ''aye.''
Rollcall No. 644 (H.R. 3140): ''aye.''

TRIBUTE TO VACAVILLE'S CRIME PREVENTION EFFORTS

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 20, 2003

Mr. GEORGE MILLER of California. Mr. Speaker I would like to take this opportunity to call my colleagues' attention to a real success story in the City of Vacaville, California. As this article printed in the Fairfield Daily Republic explains, the Police Department in Vacaville is receiving a good deal of well-deserved recognition for the programs and services it provides. The Vacaville P.D.'s comprehensive and preventative approach to crime is a welcome one, and it is having an amazing effect. Despite statewide increases in crime this past year, major crime in Vacaville is significantly down. In a sense, by investing time and effort in the community, they are stopping crime even before it happens. This should be a lesson to all of us. I urge my colleagues to read the attached article, and I commend the City of Vacaville and its Police Department for all their hard work.

[From Fairfield Daily Republic, Nov. 27, 2003]

COMBATTING CRIME ''HOLISTICALLY''—VACA POLICE USE NEW APPROACHES TO MAKE COMMUNITY SAFER

(By Nada Behziz)

VACAVILLE.—For decades, American doctors have prescribed pills for pain—white ones, blue ones, big ones, new ones.

And for centuries, practitioners of traditional Chinese medicine have eased aches, strains and spasms through herbal remedies and preventive care.

Now, those two philosophies are merging in Vacaville in a slightly different venue: public safety.

The Vacaville Police Department's transition from the ''war on crime'' model to more of a preventive slant is what police officials attribute to the city's decrease in crime.

''We're not at war with our community,'' said Vacaville police Chief Bob Harrison. ''We're looking at crime more holistically. We want to provide comprehensive care to really get at the problem.''

Vacaville is one of the only cities in California that not only provides preventive programs within elementary and grade schools but has a department within the police department that provides comprehensive, preventive resources to the community.

Sarah Jacobs was torn between loving her husband and saving her children. It wasn't until a rainy evening when her husband threw her and her two sons out of the house with bruises that she packed her bags and left.

''We had no where to go, but I knew we had to leave,'' Jacobs said. ''I heard from friends that the police department could help, so that was the first place I went.''

Jacob found a warm place to sleep, an arrest warrant for her husband who left bruises all over her body and parenting resources to help her children recover, all in the same place.

''The police department was able to take care of my every need,'' Jacobs said. ''Now it's time to take care of myself emotionally.''

Vacaville's Family Investigative Response and Services Team office based within the police department staffs investigators, counselors and volunteers that provide resources for at-risk families.

Officials say their FIRST program helps stop crime before it happens by nourishing families and showing them non-violent ways of solving disagreements.

Many Vacaville residents in need of services, including parenting classes and access to computers, don't know where to find them. The center provides a ''one-stop-shopping place'' for people to get the help they need.

Through FIRST, 28-year-old Jacobs was placed in transitional housing, a furnished home of her own where the agency could counsel and monitor her.

And she was introduced to a new family.

''Anything I could possibly say I need, they're on top of it. I've never had to call my counselor in the middle of the night, but I know she's there,'' she said. ''I never had family that I was close to and could trust, now I found them.''

Today Jacobs plans to return to school next year to earn a bachelor's degree in business administration. She has hopes of one day becoming a lawyer.

The department first focused on domestic violence issues six years ago, but it wasn't long before police officers noticed that residents who visited were not in need of police services as much as they were human services. The program expanded to incorporate elder abuse, sexual assault and child abuse situations more than four years ago when FIRST opened its doors.

''People ask us often if we believe this is our job as a police department,'' said Lt. Scott Paulin, who runs the FIRST division of Vacaville Police. ''We have to look beyond putting handcuffs on people and fill the gaps to prevent the criminals in the first place.''

The gap between criminal activity and the department's clearance rate is slowly closing. While crime increases at a steady rate in California, this year alone, part one crimes—which include homicides, rape, assault and theft—have already dropped 6 percent from last year in Vacaville. The department's clearance rate hit almost 30 percent, a goal that Harrison says the department will surpass this year.

With one of the lowest percentages of overall crime in California, Vacaville was chosen this year by the California attorney general as one of two state police agencies for its ''Best Practice Program,'' which will be featured on the attorney general's Web site as examples of excellence for other cities. The decline in crime, Harrison says, is in part due to the officers visibility in the area and their personal investment since the vast majority live in the city.

''If it's in your back yard, you care if it's clean,'' Harrison said. ''Many of our officers live in town and it's a place they use on a daily basis and want to take good care of.''

But Officer Erwin Ramirez says the commute from the Bay Area is worth not worrying about a parolee coming after his wife and three children.

''When you have three kids and a wife, you want to keep them away from danger,'' said Ramirez, who says he makes at least five arrests each month. ''It's a great city but I don't want to risk my family's danger by living here.''

Ramirez came to Vacaville three years ago after beginning his career as a patrol officer with the Suisun City Police Department and says the stark difference between the community's reaction to police officers is what makes Vacaville special.

Driving around in his patrol car, Ramirez is approached by children on their scooters smiling and waving as he drives by.

''The department has done a great job at dispelling the stereotype that comes with the police,'' Ramirez said. ''We go around the neighborhoods and talk with the people and hand out stickers to the kids. Hopefully they will remember that the next time we come by.''

TRIBUTE TO DENNIS DEVOR

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 20, 2003

Mr. McINNIS. Mr. Speaker, it is with great pride that I rise today to pay tribute to a dedicated volunteer from Montrose, Colorado. Dennis Devor is a humble and caring individual who commits his free time to the betterment of his community. His enthusiasm for serving others resonates throughout Colorado. I would like to join my colleagues here today in recognizing Dennis, and his tremendous service to the Montrose community before this body of Congress.

Dennis was recently awarded the prestigious ''9Who Care'' Award given out by a Denver television station to honor unsung heroes in the community. Dennis' primary occupation is in the law, but he makes time before and after work to be involved in charitable organizations like the Montrose Education Foundation, Salvation Army, Montrose Rotary Club and the Chamber of Commerce. In addition to those organizations, Dennis is also an active member of United Methodist Church. Dennis always makes volunteer work an important priority in his life. His tireless dedication often results in early mornings and late nights spent working to better the lives of those in need.

Mr. Speaker, Dennis Devor is a hard-working individual who has enriched the lives of many members of the Montrose community. He demonstrates a passion for public service that sets a fine example for all Americans. Dennis serves with enthusiasm and commitment, and he certainly deserves the recognition of this body of Congress and this nation. Thanks for your hard work, Dennis, and congratulations on a well-deserved award.

CONDEMNING THE TERROR ATTACKS IN TURKEY

HON. NITA M. LOWEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 20, 2003

Mrs. LOWEY. Mr. Speaker, I rise to condemn the horrendous and cowardly attacks carried out in Istanbul, Turkey, on November 15, 2003. Twenty-five people were killed and over 300 were injured, as suicide bombers in trucks attacked two synagogues crowded with families attending bar mitzvahs. We should all mourn the unspeakable nature of this tragedy, and we must take decisive action against those responsible.

We are witnessing the resurgence of a pervasive and violent anti-Semitism, last seen on a widespread scale in the 1930s and 1940s in Europe. Some claim that this resurgence can be tied to the continued violence and political conflict between Israel and the Palestinian Authority, but I fear it goes beyond that.

The November 15 attacks struck at Turkey's heart—deliberately—because since the 15th century, it has been a place of peaceful coexistence between Jews and Muslims. By targeting Jews there, the radical Islamic fundamentalists want to send a message: forget history and forget tradition. If you are Jewish, we will target you in any place, at any time. Ironically, and tragically, most of those who lost their lives in this attack were Muslim.

This is hatred, plain and simple. It is anti-Semitic and inhuman. As it destabilizes the Middle East, Asia, and Europe, it threatens our own national security and the security of our closest allies. I know that this Congress and the entire country have the resolve to combat these destructive forces wherever they might reside. I ask my colleagues to join me in mourning with the families of those killed in Istanbul and to stand firm with me as our long and difficult struggle against terrorism continues.

TRIBUTE TO ILLINOIS STATE SENATOR STAN WEAVER

HON. TIMOTHY V. JOHNSON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 20, 2003

Mr. JOHNSON of Illinois. I rise today to pay tribute to my friend and mentor, the late Illinois State Senator Stan Weaver. When Senator Weaver passed away last week, aspiring public servants lost a role model. Few people in public life received the respect that he had among his colleagues, friends and constituents. His successful service to the people of east central Illinois began in 1956 when, at the urging of many citizens of Urbana, Illinois, he ran for mayor. He went on to serve one term as a State Representative then 10 terms as a State Senator. Best known for his exemplary service to his constituents and his ceaseless promotion of the University of Illinois, it is estimated that Stan Weaver alone guided over one billion dollars in construction projects to the University over 30 years.

Consistently prevailing in his campaigns for office, he never spent exorbitant amounts of money and rarely gave grand speeches but, instead, with quiet authority and an intimate knowledge of the political process and the inner-workings of government, translated his personable style into an incredible ability to relate with people and get things done.

I am very honored to have had such a close personal relationship with Senator Weaver and I am deeply saddened by the loss of my friend whom I knew and admired for, literally, my entire life.

TRIBUTE TO MARY JEAN STONER

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 20, 2003

Mr. MCINNIS. Mr. Speaker, it is my honor to rise and pay tribute to a very special woman from my district. Mary Jean Stoner from Grand Junction, Colorado is known to many as the Grand Valley's favorite candy lady. Mary is retiring this year after 20 years in business and it is my honor to call her contributions to the attention of this body of Congress and our nation here today.

Mary grew up in Sutherland, Iowa and it was there that she began educating herself in the art of candy making. After graduating from Iowa State University, Mary was able to apply a number of her Home Economics and Art classes to become an expert candy maker. Over time, she became a true master of her trade.

Mary and her candy have been bringing smiles to the faces of Grand Valley residents for many years. The candy that Mary makes is truly amazing. The people of the Grand Valley will be sad to see Mary go. However, they will be glad that she now has more time to visit and catch up with her friends and neighbors.

Mr. Speaker, it is my honor to rise and pay tribute to Mary Jean Stoner. Mary dedicated her professional career to making people happy and it is my honor to call her contributions to the attention of this body of Congress and our nation. Thank you Mary.

HONORING EXERCISE TIGER FOUNDATION

HON. KENNY C. HULSHOF

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 20, 2003

Mr. HULSHOF. Mr. Speaker, I rise today to honor a distinguished group of Americans. On November 14, 2003 the Exercise Tiger Foundation held its National Adopt a Serviceman Program in Jefferson City. It is essential that we take a moment to remember not only the sacrifice of veterans of Exercise Tiger, but also those men and women currently serving our Nation in the military. Allow me, Mr. Speaker, to take a moment to remind all of us of the story of Exercise Tiger during the Second World War.

Unfortunately, for many people, the words ''Exercise Tiger'' hold no special significance. Few know of the sacrifice made by so many in late August of 1944. At its outset, Exercise Tiger was one of several training exercises conducted to prepare American and British troops for the upcoming invasion of Normandy. Concentrated on a beach near Dover, England, these operations were meant to prepare the raw recruits for combat, not provide them their first taste of war.

In the calm, early morning hours of April 28, 1944, tragedy struck. As eight Navy landing ships, or LST's, and their lone escort approached their landing area, nine German U-Boats patrolling the English Channel attacked. LST–507 was the first ship to be torpedoed; it quickly caught fire and survivors abandoned ship. Moments later, LST–531 was hit and sank within 6 minutes. The American ships quickly regrouped and returned fire, with LST–289 suffering significant casualties.

In a moment, the green American recruits became battle-tested veterans. Out of a 4,000 man force, nearly one-quarter were either missing or dead. While the heroism of the American troops under heavy enemy fire deserves high praise, the men who participated in Exercise Tiger had a job to do—practice landing operations resumed the very next day, April 29, 1944.

In most cases, the casualty information and details surrounding the mission would have been made public within days or even hours of the attack. With Exercise Tiger, however, this information was not released until after the D-Day invasion. This was necessary to keep the German military from learning about the impending invasion of mainland Europe.

As the world now knows, the allied invasion of Europe on D-Day was a success. Unfortunately, those who helped make D-Day possible have not been properly recognized for their sacrifice. This too, must change. We must take it upon ourselves to ensure that the virtues those who served in Exercise Tiger—courage, humility and steadfast devotion to completing the task at hand—remembered and documented for future generations.

As such, it is only appropriate that the Exercise Tiger Foundation has nominated eight members from various branches of the active and reserve forces as part of the National Adopt a Serviceman Program. This year's honorees are Staff Sergeant Patrick Reed, 1107th AVCAD, Missouri Army Reserve National Guard, Command Sergeant Gary L. Murphy, 139th Security Forces Squadron, U.S. Air National Guard, Master Sergeant Robert A. Jackson, 442nd Fighter Wing, U.S. Air Force Reserve, Staff Sergeant Billy Jack Roberts, 509th Bomb Wing, U.S. Air Force, Petty Officer 2nd Class Yancy Woodard, Staff Sergeant Matthew Beadle, U.S. Marine Corps, Sergeant Dennis Payne, 110th Engineers, Missouri Army Reserve National Guard, and Boatswain's Mate 2nd Class Kristian Sova, U.S. Coast Guard. Without a doubt, their exemplary service to our Nation honors the example of those who came before them.

These individuals certainly deserve our recognition and support as they continue to defend our freedom both here and abroad. We stand united behind them, and united behind the freedom our Nation guarantees. May God continue to bless this Nation as well as all of those men and women who have served in uniform.

THE INTRODUCTION OF THE SURFACE TRANSPORTATION RESEARCH AND DEVELOPMENT ACT OF 2003

HON. VERNON J. EHLERS

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 20, 2003

Mr. EHLERS. Mr. Speaker, today I rise to introduce an important piece of legislation, ''The Surface Transportation Research and Development Act of 2003.'' Our Nation's transportation system faces tremendous challenges. We have more drivers who are driving more miles leading to severe congestion, particularly in many urban areas. An aging infrastructure is putting a strain on State and local transportation budgets, which are tied up in maintaining our existing system, with little, if any, money left for improving the system and planning for the future. And an aging population and changing development patterns that demand an innovative response to ensure the transportation system meets future needs. The public demands safer, less congested roads, and more transportation choices. Considering that we won't have the ability to simply build

more roads to address these challenges, especially in urban areas, we must look at new ways to improve the overall system, to make it safer and more efficient, and to ensure that the system meets future needs.

Fundamental improvements to the entire transportation system depend on high quality surface transportation research. Research can provide the proper tools and information needed to drive solutions. The last time Congress fully examined our Nation's transportation policy was through the debate and passage of the Transportation Equity Act for the 21st Century (better known as TEA–21). While Congress increased funding for overall transportation programs by upwards of 40 percent, funding for transportation research remained relatively flat. I think that lack of investment in research has hurt our ability to meet new challenges. However, simply providing more money for research will not solve our problems. Increased funding must be accompanied by some reforms of the existing research programs.

As Chairman of the House Science Subcommittee on Environment, Technology and Standards, which shares jurisdiction over surface transportation research with the Transportation and Infrastructure Committee, I held a hearing earlier this year to hear from experts on the state of the Federal Government's current surface transportation research program. In addition, we heard from a wide array of interests on how to improve and reform the research program, and the levels at which research should be funded. Based on this input, I am proud to introduce the Surface Transportation Research and Development Act of 2003.

This legislation has three overarching goals: to increase stakeholder input to ensure that the folks who must implement and use the research agree that it is worthwhile and transferable into practice; to create the highest quality research through increased competition and peer-review of all projects; and to ensure greater accountability so that our research supports the goals of our surface transportation system.

More specifically, the bill:

Creates and funds an important research program run by the National Academy of Sciences to address short to medium-term research needs. Research will focus on reducing congestion, renewing existing roads and bridges while minimizing impact to the public, improving safety by reducing crashes, and developing tools for getting more out of our existing highway capacity and assessing future needs. All projects funded by this program will be competitively awarded and peer-reviewed;

Provides needed funds to implement a public-private cooperative environmental research program, with the goal of developing the knowledge, tools, and performance measures that will help us understand the linkage between the environment and the transportation system;

Calls on the U.S. Department of Transportation to take the lead in carrying out fundamental, long-term research to achieve breakthroughs in transportation research;

Increases funding for University Transportation Centers and ensures greater competition among universities which seek to become transportation research centers;

Reforms and increases the responsiveness of the Bureau of Transportation Statistics to the needs of the transportation community; and

Provides States with additional resources to better train and educate the transportation workforce.

This legislation will significantly, yet prudently, increase funding for transportation research starting at $500 million a year in fiscal year 2004 for Federal research programs and gradually rising to $850 million a year by 2009. These funding levels are based on an overall level of $375 billion for the comprehensive six-year surface transportation reauthorization advocated by the House Transportation and Infrastructure Committee, which I support. I believe my approach ensures that our transportation research is well planned, peer-reviewed, properly funded, and evaluated and will go a long way to help solve the many challenges facing our Nation's transportation system.

I look forward to working with my colleagues on the Science and Transportation and Infrastructure Committees, the U.S. Department of Transportation, State transportation departments, and all other interested stakeholders as this legislation and the overall reauthorization of TEA–21 progress.

TRIBUTE TO ROBIN GARVIN

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 20, 2003

Mr. McINNIS. Mr. Speaker, it is my honor to rise and pay tribute to a remarkable woman from my district. Robin Garvin has dedicated her life in service of the children of the Roaring Fork Valley. It is my honor to pay tribute to her contributions here today.

Robin recently announced her retirement from the Roaring Fork School District's RE–1 Board of Education. Robin was an outstanding member of the Board for eight years and spent the last half of her tenure serving as the Board's President.

Robin approached her position with the best interests of children in mind. Her term was defined by a tireless commitment to providing the students of the Roaring Fork Valley with the best possible education. The Roaring Fork Valley is undoubtedly a better place as the result of Robin's service.

Mr. Speaker, I am honored to bring Robin Garvin's contributions to the attention of this body of Congress and our nation. Robin has managed to devote herself to bettering the Roaring Fork Valley's system of education while happily acting as a devoted mother, wife and friend. I am proud to join the citizens of the Roaring Fork Valley in thanking Robin for her service.

THANK YOU TO SCARLET TREU

HON. GARY G. MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 20, 2003

Mr. GARY G. MILLER of California. Mr. Speaker, it is with great pride and personal interest that I rise to commend Mrs. Scarlet Treu of Hacienda Heights, California.

Since my election to Congress in 1999, Scarlet has served as my Senior Advisory for Asian-American issues in my congressional district. Her knowledge and insight into this important constituency has served me well. Unfortunately, after five years of service, she has decided to retire from congressional politics. Not only has she been an excellent employee, but she has also become a close personal friend.

Scarlet's life history is one of inspiration and admiration. Born in Taipei, Taiwan her family was forced to flee from China due to the repressive Communist Regime, Scarlet was able to complete her education at the prestigious Ming Chuang College and earned a degree in business administration. Upon graduation, she went on to serve as the original and founding member of the marketing department for Chase Manhattan Bank's Taipei branch. Immigrating to the United States in 1976, she went to work as an immigration section supervisor and then as a civil litigation specialist for two respected law firms in southern California.

Scarlet met her loving husband, Rolf Treu, in 1977 and they set out to establish two law offices before he was appointed to a State judgeship in 1995. Rolf and Scarlet have two wonderful children, Jacqueline and Eric.

Aside from her many children-related activities, Scarlet has focused on the needs of her community as well. For many years she has been supportive of and actively engaged in the Hacienda Heights Improvement Association Board, LA County Supervisor Don Knabe's Art Award, the Colima-Hacienda Women's Club, the Hacienda Heights Chinese-American Parents Advisory Board, and various Republican Party political appointments. She also formed my Business Advisory Board which has provided me with a forum to work with community leaders on issues important to their industries.

In 2001, Scarlet co-chaired a successful $221 million bond campaign for Mt. San Antonio College that will benefit future generations of students.

Mr. Speaker, I want to thank Scarlet for her years of service, hard work and personal sacrifices on my behalf.

IN HONOR OF DONNA TERESA, THE 2003 ANNE RICHARDSON READING IS FUNDAMENTAL VOLUNTEER OF THE YEAR

HON. SAM FARR

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 20, 2003

Mr. FARR. Mr. Speaker, I rise today to commemorate Donna Teresa, a compassionate and devoted member of the children's literacy community. In recognition of her activism, Ms. Teresa has been selected by Reading is Fundamental, as the Western representative for the ''2003 Anne Richardson Reading is Fundamental Volunteer of the Year.'' For over six years, Ms. Teresa has worked tirelessly to develop and improve literacy programs at Henry F. Kammann School. In this effort, she has truly embodied the spirit of volunteerism and empathy that is attributed to the distinguished few who receive this award.

In her position as the school librarian, Ms. Teresa has restored the wonder and excitement that reading can provide to our Nation's

children. She understands the value of literacy and has implemented many new programs to encourage reading, including a summer program that gives each a child a free book. Ms. Teresa has expressed her concern that for many of her students, books are scarce at home and the break from school puts many students behind their peers. This type of understanding and consideration of a student's living situation has allowed Ms. Teresa to reach out to each child and cater to their interests and needs. She also manages a student book club with more than 60 students and personally acquaints herself with each new text before giving it to a child to ensure that it is appropriate for their reading level and interests. Ms. Teresa derives her inspiration from the hope that her push towards literacy will encourage students to continue their education and make better choices down the line. Her efforts have also been recognized in Monterey County, where she was recently awarded the ''2003 Monterey County Lighthouse for Literacy.''

Mr. Speaker, on behalf of the United States Congress, I would like to honor the accomplishments of Donna Teresa and express sincere gratitude for her commitment to our community's children. I wish Ms. Teresa much success in her endeavors and I am confident that the efforts of those who strive to improve literacy will be valued for many generations to come.

NO ATTAINMENT—NO TRADE BILL

HON. JAMES P. MORAN

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 20, 2003

Mr. MORAN of Virginia. Mr. Speaker, today I am introducing the ''No Attainment—No Trade bill.''

This legislation amends the Clean Air Act to prohibit power plants and other major point sources of nitrogen oxide (NO_x) pollution that are in an ozone nonattainment area from participating in EPA's emission trading program.

In 1990 Congress passed amendments to the Clean Air Act to deal with the issue of acid rain deposition.

Harmful acid rain was destroying our buildings, personal property and turning freshwater lakes into dead zones.

The new law established an innovative emission trading program to reduce the precursors of acid rain, harmful nitrogen oxides and sulphur dioxides emitted by coal-burning power plants and major industrial boilers.

Since its establishment, the trading program has worked extremely well, better than even proponents of the 1990 amendment to the Clean Air Act ever expected.

While nitrogen and sulphur dioxides have been reduced, and reduced by millions of tons, an unanticipated new wrinkle has emerged as states and localities work to reduce urban smog and bring ozone non-attainment areas into compliance with other requirements in the Clean Air Act.

States and localities are bumping into the emission trading program for nitrogen oxides.

Not only are nitrogen oxides the precursors of acid rain, they also mix with hydrocarbons and form ground-level ozone.

Giving power plants in an ozone non-attainment area the authority to buy a credit from elsewhere and avoid nitrogen oxide reductions may help EPA meet its national acid rain reduction goals, but it can frustrate State and local efforts to lower ozone and urban smog.

I speak from experience.

Just across the Potomac River in Alexandria we have one power plant operated by Mirant that continues to violate its permit.

In fact, this past summer during the ozone season it violated its clean air emission limits by more than 1,000 tons of nitrogen oxide, double the tonnage allowed under its permit.

It my understanding that Mirant is trying to get off the hook by purchasing credits of emission reductions from sources elsewhere, outside this region, to meet its emission reduction goal.

''Not so,'' says the Commonwealth of Virginia.

The State's position, however, may be on less than firm legal ground.

I hope the Commonwealth holds its ground and stands strong, and I have encouraged them to do so.

The legislation I am introducing gives them the clear legal authority they need and discourages power plants from challenging State ozone implementation plans in court.

I also hope this legislation will give other States the authority they need to block power plants in a non-attainment area from engaging in NO_x emission trading and avoiding their responsibility to reduce ozone and urban smog.

It is my understanding that Mirant, the same company operating the plant in Alexandria, has violated its NO_x permits at its three coal-fired plants in Maryland.

During this summer's ozone season, Chalk Point, Morgantown and Dickerson power plants collectively exceeded their summer NO_x permits by more than 3,500 tons.

Unlike Virginia, State officials in Maryland appear inclined to let them buy credits through the emission trading program.

That's an additional 4,600 tons of nitrogen oxide that entered our air this past summer beyond what Virginia and Maryland agreed Mirant should emit.

It makes no sense, to force this region, or the jurisdictions of any ozone nonattainment area, to rachet down nitrogen oxides from other sources, beyond what may be necessary, simply because a few large sources are able to buy their way out of compliance.

It isn't fair, and it is not in anyone's best interest to do so.

My legislation puts an end to it.

It deserves consideration.

ESTABLISHING NATIONAL AVIATION HERITAGE AREA

SPEECH OF

HON. NANCY L. JOHNSON

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 18, 2003

Mrs. JOHNSON of Connecticut. Mr. Speaker, I rise today in support of H.R. 280 the National Aviation Heritage Area Act which includes in Title VI the Upper Housatonic Valley National Heritage Area Act. The Upper Housatonic Valley, encompassing 29 towns in the hilly terrain of western Massachusetts and northwestern Connecticut, is a singular geographical and cultural region that has made significant national contributions through its literacy, artistic, musical, and architectural achievements, its iron, paper, and electrical equipment industries and its scenic beautification and environmental conservation efforts.

The Upper Housatonic Valley National Heritage Area would extend from Lanesboro, Massachusetts 60 miles north to Kent, Connecticut. This region of New England is home to many of the Nation's first industrial iron sites. The iron produced at these sites was used to make weapons for the Revolutionary War. Furthermore, the area includes homes of historical significance belonging to Edith Wharton and author Herman Melville as well as the Monument Mountain Reservation, where Melville and Nathaniel Hawthorne picnicked. The area also has great outdoor recreational resources and is the base for much of Connecticut's agri-tourism business.

From the 1730s to the 1920s, it was home to many of the Nation's earliest iron industries. The first blast furance was built in 1762 by Ethan Allen and supplied the iron for the cannons that helped George Washington's army to win the American Revolutionary War. While most of the furnaces, mine sites and charcoal pits have been lost to development and time, the few that remain are in need of refurbishment. The Beckley Furnace in Canaan, Connecticut was designated an official project by the Millennium Committee to Save America's Treasures.

The Valley's history as a cultural retreat from the Boston and New York areas provides both past and current riches for the country. Since the 1930s visitors from all over have come to hear the music at Tanglewood, Music Mountain and Norfolk, see the paintings at the Norman Rockwell Museum, watch serious theater at Stockbridge and musical treats at Sharon. Today's local authors draw on a long tradition going back to the 19th century, when Herman Melville, Nathaniel Hawthorne and Edith Wharton lived and wrote here. The Upper Housatonic Area, with its remoteness from but ties to large cities, occupy a special niche in our national culture.

The Housatonic Valley is also rich with environmental and recreational treasures. The Housatonic River, just below Falls Village, Connecticut, is one of the prized fly-fishing centers in the Northeast and is enjoyed by fisherman from not only Connecticut and Massachusetts but the entire eastern seaboard. Olympic rowers have trained in this river as children have learned to swim, boat and fish and value its ecosystem.

Through this broad, flexible and locally led initiative, the states of Connecticut and Massachusetts will be able to make real progress in protecting the river and its heritage. Rather than depending on the Federal bureaucracy, States will be able to facilitate locally led, and truly voluntary programs that will help protect the river for future generations. This legislation encompassing all heritage areas has broad bipartisan support, I would like to thank the Resources Committee for bringing this legislation forward and I encourage my colleagues to support this legislation.

PERSONAL EXPLANATION

HON. ALLEN BOYD

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 20, 2003

Mr. BOYD. Mr. Speaker, I was unavoidably detained and unable to cast my vote on rollcall votes 620, 621, 622, 623, 624, 625, 626, 627, 628, 629, 630, 631, 632, 633. Had I been present I would have voted ''aye'' on rollcall votes 620, 621, 622, 623, 624, 625, 626, 627, 631, 632, 633. In addition, I would have voted ''nay'' on rollcall votes 628, 629, and 630.

IN HONOR OF STIRLING D. SCRUGGS, DIRECTOR, INFORMATION, EXECUTIVE BOARD AND RESOURCE MOBILIZATION DIVISION—UNITED NATIONS POPULATION FUND

HON. CAROLYN B. MALONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 20, 2003

Mrs. MALONEY. Mr. Speaker, at the end of this year, Stirling Scruggs will be retiring after 22 dedicated years with the United Nations Population Fund (UNFPA). Stirling is a living example of the ideals behind the creation of UNFPA and the United Nations itself. A former high school football star in Tennessee, Stirling had many opportunities open to him in life. But his overriding ambition was one that so many of us shared in our youth: to make a difference in the world. Stirling has remained true to his youthful ideals and has made a difference, a substantial difference measured in millions of women and babies that survived because of his dedication and efforts; measured in the essential bonds between mothers and their children who survived to know each other and in the love of husbands and fathers who, rather than seeing their wives and children die in childbirth, have had long and full lives with their loved ones.

In speaking with his colleagues, there are three words that are always repeated when they describe Stirling Scruggs—Passion, Integrity and Kindness.

Passion: Stirling Scruggs has worked in some of the poorest places in the world. He has seen first hand the deprivations and struggles that hundreds of millions—in fact, billions of people—bear every hour, every day, every week throughout the year. Stirling Scruggs brings to his work a passion that bespeaks his own compassion and his own commitment to the cause of basic health, women and voluntary family planning around the world.

Integrity: Stirling combines his passion with unshakable integrity. He is unwavering in his commitment to basic health and rights for all the world's people. He has stood up for these ideals in some of the most difficult circumstances, including in China, where he worked tirelessly—as UNFPA does—to convince the Chinese about the greater wisdom of a voluntary, rights-based approach to family planning. Stirling Scruggs is a monument to personal integrity and professional dedication.

Kindness: Finally, and perhaps most importantly, Stirling brings to his work a core kindness—not only in his outlook to the dispossessed in our world, but in his dealings with all people. Stirling always has a kind word and a warm smile for those he works with, on behalf of and for. He is a tender man, who has a compassionate outlook toward those less fortunate and a compassionate manner with everyone he relates to.

There are few better, kinder men than Stirling Scruggs. He has represented the United States so well in the United Nations system. All Americans can be proud of the service he has rendered and we all wish him well as he continues his efforts to make the world—and each of us—a little better.

TRIBUTE TO WESLEY HEDSTROM

HON. JAMES L. OBERSTAR

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 20, 2003

Mr. OBERSTAR. Mr. Speaker, I rise today to pay tribute to former Cook County Commissioner Wesley Hedstrom, who passed away on November 7, 2003.

Wes Hedstrom was born in 1924 in Grand Marais, Minnesota, the youngest of thirteen children. After graduating from Grand Marais High School in 1942, Wes joined the U.S. Army and served during World War II. Returning to Minnesota, Wes, along with five of his brothers, took over operation of their father's business, Hedstrom Lumber, and he was company president from 1986 to 2000. In 1984, Wes was elected to the Cook County Board of Commissioners, on which he served for the next 16 years.

Except for the few years he was in the Army, Wes lived his entire life in Grand Marais, a small fishing town along Minnesota's north shore. Many people say that Wes was largely responsible for the enormous growth of his family's lumber business, turning it into one of the region's largest and most successful companies. For Wes, however, it was more than a business; it was a way of life. He had extensive knowledge of lumber and the woodlands. I learned more from Wes about forestry, forest management and sustainable yield forestry than from any other source.

Wes understood the need for balance between the lumber industry and protections for the environment. He applied that fair-minded attitude to all the projects he worked on in the community, both as a County Commissioner and as a civic volunteer. From the renovation of a local hospital, to the creation of a new airport, to the advocacy for education funding, Wes worked to nurture people, find a consensus, and do what was in the public's best interest. That was his signature and his trademark.

Some called him an activist. Others said he was a pioneer. All who crossed his path considered him a friend. I knew Wes since he worked on my first Congressional campaign in 1974, and over the years, I marveled at his friendliness, magnanimity and selflessness. To me, Wes was a teacher, counselor and partner in ventures for the Northland, and he was a good friend to me. He was one of those rare people who truly made a difference in his community. I know my colleagues join me in honoring Wes Hedstrom for his many years of dedicated service to his town, his State and his country.

COMMENDING DENTON HOUSING AUTHORITY

HON. MICHAEL C. BURGESS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 20, 2003

Mr. BURGESS. Mr. Speaker I rise today to recognize the Denton Housing Authority to commend them for receiving three National Association of Housing and Redevelopment Officials (NAHRO) Merit Awards in Tampa, Florida this year.

The Denton Housing Authority has been active in the North Texas community for years, working hard to provide quality public and affordable housing. This year at the 2003 NAHRO awards ceremony, the Denton Housing Authority was recognized for their achievements in Program Innovation for Resident and Client Services. NAHRO President Kurt Creager said, ''These agencies are accomplishing remarkable levels of service for their communities and their residents. They are setting up programs and establishing standards that can be duplicated by other housing authorities around the country.''

The Denton Housing Authority was recognized for three of their programs. The ARTS program brings together the DHA, University of North Texas, Center for Public Service, and Greater Denton Arts Council to provide an arts program and promote social skills for disadvantaged youth in low-income neighborhoods. The New Direction of Community Oriented Policy Services (COPS) program partners with the Denton Police Department to encourage community outreach services to create and sustain safer neighborhoods. Also, the Phoenix After-School Program teams with the University of North Texas and DHA to encourage social and academic success for socially challenged youth 4–11 years old living in the Phoenix Development. These are the kind of great programs that will create a better society in the future by giving our youth a strong foundation and forming a safer environment for our neighborhoods.

Once again, I would like to express my sincere congratulations to the Denton Housing Authority for their innovation and hard work in providing community outreach services to the City of Denton and surrounding communities.

TRIBUTE TO DAVID A. WIRSING

HON. DONALD A. MANZULLO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 20, 2003

Mr. MANZULLO. Mr. Speaker, I rise today in tribute to my colleague and friend in Illinois, David A. Wirsing, State Representative from the 70th district. Dave went home to be with the Lord suddenly on Sunday, November 16, 2003. He leaves a loving wife of over 40 years, Nancy, four grown children—Mark, Steven, Angela and Susan—and 11 grandchildren.

Dave Wirsing was a friend in the truest sense of the word. He was a man of deep personal faith, a loving and faithful husband to Nancy and a wonderful father to his four children. He spent the majority of his life in agriculture as a former pork producer and grain

farmer. He and Nancy had the same phone number their entire lives, and their address always ended with ''Sycamore, Illinois''. Then, in 1992, he decided to enter public service and run for State Representative of the 70th district.

Mr. Speaker, I want to pay tribute to Dave today not only for his selfless public service to the people of Illinois, but to Dave as a friend. Before Dave ever ran for public office, he was simply a husband, father and grandfather. He raised his children with a sense of humor, a stern discipline, high moral standards, a deep and abiding faith in God and taught them leadership skills and simple common sense. Mostly, he raised his children and provided his wife, Nancy, with love. Few knew at this point how much he would impact the lives of so many people or that so many would seek his counsel. His children never dreamed that the man they simply called ''Dad'' would become the man many would call ''great.''

Dave Wirsing was a friend to many. His small and large acts of kindness are unfathomable to some. However, to Dave, it was just the way he was meant to live his life. He was a humble man, never quite understanding why people outside of his family would honor him for achievements that to him were just what he was supposed to do. He was a man who dedicated his life—indeed, his heart and soul, to serving others—his family, his neighbors, his friends, his constituents.

Dave led by example—he lived by the Golden Rule, and yet he never expected anything in return for his kindness and compassion. He loved being around people—be it the company of his wife and family or in the presence of colleagues, acquaintances and even strangers. He was able to laugh at himself—a trait seldom seen these days. He dedicated his life to serving others. He helped his children grow, learn and prosper; he helped his neighbors in times of need; he helped his friends to resolve problems; he helped his colleagues see both sides of an issue and then beyond that to a resolution; he helped his constituents obtain the assistance and guidance they had a right to; he helped many young people grow in life through his wisdom, his gentle and jovial encouragement, his love and respect for each person as an individual, and his high regard for bettering oneself.

Mr. Speaker, Dave Wirsing's accomplishments were many, but most importantly, not a day went by that he did not share himself with someone. Solutions and advice came to him from principle and philosophy. He was not out to make a name for himself, he just wanted to make things right in his part of the world. If he did not have the skill necessary to help someone, he sought it out. He lived by the philosophy that if you always tell the truth, you won't have to remember what you said. Dave Wirsing did not live his life to achieve great moments, but instead had a lifelong commitment to a set of values and ideals. As I reflect today on the whole of his life, that is his greatest accomplishment. He leaves behind a legacy of faith, kindness, compassion and love for his family, friends and constituents. He will be deeply missed.

HONORING THE 30TH ANNIVERSARY GALA OF THE KOREAN AMERICAN MEDICAL ASSOCIATION, INCORPORATED OF DISTRICT OF COLUMBIA, MARYLAND AND VIRGINIA

HON. TOM DAVIS

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 20, 2003

Mr. TOM DAVIS of Virginia. Mr. Speaker, I would like to take this opportunity to honor the 30th anniversary of The Korean American Medical Association of District of Columbia, Maryland and Virginia, Incorporated.

The Korean American Medical Association of District of Columbia, Maryland and Virginia, Incorporated (KMA) is one of the most respected Korean-American nonprofit organizations in America. The association was founded in 1974 by a small group of respected Korean physicians. The KMA was the first Korean Medical Association in the United States. Its hard work and dedication has led the association to grow from a handful of members to a membership of about 400 physicians from the District of Columbia, Maryland and Virginia.

Since its inception, the association's involvement in the Great Washington, D.C. Metropolitan community has been commendable. The KMA provides health care services, seminars and educational opportunities to the community. The dedication that the members of the KMA have to its community is exceptional.

The KMA provides a forum for its members to exchange ideas and continue education helping its members continue to provide excellent service to the community. The care and services these physicians provide to their neighbors and friends is a testament of their hard work. The KMA certainly has distinguished itself as an outstanding group.

Mr. Speaker, in closing, with all the contributions to the community made by The Korean American Medical Association of District of Columbia, Maryland and Virginia, Incorporation, we have a great reason to celebrate today. I want to commend the association 30 years of excellence and extend my warmest wishes for the years to come. I call upon my colleagues to join me in applauding the KMA on its 30th anniversary.

IN HONOR OF LOULA LOI-ALAFOYIANNIS

HON. CAROLYN B. MALONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 20, 2003

Mrs. MALONEY. Mr. Speaker, I rise today to pay tribute to Loula Loi-Alafoyiannis, the Executive Global President and C.E.O. of the Euro-American Women's Council (EAWC). Loula has spent her professional life facilitating the needs of Greek and American entrepreneurial communities and advancing the cause of women's rights in the areas of business and education.

Loula has demonstrated that intelligence, integrity, energy, clear objectives and the love of a task well executed create credibility. Her love for Greece and her desire to promote greater understanding between Greece and America has made her a strong advocate and a wonderful ally.

Loula, like so many talented women of her generation, has had several careers. For two decades, Loula served as an elementary school teacher, helping to ensure that young people have a strong educational foundation. Her work with young people inspired her to create a Youth Leadership Award given annually by EAWC.

She then turned to the challenges offered by business, public relations and event-planning. Loula's entrepreneurial skills are widely recognized and, as a result, she has served as a delegate to White House Conferences on small businesses since 1990, and has advised numerous public officials and government leaders. Loula has also sponsored numerous White House luncheons for prominent and influential business women from across the United States and Greece.

In 1991, she founded and organized the ''Best Buddies Foundation'' in Greece, along with Anthony Kennedy Shriver, who serves as its Global President and C.E.O. As the Founder and the executive Global President of Euro-American Women's Council, Loula has established a spirit of cooperation among business women globally. The women of EAWC bridge nations and cultures, set trends, exercise influence, innovate positive change and make a difference around the world. Since 2001, Loula has been the Coalition Partner for Europe of the Women Impacting Public Policy (WIPP) organization. She is currently a board member to the Human Rights Advisory Council of New York.

Loula has received a number of prestigious awards for her outstanding contributions, including the Crown Award, which recognizes her as one of the most creative minds of the top leading entrepreneurial women of the world. She has also earned the distinguished award of ''Honorary Citizen of Baku'' as a result of her pioneering efforts to improve entrepreneurial training in the former Soviet Union.

Mr. Speaker, I am pleased to bring to the attention of my colleagues the outstanding work of Loula Loi-Alafoyiannis. Her unwavering dedication to improving relations between the Greek and American entrepreneurial communities and promoting opportunities for women is truly worthy of our recognition.

A TRIBUTE TO REVEREND DR. JOHN L. GILES

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 20, 2003

Mr. TOWNS. Mr. Speaker, I rise in honor of the Reverend Dr. John L. Giles in recognition of his pastoral anniversary.

While Reverend Giles was born in the tiny town of Sanger, TX, located 38 miles southwest of Fort Worth, he considers himself a native of San Francisco. It was during high school that he joined St. Kevin's Catholic Church and learned the Catholic discipline. He was also a member of Bethel A.M.E. Church. Upon graduating from Balboa High School, he had saved enough money to attend college and support himself. Through his hardships, he learned independence, responsibility, the importance of healthy living, and helping others and his family.

Drafted in the Vietnam War, he spent 18 months in Friedberg, Germany where he earned the rank of sergeant in 15 months and he attended both Catholic and Protestant churches. He read the bible more and more and his favorite scriptures are Psalm 23, 27, and 121. In May 1997, Pastor Giles earned his doctorate in Holistic Ministry at the United Theological Seminary in Dayton, OH.

Upon returning to San Francisco, he joined the Solid Rock M.B. Church and was baptized. In August 1970, he was accepted at the American Baptist Seminary of the West in Berkley, CA. He also attended Morehouse School of Religion and served briefly at Ebenezer Baptist Church in Atlanta as a youth minister under the late Dr. Martin Luther King, Sr. Additionally, he has served at First Baptist in LaGrange; First African Baptist, Bainbridge and the Beulah in Quitman. He served as Chaplain at the VA Medical Center in Bay Pines, FL and as pastor of New Hope M.B. Church until 1994. Presently, he is the Pastor of True Faith Inspirational Baptist Church in Tampa, FL.

He is married to JoVanore Sims Giles, who serves as chairperson of the Deaconess Ministry and participates in the choir and other activities. They have two daughters, JoVanore Giles-Galbreath and Jenee Codallo-Nelson, and one son, Johnathan who is attending college at the School of the Holy Cross.

Mr. Speaker, Reverend Dr. John L. Giles has honorably served our Nation in the armed services and has provided spiritual guidance and leadership to several parishes across the country. As such, he is more than worthy of receiving our recognition today and I urge my colleagues to join me in honoring this truly remarkable person.

CONGRATULATING PAUL SIMON

HON. RAHM EMANUEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 20, 2003

Mr. EMANUEL. Mr. Speaker, I rise today to join in congratulating former Senator Paul Simon, who will be celebrating his 75th birthday on November 29. As one of Illinois' favorite sons, and a man who fought hard for the people of the United States in this building for twenty-two years, it is only appropriate that this body honor one of the most outstanding and respected leaders our country has ever known.

Born in Eugene, Oregon on November 29, 1928, Paul Simon moved to Troy, Illinois upon his graduation from college and worked as a newspaper editor and publisher, eventually building a chain of fourteen weekly papers. After serving in the United States Army from 1951–1953, Senator Simon first ran for elective office in 1955, winning a seat in the Illinois General Assembly. He served as a State Representative from 1955–1963 and as a State Senator from 1963–1968. From 1969–1973 he served our state as Lieutenant Governor. He was elected to the Ninety-fourth Congress, and served in the House from 1975 to 1985. In 1984 he won election to the Senate and served until 1997 when he chose not to run for reelection. Additionally, Senator Simon was a candidate for the Democratic nomination for President of the United States in 1988, winning the Illinois Primary.

As a Member of Congress, Senator Simon championed many progressive issues, many of them long before they became fashionable, including campaign finance reform and the creation of new programs to make college more affordable and accessible for our children.

Since retiring from elected office, Senator Simon has continued to advance a lifetime passion of his: education. The founder and Director of the Public Policy Institute at Southern Illinois University, Senator Simon still teaches classes in journalism, political science and history. The author of over a dozen books, his 1998 autobiography P.S. remains a must-read for those interested in Illinois politics in the post-war period. Additionally, Senator Simon was one of the founders of the magazine Illinois Issues, which remains the definitive journal of Illinois' political landscape.

But despite winning elections in five different decades, serving his state and country in many different capacities, and being a leading educator, Senator Simon's character, integrity and intelligence are what have made him the most enduringly popular political figure in our state. The advice and support of Senator Simon remains cherished by those of us who have attempted to advance his ideals.

Mr. Speaker, I thank you for the opportunity to congratulate a true hero of mine and the entire State of Illinois, Senator Paul Simon, on the occasion of his 75th birthday.

PERSONAL EXPLANATION

HON. ROBERT E. ANDREWS

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 20, 2003

Mr. ANDREWS. Mr. Speaker, on Wednesday, November 19, I did not vote on the following measures, because of family commitments, and would like to include in the RECORD how I would have voted, had I been present: On H.R. 1006, I would have voted ''yea''; on H. Con. Res. 320, I would have voted ''yea''; on H.R. 3491, I would have voted ''yea''; on rollcall No. 637, to instruct conferees on H.R. 1, I would have voted ''yea''; on H.R. 2420 I would have voted ''yea''; on H. Res. 427, I would have voted ''yea''; on H. Con. Res. 83, I would have voted ''yea''; on H. Con. Res. 288, I would have voted ''yea''; on H. Res. 393, I would have voted ''yea''; on H. Res. 423, I would have voted ''yea''; and on H.R. 3140, I would have voted ''yea.''

A TRIBUTE TO MRS. EVERLEE SMAW MILLS

HON. FRANK W. BALLANCE, JR.

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 20, 2003

Mr. BALLANCE. Mr. Speaker, I rise to honor Mrs. Everlee Smaw Mills, one of my most senior constituents on the occasion of her 90th birthday. Mrs. Mills has lived through and experienced every noteworthy event in our nation's history that has punctuated the 20th Century. At the tender age of 16, instead of engaging in some of the lighthearted, fun activities enjoyed by youth today, Mrs. Mills was experiencing an America devastated by the stock market crash of 1929 and the onslaught of the Great Depression. At a time when she should have been enjoying life and planning for what little prosperity a segregated nation could offer an under-education Black woman, Mrs. Mills as a youth was facing bread lines and food rations.

Mr. Speaker, Mrs. Mills is a remarkable woman, not just because of her long tenure but also because of her resolve to do well in all circumstances. For instance, she lived through the death of both parents at an early age, World War I, death of her spouse, World War II, the Korean War, Vietnam War, Gulf War, death of three of her children, and has seen our troops sent to Iraq to battle terrorists.

Mr. Speaker, Mrs. Mills gave birth to 11 children and fed and nurtured many others, including grandchildren and neighborhood youth who wandered home with her children. It is my understanding, Mr. Speaker, that she never turned anyone away who needed a helping hand. Mr. Speaker, this remarkable lady, worked in a domestic capacity until she retired at the age of 75, and over the years she and her husband, (decedent) William Mills never once accepted welfare. As a widow, since the late 1940s, Mrs. Mills taught and stressed the importance of self-sufficiency to her children. They were taught to ''pay their own way'' in society.

To Mrs. Mill's credit, Mr. Speaker, her children have grown under the shade of her guidance to enter a cadre of notable professions. For instance, her children are employed in the following capacities: US Air Force serviceman, an engineer who has been assigned to work on NASA projects, a representative with the Wall Street Currency Exchange Department, the first Black elected to the Board of Commissioners in Beaufort County, an accomplished welder for the most prestigious truck body builders in the country, Hackney & Sons, and one daughter and son who have become ministers.

Mr. Speaker, Mrs. Mills is a lifelong member of Beebe Memorial CME Church of Washington and was named the Woman of the Year in the 1980s and Woman of Distinction in 2001. She is revered in her church for the solid advice that she imparts to the youth and her peers, and has become a well-respected pioneer in building church programs.

Mr. Speaker, Mrs. Mills is a true marvel. She still lives independently and enjoys ''Soap Operas''. She reads the Bible religiously. Her family history is traced in Beaufort County as far back as slavery. Her love for the area runs deeper than we understand. It pleases Mrs. Mills greatly to be simply a loving mother, devoted church member and lifelong resident of Beaufort County, North Carolina. I ask my Colleagues to join me in paying tribute to Mrs. Everlee Smaw Mills, an exemplary citizen.

HONORING BERT S. TURNER

HON. DAVID VITTER

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 20, 2003

Mr. VITTER. Mr. Speaker, I rise today to honor Bert S. Turner, a distinguished alumnus of Louisiana State University. He has been selected by the LSU Alumni Association Hall of

Distinction to receive the Alumnus of The Year Award. Every year, this award is bestowed to an individual not only for his or her distinguished accomplishments, but also for commitment and generosity to the university and the LSU Alumni Association.

Mr. Turner began his engineering and military career at LSU in 1939, where he became President of the College of Engineering Student Council, the LSU Post of American Society of Military Engineers, and a member of Tau Beta Pi. Following military duty, he then went to the Harvard Graduate School of Business Administration and graduated in 1949. For eleven years, from 1946 to 1957, Mr. Turner was recognized for his personal and civic accomplishments. Most notably, he was given the Distinguished Service Award for Baton Rouge in 1954, which recognized him as a loyal member of the community. After working in various engineer and management positions, he eventually became President and Chairman of the Board of Nichols Construction Corporation, a position he held for twenty years.

He has also served on the boards of the Baton Rouge Chamber of Commerce, the Louisiana State Museum Board, the Louisiana Labor Management Commission, the Salvation Army, the State of Louisiana Board of Regents for Higher Education, and the YMCA. He was previously inducted into the LSU College of Engineering Hall of Distinction in 1993 and the LSU Alumni Association Hall of Distinction in 1996. Presently, he is the Chairman Emeritus of the Board for Turner Industries, Ltd.

I extend my best wishes to Mr. Turner, the most recent recipient of this prestigious award, and to LSU for its support.

RECOGNIZING THE WORK OF MR. PHILIP WORKMAN, EXECUTIVE DIRECTOR OF THE OHIO PSYCHIATRIC ASSOCIATION

HON. TED STRICKLAND

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 20, 2003

Mr. STRICKLAND. Mr. Speaker, I stand today on the floor of the United States House of Representatives to recognize Mr. Philip Workman's contributions to the field of mental health treatment.

For nearly twenty years, Phil Workman has served as the Executive Director of the Ohio Psychiatric Association (OPA), the OPA Education and Research Foundation, and the Ohio Psychiatrists' Political Action Committee. In these positions, he has made an outstanding contribution to advancing education and treatment and reducing stigma and discrimination of mental illness.

Under Mr. Workman's watch, the membership of OPA has doubled to over 1,000 members; this growth in membership is due, in part, to his ability and willingness to reach out to residents and psychiatrists who are just beginning their careers in order to develop young leadership in the organization.

Mr. Workman has been a leader in Ohio and across the country in the fight for mental health parity. He worked in concert with other Ohio groups to establish the 1984 Fair Benefits Coalition. The Fair Benefits Coalition led directly to the creation of the Coalition for Healthy Communities, a coalition of over 25 professional agencies and consumer organizations devoted to providing quality mental health and substance abuse services in Ohio. And, he worked in the American Psychiatric Association to establish several groups and task forces that have been critical to the vitality of the national organization.

Appropriately, Mr. Workman's outstanding leadership, commitment, and dedication was honored in 2002, when he was named a ''Mental Health Champion'' by the National Alliance of the Mentally Ill of Ohio.

Phil Workman's long service to the Ohio Psychiatric Association and his strong advocacy for those who suffer from mental illness has inspired and served as a model to his many friends and professional associates. It has been said that ''some people strengthen society just by being the kind of people they are.'' Mr. Speaker, Philip Workman is such a person.

JAMES R. BROWNING UNITED STATES COURTHOUSE

HON. NANCY PELOSI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 20, 2003

Ms. PELOSI. Mr. Speaker, I am pleased to announce that today I am introducing legislation to designate the United States Courthouse located at 95 Seventh Street in San Francisco, California as the ''James R. Browning United States Courthouse,'' to honor Judge Browning for his lifetime of outstanding public service.

James R. Browning was born in Great Falls, Montana, and received his law degree from the University of Montana. Prior to his appointment to the bench, he served in the Pacific Theater during World War II, worked in the Antitrust Division of the U.S. Department of Justice, practiced in a law firm, and served as Clerk of the U.S. Supreme Court.

In 1961, President John F. Kennedy appointed James Browning to the United States Court of Appeals for the Ninth Circuit. He dedicated the rest of his career to the Ninth Circuit, becoming the longest serving judge in the history of the circuit. Judge Browning became very active in the Judicial Conference of the United States, serving on a number of committees that worked to strengthen the federal judiciary.

Upon becoming Chief Judge of the Ninth Circuit in 1976, Judge Browning focused on improving the function of the circuit, which was struggling with a large backlog of cases and delays in appeal decisions. Due to his efforts and innovative practices, additional judges were added to the court of appeals, the time required to decide appeals was cut in half, and the backlog was eliminated. He also improved communication among the justices, emphasizing the importance of good colleague rapport. His innovations were studied and adopted by other circuit courts, and he has received several prestigious awards in recognition of his achievements.

Judge Browning's contributions to national jurisprudence are also outstanding. During his forty-two years on the Ninth Circuit, Judge Browning has participated in almost 1000 published appellate decisions and authored many other unsigned per curiam opinions. In a 2001 tribute, a colleague described him as ''the consummate appellate judge . . . he treats each case that comes before him with careful attention and produces succinct, clearly reasoned opinions.'' Colleagues have also lauded him for his seminal contributions to national antitrust jurisprudence and his attentiveness to ensuring that citizens have access to the justice system.

Judge Browning stepped down as Chief Judge in 1988 but did not retire, remaining an active circuit judge and a member of myriad committees and judicial groups. He took senior status in September 2000. His activities have been significantly curtailed due to declining health. It is my hope that we can enact this bill in the 108th Congress, so that Judge Browning can witness this much-deserved tribute to his lifetime of public service.

Judge Browning's achievements would be fittingly acknowledged by naming the historic federal building at Seventh and Mission streets in his honor. As one of his supporters said, ''A great and sturdy courthouse needs the name of a great and sturdy judge.'' I invite my colleagues to cosponsor the ''James R. Browning United States Courthouse'' bill.

SOUTH MAUI COASTAL PRESERVATION ACT OF 2003

HON. ED CASE

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 20, 2003

Mr. CASE. Mr. Speaker, I rise today to introduce a bill directing the Secretary of the Interior to undertake a study to determine the suitability and feasibility of designating and acquiring lands located along the southern coast of the island of Maui as a National Seashore, National Recreation Area, National Monument, National Preserve, or other unit of the National Park Service.

The study area covered by the proposed South Maui Coastal Preservation Act of 2003 includes lands from and including the 'Ahihi-Kinau Natural Area Reserve to Kanaloa Point, a distance of approximately six miles.

The area is rich in archaeological, cultural, historical, and natural resources. Important sites in the proposed park area contain remnants of dwellings, heiau (places of worship), fishing shrines, platforms, enclosures, shelters, walls, graves, and canoe hale (houses) that date back as early as 1100 A.D. This portion of the southern coast is also the home of unique native plants and animals, some of which are endangered.

The County of Maui passed Resolution 00–136 on October 6, 2000, expressing its support for having this area designated as a National Park. The Hawaii State House and Senate also passed bills in support of having the area managed by the National Park Service. Both these resolutions were in support of my predecessor, Congresswoman Patsy T. Mink's bill, H.R. 591, introduced in the 107th Congress, to study the feasibility of designating the more limited area from Keone'o'io to Kanaloa Point as a National Park.

An initial reconnaissance survey by the NPS indicated that the resources deserved protection but stated that the more limited area was not appropriate for a National Park because

most of the land was owned by the state. However, I believe the expressions of support for NPS control of the area by the County and State offer a firm basis for moving forward. Therefore, I have included a provision in my bill to ensure that the proposed study includes consultation with the State of Hawaii to assess the feasibility of transferring some or all of the State lands in the study area to the federal government.

The State of Hawaii has been unable to effectively manage and protect these important resources due to lack of funds. Operators of four-wheel drive vehicles are unknowingly destroying valuable resources at this site due to lack of supervision, signage, and cultural interpretation materials. Further, this pristine coastline lies directly in the path of development and, absent action, too soon will be lost forever.

This is a site of national significance, which deserves the level of protection only the National Park Service can provide. I urge my colleagues to support this bill.

PERSONAL EXPLANATION

HON. FRANK W. BALLANCE, JR.

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 20, 2003

Mr. BALLANCE. Mr. Speaker, I was unavoidable detained on official business and was not present for rollcall votes Nos. 634 through 637. Had I been present, on rollcall vote No. 634, I would have voted ''yes'', on rollcall vote No. 635, I would have voted ''yes'', on rollcall vote No. 636, I would have voted ''yes'', and on rollcall vote No. 637, I would have voted ''Yes.''

RECOGNIZING GENE ARGO OF HAYS, PRESIDENT OF MIDWEST ENERGY

HON. JERRY MORAN

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 20, 2003

Mr. MORAN of Kansas. Mr. Speaker, I rise today in recognition of a Kansan, Mr. Gene Argo, for his commitment to excellence and his devotion to service. This year, Mr. Argo will retire as president of Midwest Energy, based in my hometown of Hays, Kansas.

A true man of the west, Gene Argo drew many of his life lessons from his youth in Texas, including a profound love of nature and a respect for his fellow man. An avid bareback rider, Gene has learned that, through hardship and in the face of failure, you must always get back on your horse.

For the past decade, Mr. Argo has tirelessly devoted himself to the Midwest Energy Corporation. As president and general manager, he has guided the success of the company since 1992. Through his efforts, Midwest Energy has grown to serve 40 counties in western Kansas. As president, Gene Argo is respected by his employees not only because of his work ethic, but because he respects his employees in turn.

Mr. Argo's passion for progress has also made a profound difference in his community. In Hays, Gene Argo served on various civic and industry organizations, including the board of directors of the Hays Medical Center and the Hays Medical Center Foundation. The community of Hays has also benefited under Mr. Argo's leadership as chairman of the Ellis County Economic Development Coalition and the Ellis County United Way. The growth of Ellis County is a testament to his vision and direction.

Gene Argo has also invested a great deal in the future of the State of Kansas. He supports Kansas youth as a member of the Kansas 4–H Foundation and also serves on the board of the Kansas Wildscape Foundation. An ardent hunter and sportsman, Gene is dedicated to preserving Kansas' natural beauty. As a small token of Kansas' appreciation, Mr. Argo was selected as the Leadership Kansas Alumnus of the Year in 2002.

In light of his many efforts and achievements, his family comes first. Gene and his wife Linda raised three children and are proud grandparents of three grandchildren.

Respected for his motivation and leadership, his employees will miss his starched shirts and smiles upon his retirement. I join his friends and family in extending to him my best wishes in all of his future endeavors.

TRIBUTE TO MATTIE MARIE FRANKLIN MARSHALL

HON. EDDIE BERNICE JOHNSON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 20, 2003

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, I pay tribute today to one of Texas' truly outstanding citizens, Mattie Marie Franklin Marshall. As we recognize her 70 years of service to our State's education and her multitude of contributions to our community, I would like to take a moment to reflect on the remarkable achievements of this great woman.

Mattie Marie Franklin Marshall has devoted her entire life to the great State of Texas. Her life has been spent serving her fellow man—teaching, counseling, leading, advising, guiding, and nurturing.

She was born in Washington, Texas. Her father passed away when she was only two, but her mother watched her work her way upward despite many difficult obstacles.

Mattie continued the legacy of her sisters Ellie O. Laster, Anna M. Taylor, and Susie L. Jingles by becoming an educator. She began her adult life by working hard and knew success meant accepting life's challenges. She remained an educator for 35 years until she retired from the school system in 1977.

Following her retirement, Mattie broadened her public service from the school system to the greater community.

She was actively involved in the Girl Scouts of America, Young Women's Christian Association, the Friendly Neighborhood Club, Philodendron Garden Club, the Chanelle Club, and a Life Member of the Erma D. Leroy Club.

One of the highlights of her life was the organization of Fifth Ward Baptist Church. She was a founding member of the committee that organized the church and served as its first recording secretary. She has served her church with dedication for the last 59 years. In honor of her tireless efforts on behalf of the Fifth Ward Baptist Church, its library was renamed the Mattie M.F. Marshall Library in June 2003.

Just as significant as all of Mattie's achievements is the spirit of community service she represents. Her willingness to help individual community members of our society as a whole is what makes her especially deserving of our recognition and praise.

The spirit of service she actively portrays is something we see far too little of in this society. And we all would do well to follow the shining example that Mattie Marshall has given us.

I know that Mattie will continue to play an important role in our community for years to come, and that America will continue to benefit from her dedication and service.

Mr. Speaker, I urge you and my colleagues in the U.S. House of Representatives to join me in saluting Mattie M.F. Marshall and in applauding this remarkable citizen for all she has done, and for all she has meant to those of us whose lives she has touched.

AMERICAN DIABETES MONTH

HON. JOE BACA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 20, 2003

Mr. BACA. Mr. Speaker, I rise in support of American Diabetes Month.

In order to combat this deadly disease, we must focus on prevention, education and diet. Diabetes is the fifth-deadliest disease in the nation.

In California, there are about 2 million people with this disease. In my home county of San Bernardino over 100,000 have been diagnosed.

While this disease affects people of all walks-of-life, Hispanics are particularly vulnerable. Hispanics are almost two times as likely to develop Diabetes as non-Hispanic Whites. Twenty-four percent of Mexican-Americans in the United States currently have diabetes. Almost two million Hispanics struggle with the disease.

I don't have diabetes but my parents, my brother and my brother-in-law did. My father died of diabetes along with my brother. They didn't take care of it. We had a large family and could not afford health care.

Growing up, we ate what we could afford and too much of our diet contained foods like tortillas and frijoles that cause health problems and can eventually lead to diabetes. There was no health education or awareness. They didn't know how to take care of their diabetes. When they were diagnosed with diabetes they ignored it and it cost them their lives.

Fortunately, this disease can often be prevented.

We must educate our children and communities about the dangers of this disease. That is why American Diabetes Month is so important. We need to teach children prevention. The lifestyles they adopt today will carry over into their adult years. We are placing children at risk when we allow them to come home day after day, play videogames, sit in front of the TV and snack on soda and chips. Children eat what their parents eat and can afford. Eating a diet of high sugary foods—like tortillas, rice, and chips—at every meal is teaching our children unhealthy habits.

To help educate our children and our communities I participated in an educational video with Edward James Olmos and Liz Torres. This video, which comes in English and Spanish, helps educate Hispanics and all Americans about the disease. Additionally, with the help of Congressman PUTNAM and CARDOZA, we recently introduced legislation that would allow schools across the country to serve fresh fruits and vegetables in school lunch programs. This will help children afford to eat healthy and stay healthy.

I have been active in leading the charge to restore food stamp benefits to hard working immigrants, so that their children may have access to the healthier foods that help prevent diabetes.

But it is not enough to just educate people. We also must make sure that preventative screening and medical services are affordable and available to all Americans.

One of the biggest problems in early prevention is financial. People do not have the resources to seek medical help so the problems escalate. In California, the cost of diabetes per person per year is approximately $13,243. If they have additional problems, like dialysis, syringes, medications, or other items, the cost goes up an additional $8,500. Now the cost is over $22,000.

The healthcare costs of a person with diabetes are about 2½ times higher than the average person's healthcare costs. How can an uninsured person in this country afford $22,000 when some don't even make that much in a year?

To help those that can't afford to take care of their diabetes, I have co-sponsored the Diabetes Prevention, Access and Care Act and the Access to Diabetes Screening Services Act. These bills will increase access to diabetes screening, treatment and prevention in minority communities and all communities that are affected by Diabetes.

In the spirit of American Diabetes Month, we must not only look to legislation to help those that suffer from diabetes but we must educate our communities. We must take a personal interest. We must become involved on a personal level.

American Diabetes Month is a great opportunity to educate all Americans on how to help prevent diabetes.

CONFERENCE REPORT ON H.R. 6, ENERGY POLICY ACT OF 2003

SPEECH OF

HON. JERRY F. COSTELLO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 18, 2003

Mr. COSTELLO. Mr. Speaker, I rise today in support of H.R. 6, the Energy Policy Act of 2003 Conference Report. Completion of this energy bill is yet another step forward in our struggle for energy security and independence. A reliable and affordable energy supply is crucial to America's economic vitality, security, and quality of life.

While this final conference report is not perfect, we continue to make progress towards promoting energy conservation and efficiency; increasing the use of all domestic energy resources, including coal; improving energy infrastructure; and promoting the development of advanced energy technologies.

The combustion of fossil fuels is essential to our energy policy and must continue to be a part of a balanced energy plan for this country. Coal is absolutely critical to our nation's economic health and global competitiveness. Coal accounts for more than 50 percent of U.S. electricity generation, far ahead of nuclear power, natural gas, hydroelectric power, petroleum and other sources. There is no present alternative to coal to meet our energy needs. New and improved technologies hold the promise of far greater emissions reductions and increased efficiency.

Clean coal provisions are included in the final conference report that would assist in burning coal more efficiently and cleanly. These clean coal technology initiatives encourage development of new technologies for cleaner, higher efficiency coal combustion in new and established plants with the hope of achieving a healthier environment while maintaining jobs. America's substantial investment in clean coal technology creates 62,000 jobs and ensures Americans new electricity that is abundant, reliable, affordable and cleaner than ever before.

The bill includes a $1.8 billion authorization for the Secretary of Energy to carry out the Clean Coal Power Initiative, which will provide funding to those projects that can demonstrate advanced coal-based power generating technologies that achieve significant reductions in emissions. Further, the bill authorizes $1.422 billion for coal research and development. I fought hard for increases to coal within the fossil energy research and development budget and I was glad to see they were included in the final version.

Finally, the legislation includes a provision, which I authored, called the Clean Coal Centers of Excellence. Under this provision, the Secretary of Energy will award competitive, merit-based grants to universities that show the greatest potential for advancing new clean coal technologies. Southern Illinois University Carbondale (SIUC), which I represent, continues to be a leader in clean coal technology research, doing extensive work at its Coal Research Center. With funding and collaborative support from industry and government, SIUC has conducted long-term projects relating to surface mine reclamation, mine subsidence, coal desulfurization, coal characterization and combustion, coal residue management and utilization, coal market modeling, and environmental policy. Faculty, staff, and students in fields as diverse as engineering, science, business, education, law, and agriculture have contributed to the University's international reputation in coal research. It is well-positioned to be a potential recipient of the Clean Coal Centers of Excellence.

In addition to the clean coal provision, the bill contains provisions instrumental in helping increase conservation and lowing consumption. Included in this are ethanol provisions that are used as a replacement and additive for gasoline consumption. Under this legislation, ethanol use would increase, nearly tripling the current requirement. This is expected to increase the average price of corn paid to farmers 6.6 percent, or 16 cents per bushel and increase average net cash income to farmers by $3.3 billion over the next decade, or more than six percent.

This increased use of ethanol will save 1.3 billion barrels of oil by 2016, improve the trade deficit by $28.5 billion over 15 years, add $135 billion to the American economy by 2016 through increased agricultural demand and new capital spending, and generate $32 billion in income for American consumers over 15 years.

Mr. Speaker, this energy bill will shape energy policy for the next decade and beyond. I am glad coal and ethanol remain an integral part of our energy future and I urge my colleagues to support this legislation.

CONFERENCE REPORT ON H.R. 6, ENERGY POLICY ACT OF 2003

SPEECH OF

HON. DON YOUNG

OF ALASKA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 18, 2003

Mr. YOUNG of Alaska. Mr. Speaker, electron scrubbing is the only air control process that allows older power plants to meet the Clean Air Act Amendments of 1990 (CAAA) and the New Source Performance Standards (NSPS) while burning the least cost, highest energy fuel—high sulfur coal. The electron scrubbing process removes almost all the pollutants emitted from power plants burning high sulfur coal. In a single step, the electrons convert the pollutants into a high grade, agriculture byproduct.

The Department of Energy's (DOE) Chicago Operations Office (COO) has been briefed on the electron scrubbing project at Eagle Valley and has agreed to manage the program. However, DOE must first transfer $5 million in earmarked funds to the COO so the Director can immediately implement the program.

A letter of intent, dated April 16, 2002, from Greg Daeger, program manager for the electron scrubbing project at Eagle Valley, attests to the commitment and due diligence of Eagle Valley to implement the project pursuant to Congress' direction and intent.

Electron scrubbing uses high-energy accelerators for air pollution cleanup. DOE's COO has the technical management capability in accelerator-related programs and air pollution programs used in other DOE applications. This location is an ideal venue for the effective and successful oversight of the electron scrubbing program. The transfer of funds would allow COO to continue and expand its management of high technology air pollution programs in the area of high-energy electrons.

The energy bill directs DOE to ''use $5,000,000 from amounts appropriated to initiate, through the Chicago Operations Office, a project to demonstrate the viability of high-energy electron scrubbing technology on a commercial-scale electrical generation using high sulfur coal.'' Because it has both the authority and capability to oversee this demonstration project, $5 million must immediately be transferred from DOE to COO.

RESOLUTIONS IN SUPPORT OF H.R. 2656

HON. LYNN C. WOOLSEY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 20, 2003

Ms. WOOLSEY. Mr. Speaker, today I am submitting for the RECORD resolutions in support of H.R. 2656 from cities in the California

Bay Area. The resolutions are regarding the planned casino in my congressional district. The communities surrounding the proposed site are doing all they can to ensure that their voices are heard on this controversial issue and it is extremely important that all sides of the issue are given a platform to do so. I hope that H.R. 2656 is brought before the House for a vote in the near future.

RESOLUTION NO. 2003–220 N.C.S.

Whereas, the Petaluma City Council respects the rights of Native Americans to establish and have recognized tribal sovereignty, and to secure lands under their jurisdiction; and,

Whereas, under the existing federal legislative requirements, there is no provision for coordination of gaming proposals or associated major tribal enterprises with established and approved off-reservation local or regional planning law and General Plans in any timely and meaningful way; and,

Whereas, developments of great magnitude are being proposed which are dependent upon local and regional public infrastructure, including highways, streets, transit systems, water, wastewater and energy systems and resources, affordable housing, and emergency services, both built and yet to be built; and,

Whereas, without appropriate mitigation, the developments proposed are very likely to have substantial negative impacts and place substantial burdens on the public infrastructure with a substantial burden falling upon existing and future taxpayers, residents, visitors and businesses; and,

Whereas, with the rapid construction of tribal gaming facilities, local governments are experiencing serious, adverse impacts related to off-reservation economic, environmental, health and safety issues; and,

Whereas, the current conditions placed on Indian gaming to achieve and preserve the environmental, public safety, and public health objectives of both state and local government have been insufficient to prevent such adverse impacts; and,

Whereas, when California voters approved Proposition 1A (Indian Gaming) in March of 2004 as a means of supporting the laudable goal of Indian economic development and self-sufficiency, they were not aware that such approval would allow Nevada developers to seize prized off-reservation environmental resources for intense development without regard to locally approved general plans or any meaningful environmental review or protection; and,

Whereas, under the provisions of Proposition 1A and the Tribal-State Compact, local communities have not been granted effective input into the development of proposed tribal casinos that threaten their rights and the State appears to have no effective redress for significant environmental impacts these gambling casinos impose on local communities; and,

Whereas, on February 6, 2003, the California State Association of Counties has adopted a policy document that includes seven principles of critical concern to counties, including a principle that tribes and local governments enter into binding and enforceable local agreements for the mitigation of off-reservation impacts that arise from a local gaming project; and,

Whereas, approximately 360 acres of prime agricultural lands west of Rohnert Park are presently in imminent danger of being withdrawn from County land use control and placed into trust for the purposes of casino development—including an extensive gaming complex, with a 300 room hotel, spas, restaurants, a 2000 seat entertainment venue, parking and other support services, by Station Casinos, a Las Vegas-based developer and the Federated Indians of the Graton Rancheria (Graton Tribe); and,

Whereas, Station Casino and the Graton Tribe's gaming proposal will have substantial negative impacts upon the federal highway system (US Highway 101), upon which it is dependent for bringing its customers into and out of the region; on local and regional roads; to the Santa Rosa Plain groundwater aquifer, to water quality, along with unknown local and regional fiscal impacts; and,

Whereas, the proposed Graton Tribe casino site is proposed on property whose zoning is inconsistent with the Sonoma County General Plan (on prime agricultural land, in the community separators and outside Rohnert Park's Urban Growth Boundary), within the Laguna de Santa Rosa's flood plain and within critical wetland habitat for several federally endangered species; and,

Whereas, the proposed Graton Tribe casino proposal is not subject to a thorough CEQA-like process that identifies fiscal and environmental impacts then to be mitigated by the Graton Tribe, nor is administrative consideration by the Department of the Interior required to determine if the use of this land, sought for gaming, will have significant detrimental impacts on the neighboring communities which outweigh the benefits to the tribe; and,

Whereas, the Graton Tribe was restored in 2000 based, in part, on its promise not to engage its Indian casino gaming: Now, therefore, be it

Resolved, That the Petaluma City Council strongly supports the revisions in federal legislation [HR 2656/S1342] introduced by Representative Woolsey and Senator Feinstein. The Petaluma City Council also urges all members of the Senate and House of Representatives to support these important statutory changes and immediately move for their passage; and be it further

Resolved, That the Petaluma City Council supports the California State Association of Counties policy document regarding compact negotiations for Indian Gaming; and requests that the Graton Tribe follow the principles contained therein; and be it further

Resolved, That the Petaluma City Council, based on the information currently available, strongly opposes the creation of a gambling casino resort on any site that is inconsistent with the local land use planning and zoning policies; and be it further

Resolved, That the Petaluma City Council calls on the Board of Supervisors of the County of Sonoma, in all negotiations with the Tribe concerning creation of a gambling casino resort, to safeguard the vital and legitimate interests of all Sonoma County citizens by requiring that the following minimum standards be included in a binding, legally-enforceable Memorandum of Understanding with the Tribe:

1. The proposed casino/resort project must be subject, at a minimum, to the same level of environmental review as would be required by the pending Federal legislation; and

2. The proposed casino/resort project must be subject to the principles of the California State Association of Counties policy document regarding compact negotiations for Indian Gaming; and

3. Even though the pending federal legislation does not require environmental mitigation, in order to ensure that the citizens of Sonoma County do not bear the costs associated with the impacts of the casino/resort, the Tribe must agree to mitigate, and must in fact mitigate, all environmental impacts caused by its project; and

4. In order to prevent Sonoma County cities from having land within their jurisdiction exempted from local land use control by reason of future acquisition by the Graton Tribe, the Tribe must agree that it will take NO OTHER LAND anywhere in Sonoma County or in any adjacent county into tribal trust NOW OR IN THE FUTURE.

5. The proposed casino/resort project must be subject, at a minimum, to the same level of public safety review and enforcement as would a private developer.

HELP PARENTS GET REAL JOBS, REAL WAGES, AND REAL SUCCESS

HON. JANICE D. SCHAKOWSKY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 20, 2003

Ms. SCHAKOWSKY. Mr. Speaker, today I am introducing a bill, the Business Links Act of 2003, that would provide needed resources to parents facing serious barriers to employment. The bill would provide grants for transitional jobs programs in order to support State efforts to help TANF recipients find work. Transitional jobs can provide the right combination of support, work, and vocational training and have the potential to turn many job seekers into permanent wage earners.

I would like to thank my colleagues who have joined me as original cosponsors on this bill. I would also like to commend Senator JEFF BINGAMAN who has already introduced companion legislation, S. 786, in the Senate.

This legislation would replace the TANF bonus grants currently provided to States and instead provide $200 million for each of fiscal years 2005 through 2009 for grants to be awarded to nonprofit organizations, local workforce investment boards, States, localities, and Indian tribes. The grant funds could be used either to promote business links by improving employee wages and job skills in partnership with employers or to provide fully subsidized wage-paying jobs to individuals who have been unemployed because of limited skills or other barriers. The legislation also includes worker protection provisions that, among other things, prohibit transitional job participants from displacing or replacing existing workers or positions and provide participants the same worker protections that all other workers receive. Parents who are currently receiving or have recently received Temporary Assistance for Needy Families (TANF), parents who are at risk of needing TANF, individuals with disabilities, and unemployed, noncustodial parents who are having difficulty meeting their child support obligations would be eligible to participate in transitional jobs programs.

Transitional jobs programs would provide intensive case management and access to needed support services such as vocational skills training, basic education, job placement services, and child care to all participants. Transitional jobs programs, which are aimed at helping those who have limited English proficiency and other barriers to employment, can be particularly effective for the hardest to serve welfare recipients. Program participants must work 30 to 40 hours a week, unless they have a child under the age of six, and participation is time limited to between six and 24 months. The goal of transitional jobs programs is to prepare and help participants find unsubsidized, permanent jobs. Because of the individual attention given to each transitional job holder, various programs across the country

have proven very successful in achieving that goal. From January 2000 to July 2001, a Chicago program known as Transitional Community Service Jobs placed over 75 percent of its participants in unsubsidized jobs, more than one-third of which paid over $8.00 an hour.

Many cities and communities across the country have implemented transitional jobs programs because they understand the importance of helping those facing serious barriers to employment, and they recognize the long-term benefits of investing in a future workforce that is well-trained and able to contribute to the economy. However, because the Welfare-to-Work funds that help support transitional jobs programs are nearly exhausted and because of tight State budgets, many of those successful programs are at risk. This bill would provide a more stable funding source to allow many of these programs to survive, enable the development of new programs, and require a rigorous evaluation of funded programs.

I am proud that this bill would help those who are having a difficult time supporting their children by providing them with resources and skills that will help them immediately, as well as sustain them in the future. I urge my colleagues to join me in cosponsoring the Business Links Act of 2003.

EXPRESSING SENSE OF HOUSE REGARDING COURAGEOUS LEADERSHIP OF UNIFIED BUDDHIST CHURCH OF VIETNAM

SPEECH OF

HON. SHEILA JACKSON-LEE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 19, 2003

Ms. JACKSON-LEE of Texas. Mr. Speaker, I am here today as a staunch supporter of freedom of religion. While we have made progress in our own country, there are other areas in the world which still persecute unjustly. Buddhism has a 2,000-year tradition in Vietnam and the Unified Buddhist Church of Vietnam (UBCV) is an heir to this tradition. In 1981, the Government of Vietnam declared the UBCV, one of the largest religious denominations in the country, illegal, confiscated its temples, and persecuted its clergy for refusing to join the state-sponsored Buddhist organizations.

The Government of Vietnam has often imprisoned UBCV clergy and subjected them to other forms of persecution; the Patriarch of the UBCV, the 85-year-old Most Venerable Thich Huyen Quang, has been detained and restrained for more than 2 decades in isolated areas of Vietnam. The Vietnamese Government has held the Most Venerable Thich Quang Do, the Executive President of the UBCV and his deputy, the Venerable Thich Tue Sy, in various forms of detention since 1977. In 1978, he was tortured to death in a reeducation camp.

Many other leading UBCV figures have been detained and harassed. Evading tight surveillance, others have fled to Cambodia to escape religious repression and harassment.

Vietnam has acceded to international treaties that prohibit the forced repatriation of UNHCR-recognized refugees and that protect the right to faith, belief, and practice.

Vietnam's constitution protects the right of religious belief, yet on October 8, 2003, Vietnamese authorities initiated a tense standoff following the meeting, where police stopped a vehicle carrying the UBCV's new leadership and subsequently detained the eleven passengers. According to reports by the United States State Department, the United States Commission on International Religious Freedom, and the European Union, the Socialist Republic of Vietnam systematically limits the right of religious organizations to choose their own clergy.

During the 107th Congress, I along with my colleagues in the House of Representatives, passed H.R. 2833, the Vietnam Human Rights Act, on September 6, 2001, which noted the persecutions faced by various members of the UBCV over the past 25 years. Because of systematic, egregious, and ongoing abuses of religious freedom, the United States Commission on International Religious Freedom recommended that the President of the United States designate Vietnam as a ''country of particular concern'' under the provisions of the International Religious Freedom Act of 1998.

Today, I am pleased to join the House of Representatives in congratulating the new leadership of the Unified Buddhist Church of Vietnam and urging the Government of Vietnam to respect the right of all independent religious organizations to meet, worship, operate, and practice their faith in accordance with Vietnam's own constitution and international covenants to which Vietnam is a signatory.

We are joined by our allies in being committed to promoting religious freedom in Vietnam, and, in furtherance of this goal, and urge the implementation of the recommendations of the United States Commission on International Religious Freedom.

We ask that the United States Embassy in Vietnam to closely monitor cases of abuse of religious belief and practice, routinely visit detained clergy members, especially those in need of medical care, and report to the Congress on specific measures taken to protect and promote religious freedom in Vietnam.

HONORING SEEDS OF PEACE FOR ITS PROMOTION OF UNDERSTANDING AMONG YOUTH FROM REGIONS OF CONFLICT

SPEECH OF

HON. SHEILA JACKSON-LEE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 19, 2003

Ms. JACKSON-LEE of Texas. Mr. Speaker, I am pleased to be here today to honor such a valuable program. Seeds of Peace was founded by John Wallach in 1993. It is a program designed to bring together young people from regions of conflict to study and learn about coexistence and conflict resolution.

The original focus of Seeds of Peace was to bring Israeli, Palestinian, Jordanian, and Egyptian youth together, the program has since expanded to involve youths from other regions of conflict, including Greece, Turkey, Cyprus, the Balkans, India, Pakistan, and Afghanistan.

Seeds of Peace provides young people with the opportunity to study, learn and interact at a summer camp in Otisfield, Maine, and also through regional programs at the Jerusalem Center for Coexistence. Seeds of Peace works to dispel fear, mistrust, and prejudice, which are root causes of violence and conflict, and to build a new generation of leaders who are committed to achieving peace.

Seeds of Peace has been successful at revealing the human face of those whom youth have been taught to hate, by engaging campers in both guided coexistence sessions and ordinary summer camp activities such as living together in cabins, sharing meals, canoeing, swimming, playing sports, and creative exploration through arts and computers.

The Arab-Israeli conflict is currently at a critical juncture, and sustained progress towards peace depends on the emergence of a new generation of leaders who will choose dialogue, friendship, and openness over violence and hatred.

In addition to Seeds of Peace, I am a cosponsor of Global Family Day, a House Resolution that seeks to raise awareness of children by having a one day holiday every year dedicated to family, community and sharing global traditions.

Similar to Global Family Day, Seeds of Peace provides year-round opportunities for former participants to build on the relationships they have forged at camp, so that the learning processes begun at camp can continue back in the participants' home countries, where they are most needed.

Programs such as these bring us closer to our foreign policy goals of raising our future leaders to think about global issues, and see the neighbors as other children like them, rather than enemies.

Both Global Family Day and Seeds of Peace are strongly supported by participating governments and many world leaders. It is especially important to reaffirm that youth must be involved in long-term, visionary solutions to conflicts perpetuated by cycles of violence. I am glad we have the opportunity to honor Seeds of Peace, for the work it has accomplished thus far, and for the impact it will have for generations.

COMMENDING AFGHAN WOMEN FOR THEIR PARTICIPATION IN AFGHAN GOVERNMENT AND CIVIL SOCIETY

SPEECH OF

HON. SHEILA JACKSON-LEE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 19, 2003

Ms. JACKSON-LEE of Texas. Mr. Speaker, I am pleased to be here today to support H. Res. 393, commending Afghan women for their participation in Afghan government and civil society, encouraging the inclusion of Afghan women in the political and economic life of Afghanistan, and advocating the protection of the human rights of all Afghan women in their Constitution.

As we are all aware, the women of Afghanistan suffered horrible tragedies under the Taliban regime. The Afghan people have since rejected the Taliban and are in the process of building a free and democratic republic and repairing the damage. These efforts have improved the daily lives of all Afghan citizens,

particularly Afghan women, children, and refugees.

More Afghan girls are attending school than ever before in the history of Afghanistan. Millions more adult women are either returning to school to make up for being forbidden to attend school during the Taliban regime, or taking vocational training classes to prepare for the job market. Now, women in Afghanistan are able to work outside the home and hold positions in all levels of government and in private sector organizations, something unheard of during the Taliban regime.

In order for women to fully participate in Afghan society, they must have the right to vote, the right to run for office, equality of opportunity, and access to health care, education, and employment. This is why I am joined by my colleagues today to advocate that women's human rights should be guaranteed in the Afghanistan Constitution.

I have traveled to Afghanistan and seen the plight of these women. I have heard their stories of hardships and their wishes for a better life for them and their children. I support this resolution because I know how timely and vital it is for the future of Afghani women to have these rights. The United States is actively involved in encouraging the full inclusion and participation of Afghan women in the political and economic life of their country, and must continue to do so throughout the reconstruction process. We must continue to urge the participation of women in the continued efforts toward a lasting peace in Afghanistan.

RECOGNIZING THE 5TH ANNIVERSARY OF THE SIGNING OF THE INTERNATIONAL RELIGIOUS FREEDOM ACT OF 1998

SPEECH OF

HON. SHEILA JACKSON-LEE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 19, 2003

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise today in strong support of H. Res. 423 which properly recognizes the 5th anniversary of the signing of the International Religious Freedom Act of 1998. The International Religious Freedom Act is an essential demonstration of our commitment to observing religious freedom for all human beings throughout the world.

Mr. Speaker this Nation was built by those who escaped persecution in their own homelands. Today we continue to see people throughout the world who still can not freely practice their faith. The International Religious Freedom Act created the Office of International Religious Freedom in the Department of State and the United States Commission on International Religious Freedom. This has resulted in a greater awareness of religious persecution both in the United States and abroad. It is vital in order to protect the principles of freedom that this nation was founded on, that we protect the ability of each person in the United States to freely observe their religious practices. This also means that we as a Nation must push other countries throughout the world to meet this same ideal standard on religious freedom.

Mr. Speaker it is truly tragic that so many people throughout the world have been murdered, raped, tortured, and brutalized simply because of the faith they belong to. This type of religious hatred must be countered strongly by this body. We can not insist on having full religious freedom for our own citizens and then turn a blind eye to the plight of oppressed people throughout the world. The International Religious Freedom Act was a step in the positive direction of eliminating this global scourge. Religious freedom is a fundamental human right as affirmed by numerous international declarations and covenants, as well as by the United Nations General Assembly. I stand proud of this body's work to pass the International Religious Freedom Act five years ago and I remain hopeful that we will continue with further efforts to fight religious intolerance.

TORTURE VICTIMS RELIEF REAUTHORIZATION ACT OF 2003

SPEECH OF

HON. SHEILA JACKSON-LEE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 19, 2003

Ms. JACKSON-LEE of Texas. The Torture Victims Relief Reauthorization Act of 2003, H.R. 1813, would authorize appropriations for domestic and foreign torture victims treatment centers and for the United Nations Voluntary Fund for Victims of Torture.

In many places around the world, the survivors of torture have to grapple with the lingering effects of their torture alone. In the United States, we have 20 torture treatment centers that provide treatment and care for torture survivors. These centers help the survivors to overcome debilitating psychological and physical problems such as post traumatic stress disorder, depression, anxiety, limbs rendered useless, chronic pain, and excessive guilt. Moreover, torture assaults the victim's core values as a human being, including his humanity and his sense of trust in himself and in the world around him. The treatment centers also assist the victim in restoring these values and in getting on with his life.

Although funding has been increasing, it still remains insufficient to meet the treatment needs of torture survivors. The Torture Victims Relief Reauthorization Act of 2003 would help address these funding issues by authorizing the appropriation of $37 million for the treatment and care of torture survivors both in the United States and overseas. This would include $20 million to fund United States treatment centers, $11 million to fund treatment centers overseas, and $6 million to fund the United Nations Voluntary Fund for Victims of Torture.

With the additional funding, it is estimated that the American centers would have the capacity and ability to serve an additional 2,800 torture survivors per year.

The overseas funding would serve dual purposes. In addition to providing resources needed for treatment, it also would provide resources that the centers need to combat torture in their respective countries, some of which continue to have serious problems with torture.

I urge you to vote for H.R. 1813, the Torture Victims Relief Reauthorization Act of 2003.

HONORING VICTIMS OF CAMBODIAN GENOCIDE THAT TOOK PLACE FROM APRIL 1975 TO JANUARY 1979

SPEECH OF

HON. SHEILA JACKSON-LEE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 19, 2003

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise today in strong support of H. Con. Res. 83 which honors the victims of the Cambodian Genocide. Truly, this recognition is overdue for a people who suffered for so long under the brutal dictatorship of Pol Pot. It is unfortunate that the plight of the Cambodian people has not been more recognized in the United States. I want to thank Rep. MILLENDER-MCDONALD for introducing this legislation which affects not only the large Cambodian population in her district, but so many Cambodian people throughout the world who were forced to leave their homeland due to the brutalization they faced.

Mr. Speaker, the fact that between April 1975 and January 1979, up to 3 million Cambodians were deliberately and systematically killed shows the depth of suffering that the Cambodian people had to endure. Not only were scores of people brutally killed but they had to suffer through a vicious system of forced labor. In 1975, Pol Pot led the Communist guerilla group, the Khmer Rouge, in a large-scale insurgency in Cambodia that resulted in the removal of Cambodians from their homes and into labor camps in an attempt to restructure Khmer society. The Khmer Rouge maintained control by mass public tortures and executions. Families were separated. Men, women and young children were sent into labor camps and forced to do strenuous farm work with very little food. Famine and disease were epidemic while health care was non-existent. Literally these Cambodians were put through hell in order to maintain Pol Pot's hold on the nation.

We as a body must try to ensure that events like the Cambodian Genocide never go unnoticed again. Too many lives were lost and many of those who were killed were simply disposed of by the regime, in their effort to ensure that the victims would be forgotten. This resolution demonstrates that the victims of the Cambodian Genocide will not be forgotten by this Congress or by anyone of conscious. Many of those who suffered during the Cambodian Genocide are now residing in the United States. They are a living testament to the fact that brutality can not crush the spirit of even the most oppressed people.

OVERSEAS PRIVATE INVESTMENT CORPORATION AMENDMENTS ACT OF 2003

SPEECH OF

HON. SHEILA JACKSON-LEE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 19, 2003

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise today as a supporter of S. 1824 which amends the Foreign Assistance Act of 1961 to reauthorize the Overseas Private Investment Corporation. It is important that we as a Nation continue these efforts to invest abroad.

This resolution will continue a successful program of overseas investment that was begun more than four decades ago.

I am also encouraged by the provisions in this resolution that outreach to minority-owned and women-owned businesses. The Overseas Private Investment Corporation will collect data on the involvement of minority-owned and women-owned businesses. Indeed, this outreach is needed as minorities and women continue to lag behind their counterparts when it comes to establishing businesses. This economic disparity often results in social inequality that this body must continue to work against. We have made efforts to support these same businesses in the United States and we must make similar efforts abroad.

I want to thank Chairman HYDE and Ranking Member LANTOS for their work in reauthorizing this important endeavor. In the future, I hope we will continue to come together as a body to support increased overseas investment especially among the disenfranchised.

Daily Digest

HIGHLIGHTS

Senate agreed to the Conference Report to accompany H.R. 2417, Intelligence Authorization Act, and the Conference Report to accompany H.R. 2115, Federal Aviation Administration Authorization.

Senate and House agreed to the Conference Report to accompany H.R. 1904, Healthy Forests Restoration Act.

Senate and House passed H.J. Res. 79, Continuing Appropriations.

The House passed S. 1768, National Flood Insurance Program Reauthorization Act of 2004.

The House agreed to the conference report on H.R. 2622, Fair Credit Reporting Act.

The House agreed to the conference report on H.R. 1, Medicare Prescription Drug, Improvement, and Modernization Act of 2003.

Senate

Chamber Action

Routine Proceedings, pages S15325–S15511

Measures Introduced: Nineteen bills and four resolutions were introduced, as follows: S. 1912–1930, S. Res. 271–272, and S. Con. Res. 84–85.

Pages S15406–07

Measures Reported:

Special Report entitled ''The 2003 Joint Economic Report''. (S. Rept. No. 108–206)

S. 1522, to provide new human capital flexibility with respect to the GAO, with amendments.

Page S15405

Measures Passed:

National Women's History Museum Act: Senate passed S. 1741, to provide a site for the National Women's History Museum in the District of Columbia. **Pages S15390–93**

Recognition of the Confederated Tribes of the Grand Ronde Community of Oregon: Committee on Indian Affairs was discharged from further consideration of S. Res. 246, expressing the sense of the Senate that November 22, 1983, the date of the restoration by the Federal Government of Federal recognition to the Confederated Tribes of the Grand Ronde Community of Oregon, should be memorialized, and the resolution was then agreed to.

Pages S15479–80

Employee Retirement Income Security Act Amendment: Senate passed S. 1929, to amend the Employee Retirement Income Security Act of 1974 and the Public Health Service Act to extend the mental health benefits parity provisions for an additional year. **Page S15481**

Veterans' Compensation Cost-of-Living Adjustment Act: Committee on Veterans' Affairs was discharged from further consideration of H.R. 1683, to increase, effective as of December 1, 2003, the rates of disability compensation for veterans with service-connected disabilities and the rates of dependency and indemnity compensation for survivors of certain service-connected disabled veterans, and the bill was then passed, clearing the measure for the President.

Page S15481

Servicemembers Civil Relief Act: Committee on Veterans' Affairs was discharged from further consideration of H.R. 100, to restate, clarify, and revise the Soldiers' and Sailors' Civil Relief Act of 1940, after striking all after the enacting clause and inserting in lieu thereof, the text of S. 1136, Senate companion measure, after agreeing to the committee amendment in the nature of a substitute. **Pages S15481–99**

Subsequently, S. 1136 was returned to the Senate calendar. Page S15499

Department of Homeland Security Financial Accountability Act: Senate passed S. 1567, to amend title 31, United States Code, to improve the financial accountability requirements applicable to the Department of Homeland Security, after agreeing to the committee amendment in the nature of a substitute. Pages S15499–S15500

Chief Justice John Marshall Commemorative Coin Act: Committee on Banking, Housing, and Urban Affairs was discharged from further consideration of S. 1531, to require the Secretary of the Treasury to mint coins in commemoration of Chief Justice John Marshall, and the bill was then passed. Pages S15500–02

Gold Medal Award: Committee on Banking, Housing, and Urban Affairs was discharged from further consideration of H.R. 1821, to award a congressional gold medal to Dr. Dorothy Height in recognition of her many contributions to the Nation, and the bill was then passed, clearing the measure for the President. Page S15502

Environmental Policy and Conflict Resolution Advancement Act: Senate passed H.R. 421, to reauthorize the United States Institute for Environmental Conflict Resolution, clearing the measure for the President. Page S15502

Southern Ute and Colorado Intergovernmental Agreement Implementation Act: Senate passed S. 551, to provide for the implementation of air quality programs developed in accordance with an Intergovernmental Agreement between the Southern Ute Indian Tribe and the State of Colorado concerning Air Quality Control on the Southern Ute Indian Reservation, after agreeing to the committee amendment. Pages S15502–03

Disaster Area Health and Environmental Monitoring Act: Senate passed S. 1279, to amend the Robert T. Stafford Disaster Relief and Emergency Assistance Act to authorize the President to carry out a program for the protection of the health and safety of residents, workers, volunteers, and others in a disaster area, after agreeing to the committee amendment in the nature of a substitute, and the following amendment proposed thereto: Pages S15503–07

Frist (for Inhofe) Amendment No. 2210, to require that health and safety programs be carried out in accordance with certain privacy regulations. Page S15505

National Transportation Safety Board Reauthorization Act: Senate passed S. 579, to reauthorize the National Transportation Safety Board, after agreeing to the following amendment proposed thereto: Pages S15507–08

Frist (for McCain/Hollings) Amendment No. 2211, to add provisions relating to accident and safety data classification and publication from H.R. 1527, as passed by the House of Representatives. Page S15507

American Jewish History Month: Committee on the Judiciary was discharged from further consideration of H. Con. Res. 106, recognizing and honoring America's Jewish community on the occasion of its 350th anniversary, supporting the designation of an "American Jewish History Month". Pages S15508–09

American Education Week: Senate agreed to S. Res. 272, designating the week beginning November 16, 2003, as American Education Week. Page S15509

U.S. Justices Salary Adjustments: Senate passed H.R. 3349, to authorize salary adjustments for Justices and judges of the United States for fiscal year 2004, clearing the measure for the President. Page S15509

Continuing Appropriations: Senate passed H.J. Res. 79, making further continuing appropriations for the fiscal year 2004, clearing the measure for the President. Page S15510

Intelligence Authorization Act—Conference Report: Senate agreed to the conference report to accompany H.R. 2417, to authorize appropriations for fiscal year 2004 for intelligence and intelligence-related activities of the United States Government, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System, clearing the measure for the President. Pages S15335–58

Prior to this action, Senate agreed to the motion to proceed to consideration of the conference report. Page S15335

Healthy Forests Restoration Act—Conference Report: Senate agreed to the conference report to accompany H.R. 1904, to improve the capacity of the Secretary of Agriculture and the Secretary of the Interior to plan and conduct hazardous fuels reduction projects on National Forest System lands and Bureau of Land Management lands aimed at protecting communities, watersheds, and certain other at-risk lands from catastrophic wildfire, to enhance efforts to protect watersheds and address threats to forest and rangeland health, including catastrophic wildfire, across the landscape, clearing the measure for the President. Pages S15368–73

Federal Aviation Administration Authorization—Conference Report: Senate agreed to the conference report to accompany H.R. 2115, to

amend title 49, United States Code, to reauthorize programs for the Federal Aviation Administration, clearing the measure for the President.

Pages S15385–90

Prior to this action, the pending Frist motion to reconsider the vote by which the motion to invoke cloture on the conference report failed was withdrawn. Pages S15325–26

Energy Policy Act—Conference Report: Senate continued consideration of the conference report to accompany 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. Pages S15326–35

By 57 yeas to 40 nays (Vote No. 456), three-fifths of those Senators duly chosen and sworn, not having voted in the affirmative, Senate rejected the motion to close further debate on the conference report.

Pages S15334–35

Senator Frist entered a motion to reconsider the vote by which the motion to invoke cloture on the conference report failed. Page S15335

Continuing Appropriations—Amendment Modified: A unanimous-consent agreement was reached providing that, notwithstanding the November 20, 2003 passage of H.J. Res. 78, making further continuing appropriations for the fiscal year 2004, Frist Amendment No. 2208, to make a technical correction, which was previously agreed to, was modified.

Page S15326

Defense Production Reauthorization Act: Senate concurred in the amendment of the House to S. 1680, to reauthorize the Defense Production Act of 1950, with the following amendment:

Pages S15480–81

Frist (for Dodd) Amendment No. 2209, to modify the reporting requirements of the Secretary of Commerce relative to the impact of offsets on domestic contractors and lower tier subcontractors. Page S15480

Individuals With Disabilities Education Improvement Act—Agreement: A unanimous-consent agreement was reached providing that at a time determined by the Majority Leader, after consultation with the Democratic Leader, Senate begin consideration of S. 1248, to reauthorize the Individuals with Disabilities Education Act, with certain amendments to be proposed thereto; that upon disposition of the committee amendment in the nature of a substitute, the Committee on Health, Education, Labor, and Pensions be was discharged from further consideration of H.R. 1350, House companion measure, that all after the enacting clause be stricken, and the text of S. 1248, be inserted in lieu thereof; the Senate then vote on final passage of H.R. 1350, and S. 1248 be returned to the Senate Calendar.

Page S15500

Medicare Prescription Drug, Improvement, and Modernization Act—Agreement: A unanimous-consent agreement was reached providing for consideration of the conference report to accompany H.R. 1, to amend title XVIII of the Social Security Act to provide for a voluntary prescription drug coverage program under the medicare program, to modernize, strengthen, and improve the medicare program, to amend the Internal Revenue Code of 1986 to allow a deduction to individuals for amounts contributed to health savings accounts, to amend the Federal Food, Drug, and Cosmetic Act with respect to abbreviated applications for the approval of new drugs and the importation of prescription drugs, at 10 a.m., on Saturday, November 22, 2003. Page S15510

Nominations Received: Senate received the following nominations:

Lawrence T. Di Rita, of Michigan, to be an Assistant Secretary of Defense.

Jaymie Alan Durnan, of New Hampshire, to be an Assistant Secretary of the Army.

Joseph Max Cleland, of Georgia, to be a Member of the Board of Directors of the Export-Import Bank of the United States for a term expiring January 20, 2007.

April H. Foley, of New York, to be First Vice President of the Export-Import Bank of the United States for the remainder of the term expiring January 20, 2005.

Ann M. Corkery, of Virginia, to be an Alternate Representative of the United States of America to the Fifty-eighth Session of the General Assembly of the United Nations.

Benjamin A. Gilman, of New York, to be a Representative of the United States of America to the Fifty-eighth Session of the General Assembly of the United Nations.

Walid Maalouf, of Virginia, to be an Alternate Representative of the United States of America to the Fifty-eighth Session of the General Assembly of the United Nations.

Sanford Gottesman, of Texas, to be a Member of the Board of Directors of the Overseas Private Investment Corporation for a term expiring December 17, 2005.

Diane M. Ruebling, of California, to be a Member of the Board of Directors of the Overseas Private Investment Corporation for a term expiring December 17, 2005. (Reappointment)

C. William Swank, of Ohio, to be a Member of the Board of Directors of the Overseas Private Investment Corporation for a term expiring December 17, 2005. (Reappointment)

James M. Strock, of California, to be a Member of the United States Advisory Commission on Public Diplomacy for a term expiring July 1, 2006.

Robert Hurley McKinney, of Indiana, to be a Member of the Advisory Board for Cuba Broadcasting for a term expiring October 27, 2004.

Franklin S. Van Antwerpen, of Pennsylvania, to be United States Circuit Judge for the Third Circuit.

Routine lists in the Army, Navy. **Pages S15510–11**

Nominations Withdrawn: Senate received notification of withdrawal of the following nominations:

April H. Foley, of New York, to be a Member of the Board of Directors of the Export-Import Bank of the United States for a term expiring January 20, 2007, which was sent to the Senate on April 10, 2003.

April H. Foley, of New York, to be a Member of the Board of Directors of the Export-Import Bank of the United States for a term expiring January 20, 2007, which was sent to the Senate on May 14, 2003. **Page S15511**

Nominations Discharged and Placed on Calendar: Senate Committee on Health, Education, Labor, and Pensions was discharged from further consideration of the following nominations:

James McBride, of New York, to be a Member of the National Council on the Arts for a term expiring September 3, 2008.

David Eisner, of Maryland, to be Chief Executive Officer of the Corporation for National and Community Service.

Read Van de Water, of North Carolina, to be a Member of the National Mediation Board for a term expiring July 1, 2006.

Raymond Simon, of Arkansas, to be Assistant Secretary for Elementary and Secondary Education, Department of Education.

Jose Antonio Aponte, of Colorado, to be a Member of the National Commission on Libraries and Information Science for a term expiring July 19, 2007.

Sandra Frances Ashworth, of Idaho, to be a Member of the National Commission on Libraries and Information Science for a term expiring July 19, 2004.

Edward Louis Bertorelli, of Massachusetts, to be a Member of the National Commission on Libraries and Information Science for a term expiring July 19, 2005.

Carol L. Diehl, of Wisconsin, to be a Member of the National Commission on Libraries and Information Science for a term expiring July 19, 2005.

Allison Druin, of Maryland, to be a Member of the National Commission on Libraries and Information Science for a term expiring July 19, 2006.

Beth Fitzsimmons, of Michigan, to be a Member of the National Commission on Libraries and Information Science for a term expiring July 19, 2006.

Patricia M. Hines, of South Carolina, to be a Member of the National Commission on Libraries and Information Science for a term expiring July 19, 2005.

Colleen Ellen Huebner, of Washington, to be a Member of the National Commission on Libraries and Information Science for a term expiring July 19, 2007.

Stephen M. Kennedy, of New Hampshire, to be a Member of the National Commission on Libraries and Information Science for a term expiring July 19, 2007.

Bridget L. Lamont, of Illinois, to be a Member of the National Commission on Libraries and Information Science for a term expiring July 19, 2008.

Mary H. Perdue, of Maryland, to be a Member of the National Commission on Libraries and Information Science for a term expiring July 19, 2008.

Herman Lavon Totten, of Texas, to be a Member of the National Commission on Libraries and Information Science for a term expiring July 19, 2008.

Public Health Service nomination beginning with Vincent A. Berkley and ending with James Syms.

Drew R. McCoy, of Massachusetts, to be a Member of the Board of Trustees of the James Madison Memorial Fellowship Foundation for a term of six years.

Carol Kinsley, of Massachusetts, to be a Member of the Board of Directors of the Corporation for National and Community Service for a term expiring October 6, 2006.

Susan K. Sclafani, of the District of Columbia, to be Assistant Secretary for Vocational and Adult Education, Department of Education.

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.

Steven J. Law, of the District of Columbia, to be Deputy Secretary of Labor.

J. Robinson West, of the District of Columbia, to be a Member of the Board of Directors of the United States Institute of Peace for a term expiring January 19, 2007. **Pages S15509–10**

Messages From the House: **Page S15405**

Measures Placed on Calendar: **Page S15405**

Enrolled Bills Presented: **Page S15405**

Executive Reports of Committees: **Pages S15405–06**

Additional Cosponsors: **Pages S15407–08**

Statements on Introduced Bills/Resolutions: Pages S15408–78

Additional Statements: Pages S15402–05

Amendments Submitted: Pages S15478–79

Authority for Committees to Meet: Page S15479

Privilege of the Floor: Page S15479

Record Votes: One record vote was taken today. (Total—456) Pages S15334–35

Adjournment: Senate met at 9:30 a.m. and adjourned at 10:28 p.m. until 10 a.m. on Saturday, November 22, 2003. (For Senate's Program, see the remarks of the Majority Leader in today's Record on S15510).

Committee Meetings

(Committees not listed did not meet)

NOMINATIONS

Committee on Armed Services: Committee ordered favorably reported 230 nominations in the Air Force, Army, Navy, and Marine Corps.

BUSINESS MEETING

Committee on Banking, Housing, and Urban Affairs: Committee ordered favorably reported the following business items:

S. 1531, to require the Secretary of the Treasury to mint coins in commemoration of Chief Justice John Marshall; and

The nominations of Alicia R. Castaneda, of the District of Columbia, to be a Director of the Federal Housing Finance Board, and Thomas J. Curry, of Massachusetts, to be a Member of the Board of Directors of the Federal Deposit Insurance Corporation.

ENERGY EMPLOYEES OCCUPATIONAL ILLNESS COMPENSATION PROGRAM

Committee on Energy and Natural Resources: Committee concluded an oversight hearing to examine the Department of Energy's implementation of the Energy Employees Occupation Illness Compensation Program Act of 2000, focusing on providing assistance to DOE contract workers in their efforts to obtain State workers' compensation benefits, after receiving testimony from Senator Grassley; Robert G. Card, Under Secretary of Energy; Robert E. Robertson, Director, Education, Workforce, and Income Security Issues, General Accounting Office; John F. Burton, Jr., Rutgers University School of Management and Labor Relations, New Brunswick, New Jersey; Leon Owens, Paper, Allied-Industrial, Chemical and Energy Workers International Union, Paducah, Kentucky; and David Michaels, George Washington University School of Public Health and Health Services, former Assistant Secretary of Energy for Environment, Safety, and Health, Richard Miller, Government Accountability Project, and Donald Elisburg, on behalf of the AFL–CIO and the Building and Construction Trades Department, all of Washington, D.C.

BUSINESS MEETING

Committee on Finance: Committee ordered favorably reported the nomination of Arnold I. Havens, of Virginia, to be General Counsel for the Department of the Treasury.

NOMINATIONS

Committee on Foreign Relations: Committee concluded a hearing to examine the Nominations: of James C. Oberwetter, of Texas, who was introduced by Senators Hutchison and Cornyn, to be Ambassador to the Kingdom of Saudi Arabia, and David C. Mulford, of Illinois, to be Ambassador to India, after each nominee testified and answered questions in their own behalf.

BUSINESS MEETING

Committee on Governmental Affairs: Committee ordered favorably reported the Nominations: of James M. Loy, of Virginia, to be Deputy Secretary of Homeland Security, and Scott J. Bloch, of Kansas, to be Special Counsel, Office of Special Counsel.

NOMINATION

Committee on Health, Education, Labor, and Pensions: Committee concluded a hearing to examine the nomination of Steven J. Law, of the District of Columbia, to be Deputy Secretary of Labor, after the nominee testified and answered questions in his own behalf.

BUSINESS MEETING

Committee on Health, Education, Labor, and Pensions: Committee approved for reporting the following business items:

S. 1879, to amend the Public Health Service Act to revise and extend provisions relating to mammography quality standards;

S. 741, to amend the Federal Food, Drug, and Cosmetic Act with regard to new animal drugs, with an amendment in the nature of a substitute;

S. 573, to amend the Public Health Service Act to promote organ donation, with an amendment in the nature of a substitute;

S. 1881, to amend the Federal Food, Drug, and Cosmetic Act to make technical corrections relating to the amendments by the Medical Device User Fee and Modernization Act of 2002, with an amendment in the nature of a substitute; and

The nominations of Jose Antonio Aponte, of Colorado, Sandra Frances Ashworth, of Idaho, Edward Louis Bertorelli, of Massachusetts, Carol L. Diehl, of Wisconsin, Allison Druin, of Maryland, Beth Fitzsimmons, of Michigan, Patricia M. Hines, of South Carolina, Colleen Ellen Huebner, of Washington, Stephen M. Kennedy, of New Hampshire, Bridget L. Lamont, of Illinois, Mary H. Perdue, of Maryland, Herman Lavon Totten, of Texas, each to be a Member of the National Commission on Libraries and Information Science, David Eisner, of Maryland, and Carol Kinsley, of Massachusetts, each to be a Member of the Board of Directors of the Corporation for National and Community Service, Raymond Simon, of Arkansas, to be Assistant Secretary of Education for Elementary and Secondary Education, Read Van de Water, of North Carolina, to be a Member of the National Mediation Board, Drew R. McCoy, of Massachusetts, to be a Member of the Board of Trustees of the James Madison Memorial Fellowship Foundation, James McBride, of New York, to be a Member of the National Council on the Arts, Laurie Susan Fulton, of Virginia, and J . Robinson West, of the District of Columbia, each to be a Member of the Board of Directors of the United States Institute of Peace, Susan K. Sclafani, of the District of Columbia, to be Assistant Secretary of Education for Vocational and Adult Education, and Steven J. Law, of the District of Columbia, to be Deputy Secretary of Labor, and a list of Public Health Service nominations.

BUSINESS MEETING

Committee on Veterans Affairs: Committee ordered favorably reported the nominations of Cynthia R. Church, of Virginia, to be an Assistant Secretary of Veterans Affairs (Public and Intergovernmental Affairs), Lawrence B. Hagel, of Virginia, to be a Judge of the United States Court of Appeals for Veterans Claims, Alan G. Lance, Sr., of Idaho, to be a Judge of the United States Court of Appeals for Veterans Claims, Gordon H. Mansfield, of Virginia, to be Deputy Secretary of Veterans Affairs, and Robert N. McFarland, of Texas, to be an Assistant Secretary of Veterans Affairs (Information and Technology).

House of Representatives

Chamber Action

Measures Introduced: 78 public bills, H.R. 3568-3645; 4 private bills, H.R. 3646-3649; and 20 resolutions, H.J. Res. 79-81; H. Con. Res. 336-344, and H. Res. 462, 466-472, were introduced.

Pages H12306–10

Additional Cosponsors: **Pages H12310–12**

Reports Filed: Reports were filed as follows today:

H.R. 1629, to clarify that the Upper Missouri River Breaks National Monument does not include within its boundaries any privately owned property (H. Rept. 108–392);

H.R. 2896, to amend the Internal Revenue Code of 1986 to remove impediments in such Code and make our manufacturing, service, and high-technology businesses and workers more competitive and productive both at home and abroad, amended, (H. Rept. 108–393);

H. Res. 463, waiving points of order against the conference report to accompany the bill (H.R. 1) to amend title XVIII of the Social Security Act to provide for a voluntary program for prescription drug coverage under the Medicare Program, to amend the Internal Revenue Code of 1986 to allow a deduction to individuals for amounts contributed to health savings security accounts and health savings accounts, to provide for the disposition of unused health benefits in cafeteria plans and flexible spending arrangements, (H. Rept. 108–394);

Efforts to Rightsize the U.S. Presence Abroad Lack Urgency and Momentum (H. Rept. 108–395);

Conference report on 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, (H. Rept. 108–396);

H.R. 2696, to establish Institutes to demonstrate and promote the use of adaptive ecosystem management to reduce the risk of wildfires, and restore the health of fire-adapted forest and woodland ecosystems of the interior West, amended, (H. Rept. 108–397, Pt. 1);

H. Res. 464, providing for consideration of a joint resolution appointing the day for the convening of the second session of the One Hundred Eighth Congress (H. Rept. 108–398);

H. Res. 465, waiving a requirement of clause 6(a) of rule XIII with respect to consideration of certain resolutions reported from the Committee on Rules (H. Rept. 108–399); and

H.R. 958, to authorize certain hydrographic services programs, to name a cove in Alaska in honor of the late Able Bodied Seaman Eric Steiner Koss, amended, (H. Rept. 108–400).

Pages H12198–H12213, H12306

Consideration of measures under suspension of the rules: The House agreed to H. Res. 456, providing for consideration of motions to suspend the rules by a voice vote. Pages H12107–13

Healthy Forests Restoration Act of 2003: The House agreed to the conference report on H.R. 1904, to improve the capacity of the Secretary of Agriculture and the Secretary of the Interior to conduct hazardous fuels reduction projects on National Forest System lands and Bureau of Land Management lands aimed at protecting communities, watersheds, and certain other at-risk lands from catastrophic wildfire, to enhance efforts to protect watersheds and address threats to forest and rangeland health, including catastrophic wildfire, across the landscape, by a yea-and-nay vote of 286 yeas to 140 nays, Roll No. 656. Pages H12159–72

Agreed to H. Res. 457, the rule providing for consideration of the conference report, by voice vote. Pages H12113–17

Suspensions: The House agreed to suspend the rules and pass the following measures:

Highlands Stewardship Act: H.R. 1964, amended, to establish the Highlands Stewardship Area in the States of Connecticut, New Jersey, New York, and Pennsylvania; Pages H12118–21

Agreed to amend the title so as to read, a bill to assist the States of Connecticut, New Jersey, New York, and Pennsylvania in conserving priority lands and natural resources in the Highlands region, and for other purposes. Page H12121

Twenty-First Century Water Commission Act of 2003: H.R. 135, amended, to establish the ''Twenty-First Century Water Commission'' to study and develop recommendations for a comprehensive water strategy to address future water needs;

Pages H12121–25

Conveyance of a decommissioned NOAA ship: H.R. 2584, amended, to provide for the conveyance to the Utrok Atoll local government of a decommissioned National Oceanic and Atmospheric Administration ship; Pages H12125–26

Agreed to amend the title so as to read, a bill to provide for the conveyance to the Utrok Atoll local government of a decommissioned National Oceanic and Atmospheric Administration ship, and for other purposes. Page H12126

Predisaster Mitigation Program Reauthorization Act of 2003: H.R. 3181, to amend the Robert T. Stafford Disaster Relief and Emergency Assistance Act to reauthorize the predisaster mitigation program; Pages H12126–29

United States Fire Administration Reauthorization Act of 2003: S. 1152, to reauthorize the United States Fire Administration—clearing the measure for the President; Pages H12129–33

Condemning the terrorist attacks in Istanbul, Turkey on November 15, 2003: H. Res. 453, amended, condemning the terrorist attacks in Istanbul, Turkey, on November 15, 2003, expressing condolences to the families of the individuals murdered and expressing sympathies to the individuals injured in the terrorist attacks, and standing in solidarity with Turkey in the fight against terrorism, by a ⅔ yea-and-nay vote of 426 yeas with none voting ''nay'', Roll No. 657; Pages H12133–37, H12173

Agreed to amend the title so as to read, a resolution condemning the terrorist attacks on Istanbul, Turkey, on November 15 and 20, 2003, expressing condolences to the families of the individuals murdered and expressing sympathies to the individuals injured in the terrorist attacks, and expressing solidarity with Turkey and the United Kingdom in the fight against terrorism. Page H12137

Department of Veterans Affairs Long-Term Care and Personal Authorities Enhancement Act of 2003: S. 1156, to amend title 38, United States Code, to improve and enhance the provision of health care for veterans, to authorize major construction projects and other facilities matters for the Department of Veterans Affairs, to enhance and improve authorities relating to the administration of personnel of the Department of Veterans Affairs, by a ⅔ yea-and-nay vote of 423 yeas to 2 nays, Roll No. 658; Pages H12137–57, H12173

Supporting the National Bone Marrow Program: H. Con. Res. 206, supporting the National Marrow Donor Program and other bone marrow donor programs and encouraging Americans to learn about the importance of bone marrow donation, by ⅔ yea-and-nay vote of 423 yeas to 2 nays, Roll No. 663; Pages H12157–59, H12226–27

Can-SPAM Act of 2003: S. 877, amended, to regulate interstate commerce by imposing limitations and penalties on the transmission of unsolicited commercial electronic mail via the Internet, by a ⅔ yea-and-nay vote of 392 yeas to 5 nays, Roll No. 671; Pages H12186–98, H12297–98

Fair Credit Reporting Act: Conference report on 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, by a ⅔ yea-and-nay vote of 379 yeas to 49 nays, with one voting "present", Roll No. 667. **Pages H12198–H12224, H12247**

Medicare Prescription Drug and Modernization Act of 2003—Consideration of Conference Report: The House agreed to the conference report on H.R. 1, to amend title XVIII of the Social Security Act to provide for a voluntary prescription drug benefit under the medicare program and to strengthen and improve the medicare program, by a vote of 220 yeas to 215 nays, Roll No. 669. Following the vote on agreeing to the conference report, the House agreed to table the motion to reconsider by a yea-and-nay vote of 210 yeas to 193 nays, Roll No. 670. **Pages H12174–81, H12247–97**

Rejected the Turner of Texas motion to recommit the conference report to the conference committee with instructions, by a recorded vote of 211 ayes to 222 noes, Roll No. 668. **Pages H12294–95**

Agreed to H. Res. 463, the rule providing for consideration of the report, by a recorded vote of 225 ayes to 205 noes, Roll No. 666, after agreeing to order the previous question by a yea-and-nay vote of 228 yeas to 204 nays, Roll No. 665. **Pages H12230–46**

Agreed to H. Res. 459, the rule providing for same day consideration of the conference report, by a yea-and-nay vote of 228 yeas to 200 nays, Roll No. 660, after agreeing to order the previous question by a yea-and-nay vote of 225 yeas to 202 nays, Roll No. 659. **Pages H12174–81, H12224–25**

Rule for consideration of continuing appropriations measure and/or general appropriations bills: The House agreed to H. Res. 458, the rule providing for same day consideration of a measure making further continuing appropriations for FY 2004 or a measure making general appropriations for FY 2004, by a yea-and-nay vote of 224 yeas to 203 nays, Roll No. 662, after agreeing to order the previous question on the resolution by a yea-and-nay vote of 225 yeas to 202 nays, Roll No. 661. **Pages H12181–86, H12225–26**

National Flood Insurance Program Reauthorization Act of 2004: The House agreed by unanimous consent to discharge from committee and pass S. 1768, to extend the national flood insurance program. **Page H12227**

Agreed to the Oxley amendment in the nature of a substitute by voice vote. **Page H12227**

Continuing Appropriations for Fiscal Year 2004: The House agreed to H.J. Res. 79, making further continuing appropriations for fiscal year 2004, by a yea-and-nay vote of 407 yeas to 16 nays, Roll No. 664. **Pages H12228–30**

The resolution was considered under a unanimous consent agreement. **Page H12228**

Recess: The House recessed at 8:04 p.m. and reconvened at 8:50 p.m. **Page H12229**

National Prison Rape Reduction Commission: Read a letter from the Minority Leader wherein she appointed Ms. Brenda V. Smith of the District of Columbia to the Prison Rape Reduction Commission.

Meeting Hour: Agreed that when the House adjourn today, it adjourn to meet at 12:00 noon on Tuesday, November 25. **Page H12298**

Convening of the 2nd Session of the 108th Congress: The House passed by unanimous consent H. J. Res. 80, setting the convening day of the 2nd session of the 108th Congress as January 20, 2004. **Page H12298**

Adjournment Resolution: The House agreed by unanimous consent to H. Con. Res. 339, providing for the sine die adjournment of the One Hundred Eighth Congress, First Session. **Page H12298**

National Transportation Safety Board Reauthorization Act of 2003: The House by unanimous consent S. 579, to reauthorize the National Transportation Safety Board. **Pages H12298–99**

Hometown Heroes Survivor's Benefits Act of 2003: The House passed by unanimous consent S. 459, amended to ensure that a public safety officer who suffers a fatal heart attack or stroke while on duty shall be presumed to have died in the line of duty for purposes of public safety officer survivor benefits. **Pages H12299–H12300**

Senate Messages: Messages received from the Senate today appear on pagesH12126, H12157, H12186, H12224, H12246, and H12247.

Senate Referral: S. 1561 was referred to the Committee on Government Reform; S. 1741 and S. 579 were ordered held at the desk. **Page H12300**

Quorum Calls—Votes: 13 yea-and-nay votes and three recorded votes developed during the proceedings of the House today and appear on pages H12171-72, H12172-73, H12173, H12224, H12224-25, H12225-26, H12226, H12226-27, H12230, H12245-46, H12246, H12247, H12295, H12295-96, H12296-97, and H12297-98. There were no quorum calls.

Amendments: Amendments ordered printed pursuant to the rule appear on page H12312.

Adjournment: The House met at 9:00 a.m. and adjourned at 6:32 a.m. on Saturday, November 22.

Committee Meetings

SAME DAY CONSIDERATION OF RESOLUTIONS REPORTED BY THE RULES COMMITTEE

Committee on Rules: Granted, by voice vote, a rule waiving a requirement of clause 6(a) of rule XIII (requiring a two-thirds vote to consider a rule on the same day it is reported from the Rules Committee) against certain resolutions reported from the Rules Committee. The rule applies the waiver to any special rule reported on or before the legislative day of January 31, 2004, providing for consideration or disposition of any of the following:

(A) A bill or joint resolution making continuing appropriations for the fiscal year 2004, or any amendment thereto, or any conference report thereon; or

(B) A bill or joint resolution making general appropriations for the fiscal year ending September 30, 2004, any amendment thereto, or any conference report thereon.

CONVENING DAY FOR 2ND SESSION OF THE 108TH CONGRESS

Committee on Rules: Granted, by voice vote, a closed rule providing 1 hour of debate in the House on H. J. Res. 464, appointing the day for the Convening of the Second Session of the One Hundred Eight Congress, equally divided and controlled by the Majority Leader and the Minority Leader or their designees. The rule provides one motion to recommit.

CONFERENCE REPORT—MEDICARE PRESCRIPTION DRUG AND MODERNIZATION ACT OF 2003

Committee on Rules: Granted, by a vote of 8 to 4, a rule waiving all points of order against the conference report to accompany H.R. 1, Medicare Prescription Drug and Modernization Act of 2003, and against it consideration. The rule provides that the conference report shall be considered as read. Testimony was heard Chairmen Thomas and Tauzin; Representatives Johnson of Connecticut, Rangel, Dingell, Pelosi, Jones of Ohio, Brown of Ohio, Pallone, Schakowsky, and Jackson-Lee of Texas.

BRIEFING—INTELLIGENCE UPDATE

Permanent Select Committee on Intelligence: Met in executive session to receive a briefing on Intelligence Update on Iraq. The Committee was briefed by departmental witnesses.

Joint Meetings

HEALTHY FORESTS RESTORATION ACT

Conferees on Thursday, November 20, 2003, agreed to file a conference report on the differences between the Senate and House passed versions of H.R. 1904, to improve the capacity of the Secretary of Agriculture and the Secretary of the Interior to conduct hazardous fuels reduction projects on National Forest System lands and Bureau of Land Management lands aimed at protecting communities, watersheds, and certain other at-risk lands from catastrophic wildfire, to enhance efforts to protect watersheds and address threats to forest and rangeland health, including catastrophic wildfire, across the landscape.

MEDICARE PRESCRIPTION DRUG, IMPROVEMENT, AND MODERNIZATION ACT

Conferees on Thursday, November 20, 2003, agreed to file a conference report on the differences between the Senate and House passed versions of H.R. 1, to amend title XVIII of the Social Security Act to provide for a voluntary prescription drug coverage program under the medicare program, to modernize, strengthen, and improve the medicare program, to amend the Internal Revenue Code of 1986 to allow a deduction to individuals for amounts contributed to health savings accounts, to amend the Federal Food, Drug, and Cosmetic Act with respect to abbreviated applications for the approval of new drugs and the importation of prescription drugs.

FOREIGN OPERATIONS APPROPRIATIONS ACT

Conferees agreed to file a conference report on the differences between the Senate and House passed versions of H.R. 2800, making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 2004.

CONGRESSIONAL PROGRAM AHEAD

Week of November 24 through November 29, 2003

Senate Chamber

Senate's program is uncertain.

Senate Committees

(Committee meetings are open unless otherwise indicated)

Committee on the Judiciary: November 24, business meeting to consider H.R. 1437, to improve the United States Code, S. 1129, to provide for the protection of unaccompanied alien children, S. 1602, to amend the September 11th Victim Compensation Fund of 2001 to extend the

deadline for filing a claim to December 31, 2004, S. 1728, to amend the September 11th Victim Compensation Fund of 2001 (Public Law 107–42; 49 U.S.C. 40101 note) to provide compensation for the United States Citizens who were victims of the bombings of United States embassies in East Africa on August 7, 1998, the attack on the U.S.S. *Cole* on October 12, 2000, or the attack on the World Trade Center on February 26, 1993, on the same basis as compensation is provided to victims of the terrorist-related aircraft crashes on September 11, 2001, S. 1740, to amend the September 11th Victim Compensation Fund of 2001 (Public Law 107–42; 49 U.S.C. 40101 note) to provide compensation for the United States Citizens who were victims of a terrorist-related laboratory-confirmed anthrax infection in the United States during the period beginning on September 13, 2001, through November 30, 2001, on the same basis as compensation is provided to victims of the terrorist-related aircraft crashes on September 11, 2001, and the nominations of Henry W. Saad, of Michigan, to be United States Circuit Judge for the Sixth Circuit, Claude A. Allen, of Virginia, to be United States Circuit Judge for the Fourth Circuit, Judith C. Herrera, to be United States District Judge for the District of New Mexico, F. Dennis Saylor IV, to be United States District Judge for the District of Massachusetts, Sandra L. Townes, to be United States District Judge for the Eastern District of New York, and Michele M. Leonhart, of California, to be Deputy Administrator of Drug Enforcement, and Domingo S. Herraiz, of Ohio, to be Director of the Bureau of Justice Assistance, both of the Department of Justice, 10 a.m., SD–226.

House Chamber

No Committee meetings are scheduled.

House Committees

No Committee meetings are scheduled.

Next Meeting of the **SENATE**
10 a.m., Saturday, November 22

Senate Chamber

Program for Saturday: Senate will consider the conference report to accompany H.R. 1, to amend title XVIII of the Social Security Act to provide for a voluntary prescription drug coverage program under the medicare program, to modernize, strengthen, and improve the medicare program, to amend the Internal Revenue Code of 1986 to allow a deduction to individuals for amounts contributed to health savings accounts, to amend the Federal Food, Drug, and Cosmetic Act with respect to abbreviated applications for the approval of new drugs and the importation of prescription drugs.

Next Meeting of the **HOUSE OF REPRESENTATIVES**
12 Noon, Tuesday, November 25

House Chamber

Program for Tuesday: The House will meet at 12:00 noon in pro forma session.

Extensions of Remarks, as inserted in this issue

HOUSE

Andrews, Robert E., N.J., E2380
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